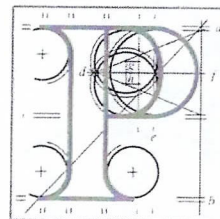


Our Case Number: ACP-324328-26

Your Reference: Marlene Fergus



An
Coimisiún
Pleanála

Liam Madden
Vitruvius Hibernicus
Convent Road
Longford
Co. Longford
N39 EE72

Date: 11 August 2026

Re: Proposed Tullan Strand Facility Centre for Water Sports Activities and Accessible Pathway to Tullan Strand Beach
Finner, County Donegal

Dear Sir / Madam,

An Coimisiún Pleanála has received your recent submission in relation to the above mentioned proposed development and will take it into consideration in its determination of the matter.

Please note that the proposed development shall not be carried out unless the Commission has approved it with or without modifications.

If you have any queries in relation to the matter please contact the undersigned officer of the Commission at laps@pleanala.ie

Please quote the above mentioned An Coimisiún Pleanála reference number in any correspondence or telephone contact with the Commission.

Yours faithfully,

Lauren Griffin
Executive Officer
Direct Line: 01-8737244

AA02

Teil
Glao Áitiúil
Láithreán Gréasáin
Ríomhphost

Tel
LoCall
Website
Email

(01) 858 8100
1800 275 175
www.pleanala.ie
communications@pleanala.ie

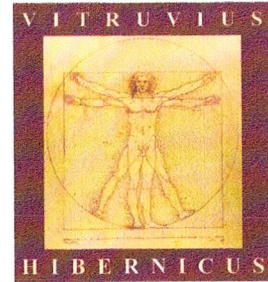
64 Sráid Maoilbhríde
Baile Átha Cliath 1
D01 V902

64 Marlborough Street
Dublin 1
D01 V902

LIAM MADDEN B. ARCH. NUI, M.APPL.ENVIR. SC., CERT. ARCH. PROF., DIP. MICRO-PROC. TECH.
ENVIRONMENTAL SCIENTIST PLANNING CONSULTANT LEGAL ADVISOR S.I. 8/2017 SCH. 5
CONVENT ROAD, LONGFORD N39 EE72

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2 July 2026

An Coimisiún Pleanála,
64 Marlborough Street,
DUBLIN 1
D01 V902

ACP Case ref. JP05E. **324328** L.A. Dev. - AA Application

Sir/Madam,

I represent Marlene Fergus, registered owner of Folio DL 91929F.
Part of Folio DL 91929F is included in the Council's Application Site Map
I also act for Erin Fergus, the principal in Tullan Tin Can, and an Occupier of part of the Folio
which forms part of the Council's Application Site map.
Both are parties affected by the proposed development.

1.0 OVERVIEW

Attached is a Land Registry Screen Print of the area in general.

To the north is Finner Camp on Registry of Deeds lands.
To the west is Bundoran Golf Links on Registry of Deeds lands.
DL 7090 Donegal County Council registered owner..
DL 16258F Donegal County Council registered owner.
DL 7099 Cathleen Dolan registered owner.
DL 91929F Marlene Fergus registered owner.

AN COIMISIÚN PLEANÁLA	
10 JUL 2026	
LTR DATED	FROM
LDG- 9.15am	By post
ACP-	

Also attached are :

- (i) Aerial Land Registry Photometric View with Folio boundaries shown.
- (ii) Google Map aerial view

2. CASE REF. 324328 Appropriate Assessment

This Case **324328** submission should be read in conjunction with Case Ref. **324329** CPO Application.

3.0 COMPULSORY PURCHASE Application 324329

3.1

Donegal County Council proposes to acquire lands from my client.

The proposed acquisition is grounded on Section 213(3) and (4) of the Planning and Development Act 2000, as amended.

In effect, this gives a Council unfettered freedom to acquire any lands it likes PROVIDED ONLY that the Council's policies and objectives are complied with.

3.2

The Council states its 'purposes' or objective in the proposed acquisition.

N.B. 'purposes' has the same legal meaning in Section 213.(2) of the Planning and Development Act, as amended, as in Section 10(1)(a) of the Local Government (No. 2) Act 1960.

Proof of a proposed specific development is not a prerequisite to An Coimisiún Pleanála to approve the CPO.

