



DESIGNING AND DELIVERING
A SUSTAINABLE FUTURE

LONGFORDPASS, LITTLETON, LANESPARK AND DERRYVELLA BOGS - APPLICATION FOR SUBSTITUTE CONSENT

Remedial Environmental Impact Assessment Report

Planning Report

Prepared for:

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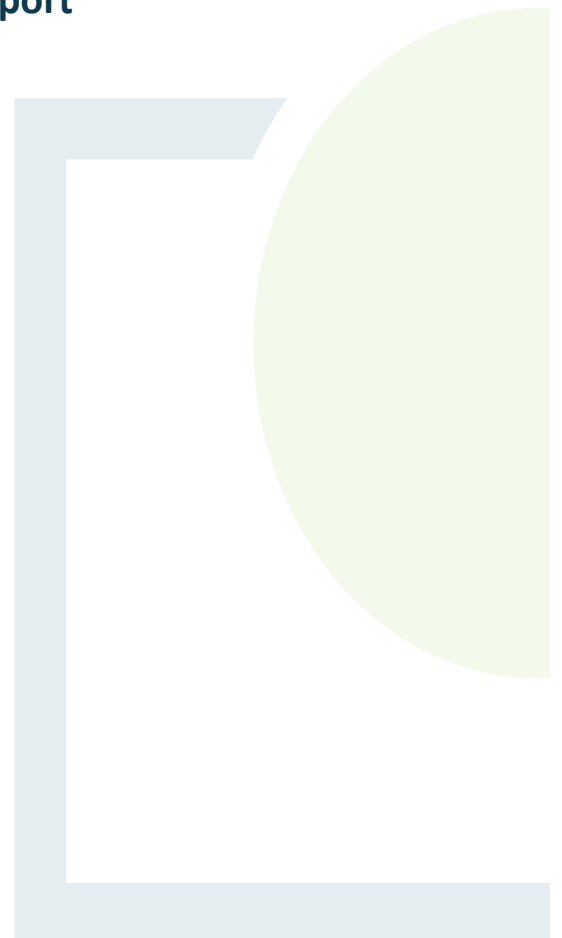


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1. INTRODUCTION

This planning report has been prepared to accompany an application for substitute consent to An Coimisiún Pleanála for peat extraction and ancillary activities at Longfordpass Bog, Littleton Bog, Lanespark Bog and Derryvella Bog (herein referred to as the 'Application Site').

Bord na Móna Energy Ltd (hereafter referred to as 'Bord na Móna' or 'the Applicant') are applying to An Coimisiún Pleanála (hereafter 'the Commission' or 'ACP') for Substitute Consent under Section 177E (Application for Substitute Consent) of the Planning and Development Act 2000, as amended, which will hereafter be referred to as the 'Planning Act'.

In line with the accompanying rEIAR, the project is defined under three different timeframes termed 'phases':

- 'Peat Extraction Phase' peat extraction and ancillary activities at the Application Site from July 1988 to the cessation of peat extraction in 2017 (July 1988 - 2017). The Peat Extraction Phase is described in detail in Sections 4.4 to 4.7 of Chapter 4 - Description of the Development, Volume 2, of the rEIAR submitted with the substitute consent application.
- 'Current Phase': the management of the Application Site since 2017 to present day including decommissioning works and Rehabilitation Phase 1 works. The Current Phase is described in detail in Sections 4.7 and 4.8 of Chapter 4 - Description of the Development, Volume 2, of the rEIAR submitted with the substitute consent application.
- 'Remedial Phase': the activities intended to be carried out at the Application Site into the future (Rehabilitation Phase 2 works). The Remedial Phase is described in detail in Section 4.9 of Chapter 4 - Description of the Development, Volume 2, of the rEIAR submitted with the substitute consent application.



