

Catherine

Derek Kelly

From: Laura Finnegan <lrafnngn@yahoo.co.uk>
Sent: Tuesday 4 November 2025 21:25
To: Appeals2; scsubmissions@pleanala.ie; Bord
Subject: Personal Submission – Objection to Substitute Consent Application (SU19.323676 – Lemanaghan Bog, Co. Offaly)
Attachments: Case number SU19.323676.docx

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Dear Sir/Madam,

Please find attached my personal submission objecting to the application by **Bord na Móna Energy Ltd** for **Substitute Consent (Case Ref: SU19.323676)** concerning unauthorised peat extraction and associated works at **Lemanaghan Bog, County Offaly**.

I am submitting this objection in my own capacity, independent of any group or organisation. The attached document outlines the legal, environmental, and procedural grounds on which I respectfully request **refusal of Substitute Consent** in this case.

If this email is not directed to the appropriate division, I would be grateful if it could please be **forwarded to the relevant section** handling Substitute Consent submissions.

Please confirm receipt of this submission and attachment.

Kind regards,

Laura Dunne
Back Road, Ballycumber, County Offaly. R35XV84
lrafnngn@yahoo.co.uk
0877941916

To:

An Coimisiún Pleanála
64 Marlborough Street
Dublin 1
D01 V902

Re: Personal Submission – Objection to Substitute Consent Application by Bord na Móna Energy Ltd

Case Reference: SU19.323676 (Lemanaghan Bog, Co. Offaly)

Dear Sir/Madam,

I wish to object in the strongest possible terms to the application by **Bord na Móna Energy Ltd** for **Substitute Consent (Case SU19.323676)** in respect of unauthorised peat extraction and associated works at **Lemanaghan Bog, County Offaly**.

A review of the Non-Technical Summary and associated Remedial Environmental Impact Assessment Report (rEiAR) confirms that this application seeks retrospective authorisation for decades of peat extraction and drainage carried out **without planning permission, without Environmental Impact Assessment (EIA), and without public consultation**, in direct breach of Irish and EU law.

Under Section 177E(2) of the **Planning and Development Act 2000 (as amended)**, An Coimisiún Pleanála may only grant Substitute Consent if:

1. the development was carried out in breach of environmental law;
2. a remedial EIA and/or rNIS can remedy that breach; and
3. the decision does not undermine EU environmental law.

While it is accepted that the development was indeed carried out in breach of environmental law, this application **fails to meet the remaining statutory thresholds**. Specifically:

- The remedial EIA and rNIS cannot adequately remedy or compensate for the environmental harm caused; and
- Granting consent in this case would **undermine the intent and effectiveness of EU environmental law**.

Legal and Factual Context

Under both Irish and European law, industrial peat extraction has required planning permission and EIA since the introduction of the **Planning and Development Regulations 2001 (S.I. No. 600 of 2001)**. All remaining exemptions were removed by **S.I. No. 4 of 2019**, meaning that from **25 January 2019**, all peat extraction — regardless of scale — required planning consent. Despite this, Bord na Móna continued extensive extraction and drainage activities at Lemanaghan during periods when EIA and planning permission were legally required.

The current application for Substitute Consent under **Section 177E of the Planning and Development Act 2000** is a **retrospective mechanism only**, designed to regularise past unauthorised development **where a full and credible assessment can demonstrate no continuing adverse effects**. It cannot be used to excuse or legalise ongoing environmental damage.

Bord na Móna's own records (Appendices 4-3 and 4-4) confirm that extraction and drainage continued well after 2000 and even beyond 2019. These activities were therefore unlawful, carried out without EIA, Appropriate Assessment, or planning permission. The current application attempts to retrospectively authorise **nearly two decades of unauthorised industrial activity**, contrary to **Article 2(1)** and **Article 3 of the EIA Directive**, and to **Section 177K(2)(b)** of the Planning and Development Act 2000.

Grounds of Objection (Summary)

1. **Biodiversity Assessment Deficient:** Surveys were carried out long after damage occurred; no valid baseline exists; impacts on protected habitats and species cannot be lawfully excluded.
2. **Hydrology Assessment Inadequate:** No pre-drainage data; conclusions rely on assumptions; hydrological impacts on European sites such as Raheenmore Bog SAC remain uncertain.
3. **Cultural Heritage Damage:** Peat extraction occurred without archaeological consent in an area of exceptional heritage linked to **St Manchan and the Lemanaghan Monastic Site**.
4. **Misrepresentation of "Good Faith":** IPC licensing did not remove the need for planning permission (confirmed by **An Taisce v An Bord Pleanála & Bord na Móna [2019] IESC 39**).
5. **Retrospective and Unreliable Data:** The rEIAR relies on recent data that cannot reconstruct historic conditions; rehabilitation plans are vague and unenforceable.
6. **Defective Natura Impact Statement:** Entirely retrospective and assumption-based; fails to assess cumulative effects or provide binding mitigation.

7. **Landscape Assessment Misleading:** Cultural and monastic landscape significance ignored; cumulative visual and heritage effects omitted.
 8. **Procedural Failures:** No enforceable rehabilitation plan; incomplete planning history; contradictory data; breaches of public participation rights under the **Aarhus Convention**.
 9. **Failure to Assess Climate Impacts:** No carbon accounting or emissions baseline despite continuing peatland CO₂ release; incompatible with the **Climate Action and Low Carbon Development Act 2021**.
 10. **Systemic Misuse of Substitute Consent:** Bord na Móna's repeated reliance on retrospective authorisation contradicts the **Supreme Court in An Taisce [2020] IESC 39** and **FIE v ABP [2022] IEHC 80**.
 11. **Defective Publication:** Townland names and boundaries misidentified, impeding public participation.
 12. **Omission of Grid Connection Infrastructure – Unlawful Project-Splitting:**
 - No grid connection or electrical infrastructure described or assessed anywhere in the application.
 - This omission breaches **Article 5(1)(c)** and **Annex IV of the EIA Directive**, and case law including **O'Grianna v ABP [2014] IEHC 632**, **An Taisce v ABP [2020] IEHC 406**, and **C-392/96 Commission v Ireland**.
 - Excluding the grid connection conceals the project's full extent and invalidates the environmental assessment.
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Conclusion and Request for Refusal

This application fails to meet the requirements of **Section 177E(2)(b)** of the **Planning and Development Act 2000** and the **EIA and Habitats Directives**.

The rEIAR and rNIS are incomplete, retrospective, and legally deficient; they rely on post-damage data, omit key project components, and lack enforceable rehabilitation measures. The omission of the grid connection constitutes unlawful project-splitting, while the absence of credible baselines or binding restoration renders meaningful assessment impossible.

Approving this application would reward decades of unauthorised development, undermine EU and national environmental protection, and set a dangerous precedent that retrospective consent can replace the rule of law.

For these reasons—legal, ecological, cultural, hydrological, climatic, and procedural—I respectfully urge An Coimisiún Pleanála to refuse Substitute Consent for Lemanaghan Bog in its entirety.

Yours faithfully,
Laura Dunne

Laura Dunne
Back Road
Ballycumber,
County Offaly
R35XV84

Email: lrafnnngn@yahoo.co.uk
Mobile: 0877941916

4th November 2025

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