However, having committed itself to the proposed development shown, described and drawn, this purpose alone is the basis for the proposed acquisition.

In other words, the Council cannot legally change its mind or objective or 'purpose'.

The Council has pinned its colours to the mast.

cf. *Supreme Court : Clinton v. An Bord Pleanála [2007] 2 ILRM 81 at 93.*

3.3

There are 4 tests to be applied :

- (a) That no more land is taken than is necessary.
- (b) That the land is specifically suited.
- (c) That the common good is being served, and not just in the abstract sense.
- (d) That the landowner can object to the nature of the project i.e. different plans and infrastructures will have different effects on the environment.

By reference to the drawings and related assessments in Case Reference 324328, it is clear :

- (a) Far more land than is necessary for the works proposed are designated to be acquired.
- (b) The lands to be acquired are not at all suited to/for the works proposed i.e. a ramp.
- (c) The common good is not being served as my client and her 4 no. neighbours and the occupiers of the lands are being displaced and their rights infringed upon, all of whom are affected persons - themselves members of the public - for the single express objective of providing a ramp which could elsewhere be accommodated.
- (d) A different location and design for a ramp can readily be provided elsewhere by an competent imaginative designer. Moreover there is already a ramped (private) path provided on my client's private property for her and her invitees.

3.4

The Notice attached to the CPO Application is legally defective.

My arguments are set out in 324329.

4. TRESPASS

Concurrent Case 324329 was the subject of discussions between Council agents and one Councillor at my client's home by agreement from roughly 2024 and up till recently. She was invited to the Council's offices where Design Drawings et al were presented to her for discussion. A derisory offer was made to her to sell parts of her lands. She refused to sell.

4.1

Apart from anything else, the Council's proposals would diminish her neighbours' absolute and inalienable rights to pass and re-pass and to load and unload, without restriction and/or limitation across her lands. My client could not legally sell off or diminish her neighbours' private property rights which are absolute.

My client owns the servient tenement in the private roadway.

Her neighbours own the dominant tenement.

cf. Easements [Bland P.]

4.2

It is clear from the drawings, photos and assessments which accompany 324328 and concurrent Case Ref. 324329 that agents for the Council trafficked on my client's private lands for the purposes of preparing surveys etc.

My client was presented with a *fait accompli* booklet of drawings and assessments at the meeting in the Council's offices. The drawings and assessments predate the meeting.

The surveys were conducted on my client's land without her express consent, that is, by way of trespass.

Evidence adduced on foot of a trespass is inadmissible in any court or adjudicating forum. The surveys conducted on my client's private lands have now been publicly displayed and illegally so. The assessments are grounded on the illegally acquired survey data.

ACP may not consider the improperly adduced surveys and, by extension, the designs and conclusions which are grounded on same.

The adducing of the survey evidence is a violation of my client's Constitutional rights which expressly protect the inviolability of her family home which includes her private driveway.

5.0 APPROPRIATE ASSESSMENT AA

5.1 This Case has a narrow focus having been lodged under Section 177AE of the Act. ACP has been asked to assess only the AA.

5.2 The proposed development is not the subject of a Part VIII Public Consultation. It should have been the subject of a Part VIII Public Consultation. An AA by itself cannot ever permit or authorise development by a local authority.

5.3 177AE.-(1)(a) & (b) :

An AA is required in respect of the proposed development.

The local authority shall prepare, or cause to be prepared, a Natura Impact statement.

177AE.-(2)

The proposed development shall not be carried out unless ACP has approved the NIS.

177AE.-(3)

Where an NIS has been prepared pursuant to 177AE.-(1), the local authority shall apply to ACP for approval.

177AE.-(3A)

A local authority shall not be eligible to make an application under sub-section (3) unless it :

- (a) is the holder of a maritime area consent grant for the occupation of the maritime area for the the purposes of the proposed development,
- (b) is the owner of land on which it is proposed to carryout the development proposed, or
- (c) makes the application with the consent of the owner of the land.

177AE.-(3B)

ACP shall not consider an application made under sub-section (3) nor grant an approval unless the applicant [Council] :

- (a) is the holder of a maritime area consent grant for the occupation of the maritime area for the the purposes of the proposed development,
- (b) is the owner of land on which it is proposed to carryout the development proposed, or
- (c) makes the application with the consent of the owner of the land.