2. SITE LOCATION AND CONTEXT

The Application Site (see Site Location Map – Appendix 1 (also, refer to Appendix 4-1, Volume 3, of submitted rEIAR)) consists of four bogs (Longfordpass Bog, Littleton Bog, Lanespark Bog and Derryvella Bog), located within the Littleton Bog Group in north Co. Tipperary. The Application Site comprises an area of approximately 1,616 ha in total and lies approximately 3km from Littleton village. The individual bogs comprising the Application Site are described as follows:

- Longfordpass Bog (c. 264.7 ha) is located approximately 8.5 km to the east of Thurles in County Tipperary. Drainage works first commenced in Longfordpass Bog by 1947. The earliest available aerial imagery dating from 1973 shows sod peat drainage inserted at Longfordpass Bog. Peat extraction commenced on Longfordpass Bog in 1952, and ceased in 2017. By 1988, approximately 226ha of Longfordpass Bog was subject to peat extraction. The present-day topography within the bog ranges from 117 - 130 mAOD. Longfordpass Bog is located within two main sections which are divided by the M8 that separates Longfordpass North from Longfordpass South and Littleton Bog located directly to the south. Existing Bord na Móna rail infrastructure connects Longfordpass Bog to Littleton Bog to the south. A double line railway underpass crosses the M8 connecting Longfordpass North to Longfordpass South.
- Littleton Bog (c. 1,008.4 ha) is situated approximately 3.5km to the east of Twomileborris in County Tipperary. Site preparation works first commenced in Littleton Bog in 1941. The earliest available aerial imagery dating from 1973 shows sod peat drainage inserted at Littleton Bog. Peat extraction commenced on Littleton Bog in 1952, and ceased in 2017. By 1988, approximately 795ha of Littleton Bog was subject to peat extraction. The present-day topography within the bog ranges from 120 - 130 mAOD. Existing rail line runs north to south on Littleton Bog connecting it to Longfordpass Bog in the north and Lanespark Bog in the south. There is a rail underpass in the south of Littleton Bog connecting the bog to the former Littleton Works. Littleton Bog contains four pump sites, none of which are active today. 795
- Lanespark Bog (c. 250.1 ha) is situated approximately 5.5km to the south of Twomileborris in County Tipperary. Site preparation works first commenced in Lanespark Bog in 1968. The earliest available aerial imagery dating from 1973 shows drainage inserted at the periphery of Lanespark Bog. By 1988 the bog was fully drained for industrial scale peat extraction, with approximately 239ha of Lanespark Bog subject to peat extraction. Peat extraction on Lanespark Bog ceased in 2017. The present-day topography within the bog ranges from 119 to 125 mAOD. Rail infrastructure exists connecting Lanespark Bog to Littleton Bog to the north and Derryvella Bog to the east.
- Derryvella Bog (c. 91.6 ha) is located approximately 6 km to the south-east of Twomileborris in County Tipperary. Site preparation works first commenced in Derryvella Bog in 1968. The earliest available aerial imagery dating from 1973 shows drainage inserted at the periphery of Derryvella Bog. By 1988 the bog was fully drained for industrial scale peat extraction, and approximately 92ha of Derryvella Bog subject to peat extraction. The present-day topography within the bog ranges from 121 to 128 mAOD. The bog is located within one main block. Existing Bord na Móna rail infrastructure connects Derryvella Bog to Lanespark Bog to the west.



A breakdown of the townlands and footprint for each bog can be found in Table 2-1 below.

Table 2-1: Application Site Townlands and Spatial Footprint Breakdown.

Townland	Bog	Area in hectare
LONGFORDPASS EAST	Longford Pass	1.55
LONGFORDPASS NORTH	Longford Pass	132.16
CASTLETOWN	Longford Pass	0.02
LEIGH	Longford Pass	11.86
KILMAKILL	Longford Pass	119.08
CLONOURA	Littleton	236.65
LONGFORDPASS SOUTH	Littleton	149.48
BAWNREAGH	Littleton	63.25
LONGFORDPASS NORTH	Littleton	15.03
LEIGH	Littleton	223.64
NOARD	Littleton	85.05
DERRYHOGAN	Littleton	202.98
NEWHILL	Littleton	32.30
LANESPARK	Lanespark	141.47
KILLEEN	Lanespark	73.77
DERRYVELLA	Lanespark	1.35
BALLYBEG	Lanespark	31.24
DERRYHOGAN	Lanespark	2.29
DERRYVELLA	Derryvella	91.56

There are a number of ancillary services and infrastructure associated with the subject peat extraction works currently within the footprint of the Application Site, including:

- Railway infrastructure (all bogs within the Application Site); and
- Silt ponds and drains (all bogs within the Application Site); and
- Pumping stations (Littleton Bog only).

2.1 Legislative Context for Substitute Consent

This application for substitute consent is made pursuant to updates in legislation on Substitute Consent brought in under the Planning and Development, Maritime and Valuation (Amendment) Act 2022. The Planning and Development, Maritime and Valuation (Amendment) Act 2022 (Commencement of Certain Provisions) (No. 2) Order 2023 (S.I. 645 of 2023) was signed on the 15th December 2023 by Mr. Darragh O’Brien, T.D., Minister for Housing, Local Government and Heritage and came into effect on 16th December 2023.



The result of the commencement of this legislation was, inter alia, the allowance for pre-application consultations with the Commission, as well as providing for a single stage application process which removes the requirement to apply for leave to apply from the Commission. Consequently, the then pending leave to apply application in March 2023 (ACP Ref. 316033) was deemed withdrawn by the Applicant by the Commission on 15th January 2024 in accordance with the Planning and Development, Maritime and Valuation (Amendment) Act 2022 (Commencement of Certain Provisions) (No.2) Order 2023.

The purpose of this current substitute consent application is to regularise, without prejudice, the planning status of the peat extraction and ancillary activities within the Application Site.

2.2 Peat Extraction and Appropriate Assessment Context

Prior to 20th September 2012, all industrial scale peat extraction activities were classified as exempted development. The Environment (Miscellaneous Provisions) Act 2011 came into effect on the 20th of September 2012 which inserted Section 4(4) of the Act. Section 4(4) legislates that development which is typically exempt (e.g., industrial peat extraction pre-2012) is no longer exempt if an Environmental Impact Assessment (EIA) or an Appropriate Assessment (AA) of the development is required. Notwithstanding this provision, the legal planning status of commercial peat extraction remained uncertain and unclear in practice up until September 2019, as summarised below.

Industrial peat extraction was the subject matter of Department-led consultation between 2013 and 2018. Consultation involved relevant stakeholders including, but not limited to the Applicant, the Irish Commercial Peat Producers Association (now Growing Media Ireland), Friends of the Irish Environment Limited and the Environmental Protection Agency (EPA). The Department-led consultation facilitated the involvement of all of the above-named parties in commenting and providing input on proposed regulations which would establish the EPA as the sole authority for managing / regulating industrial-scale peat extraction.

During this period of stakeholder engagement and consultation, the Commission's decision on PL25.RL.2975 (drainage of boglands and extraction of peat at the Lower Coole, Mayne, County Westmeath) broadly established the precedent that the drainage of boglands and extraction of peat was development and not exempted development with regard to Section 4(4) of the Act. The Commission's decision on that case was upheld by the High Court under Judicial Review, *Westland Horticulture Limited and Bulrush Horticulture Limited v An Bord Pleanála* [2018] IEHC 58. Specifically, Mr Justice Meenan found that, as peat extraction involving a new or extended area of 30 hectares or more required EIA, planning permission was required under Section 4(4) of the Act. This decision was then subject to an application for leave to appeal, which was heard in May 2018 and determined on 7th December 2018 that an appeal of Mr Justice Meenan's judgment would not be allowed.

Please refer to Section 5.2 of the rEIAR for further details on the historic planning legislation relating to peat extraction activities.



2.3 Peat Regulations (2019)

The 'Peat Regulations' were enacted in January 2019, following the above judgment under [2018] IEHC 58, which consisted of two pieces of legislation¹ that provided for an exemption from planning permission for large scale peat extraction activity (30ha or over) and the introduction of a regulatory framework (to include both EIA and AA) for these developments to be operated by the EPA within its activity licensing regime. The 'Peat Regulations' were subsequently challenged², and ultimately quashed, by Mr Justice Simons by way of his judgment on 20th September 2019, and the following Order (18th October 2019) on the basis that they were invalid on the grounds that the legislation was inconsistent with the requirements of the EIA Directive and the Habitats Directive, and the use of secondary legislation to give effect to the new licensing regime under the EPA was ultra vires. As such, planning permission is now required for commercial peat extraction over 30 hectares and consequently substitute consent is required for relevant peat extraction activities.