5.4 The Council does not comply with (a), (b) or (c)

This is an Invalid application.

The Council, a planning authority charged with policing planning in Donegal, can't manage to lodge a valid application. Wow !!!

5.5 It flows from this that the Council cannot legally advance a Part VIII Public Consultation.... without an NIS approved by ACP.
Game Over.

6. SUMMARY

I submit that ACP cannot legally confirm/approve Donegal County Council's application for a Compulsory Purchase Order for the reasons outlined in submission/observation in **324329** most particularly because the Notices are legally defective.

I submit this application for AA Approval **324328** is manifestly Invalid.

The Council had no power to prepare an AA or NIS on my client's lands without consent.

The Council had no power to make an AA Application.

ACP has no power to consider and/or approve the Invalid AA Application.

This has all the ingredients for a HCJR.

Liam Madden
Convent Road,
LONGFORD
N39 EE72





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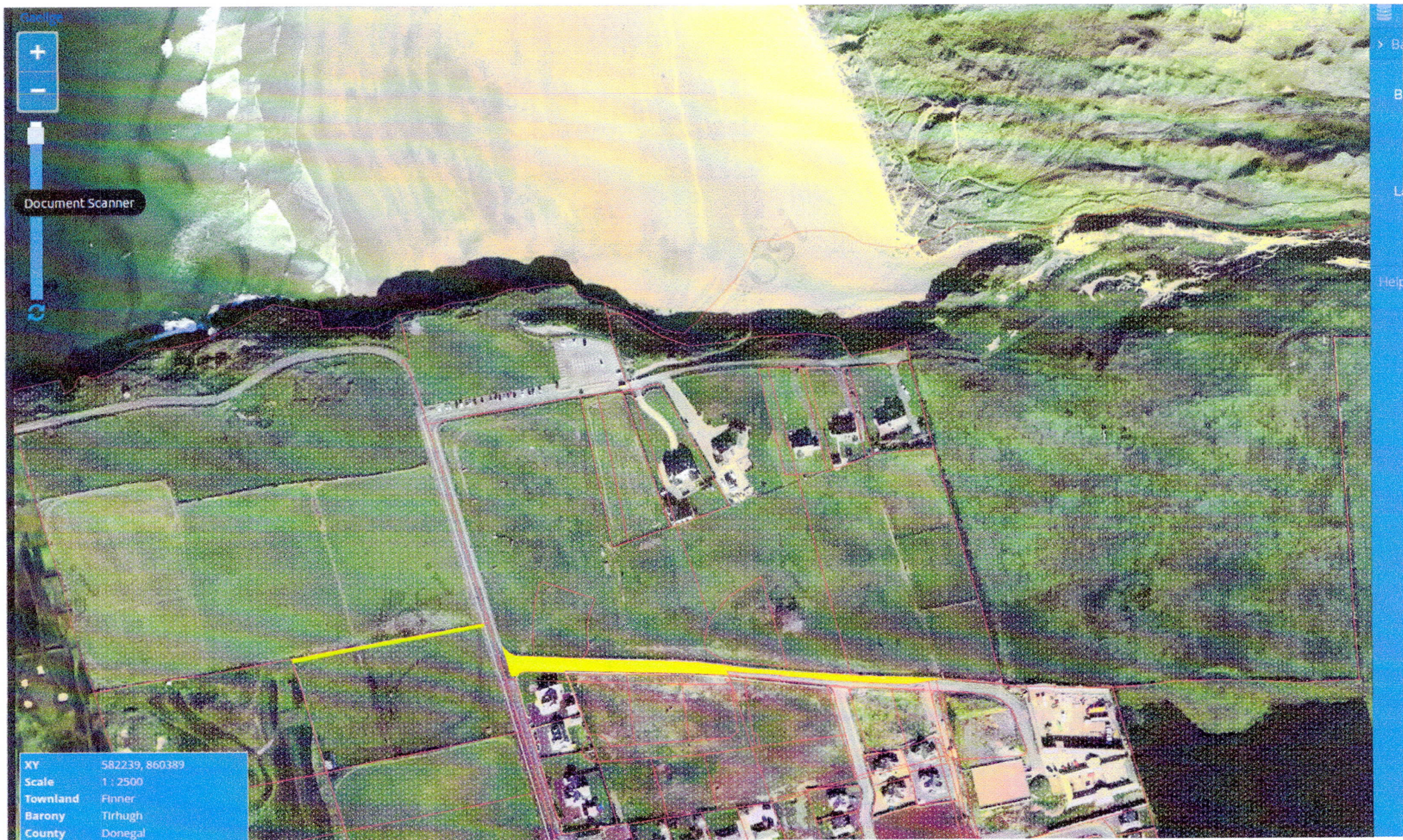
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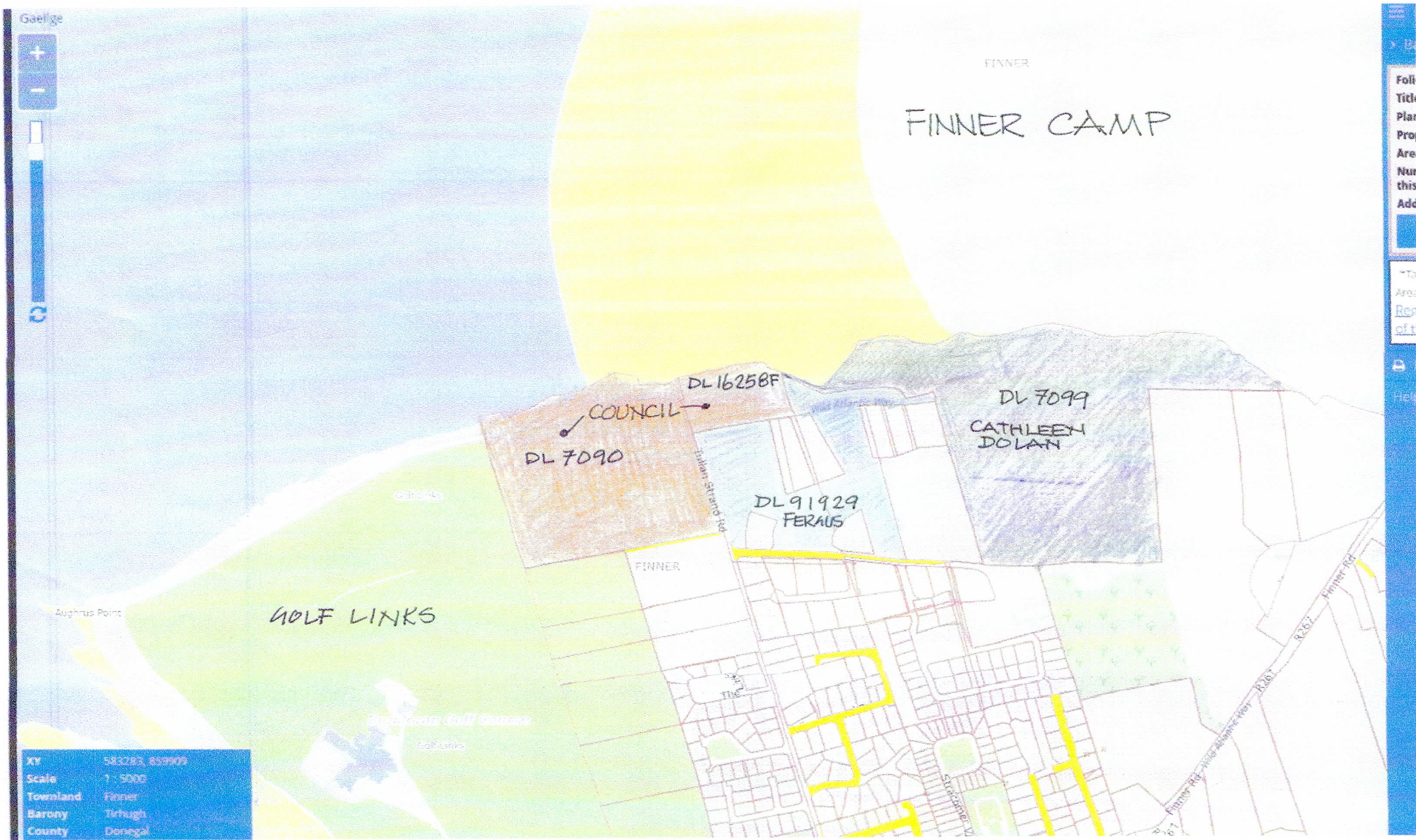
Gaeilge



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