2.4 Baseline Assessment Data

This section sets out the relevant environmental baseline that applies to the subject application (including the associated rEIAR and rNIS), having regard to the legislative context pertaining to the site and the peat extraction activities.

In the first instance, it is clear that no obligations are imposed by the EIA and Habitats Directive in respect of development which took place before they came into force, i.e. the latest date for the required transposition of those Directives, 3rd July 1988 and 21st May 1994 respectively. Put simply, the Directives do not purport to have retrospective effect.

2.4.1 Relevant Case Law

In this regard, the CJEU has held that where applications for consent for projects were lodged prior to the date for transposition of the EIA Directive, then the requirements of the Directive do not apply (see, for instance, Case C-431/92 *Commission v Germany* [1995] ECR I-2189, Case C-81/96 *Burgemeester v Gedeputeerde van Staten Noord Holland* [1998]).

C-209/04 *Commission v Austria* [2006] and C-226/08 *Stadt Papenburg v Germany* [2009] make clear that similar considerations apply in relation to the Habitats Directive. Each of these cases concern development where the date upon which the application for consent was lodged pre-dated the latest for transposition of the Directive or the date upon which the Member State acceded to the Union, i.e., the Directive began to have legal effect in that Member State.

¹ European Union (Environmental Impact Assessment) (Peat Extraction) Regulations 2019, and Planning and Development Act 2000 (Exempted Development) Regulations 2019

² Friends of the Irish Environment Ltd v Minister for Communications, Environment & Climate Action & Ors. [2019] IEHC 646



It seems clear that identical considerations apply in respect of development which has actually taken place before the Directives have legal effect. In Case C-275/09 *Brussels Hoofdstedelijk Gewest v Vlaamse Gewest* [2011] the CJEU was asked to determine whether a consent to operate an existing airport could be regarded as a project within the meaning of the Directive. The Court made clear that in the absence of any works, the consent could not be regarded as “construction” within the meaning of the Directive and therefore was not subject to its requirements. The Court went on to consider whether changes or modifications to the original airport could trigger a requirement for EIA:

“37. If it should prove to be the case that, since the entry into force of Directive 85/337, works or physical interventions which are to be regarded as a project within the meaning of the directive were carried out on the airport site without any assessment of their effects on the environment having been carried out at an earlier stage in the consent procedure, the national court would have to take account of the stage at which the operating permit was granted and ensure that the directive was effective by satisfying itself that such an assessment was carried out at the very least at that stage of the procedure.” (Emphasis added)

It appears from the foregoing, that in the view of the CJEU, the ‘project’ which required to be assessed was the works or physical interventions carried out since the coming into force of the EIA Directive. In other words, the carrying out of works to a development which pre-existed the coming into force of the EIA Directive may require assessment, but those works do not trigger a requirement for the original development to be assessed.

In this regard, it is noted that in *Bulrush Horticulture v An Bord Pleanála* [2018] IEHC 58, the High Court rejected an argument that because development had commenced prior to the latest date for transposition, no EIA could be required in relation to ongoing development. It. Therefore, upheld the Board’s conclusion that development *which had taken place since 2012*, was not exempted development as it required EIA. There was no suggestion that all development since commencement required EIA; in fact, the Board had expressly concluded that development up to 2012 was exempted and the High Court concluded that removal of that exemption did not have retrospective effect. Moreover, the Irish courts have consistently emphasised that although the EIA Directive has a broad scope, it cannot be interpreted to artificially extend its scope where it simply does not apply see, for instance, *Kavanagh v An Bord Pleanála* [2020] IEHC 259, *Sweetman v An Bord Pleanála* [2020] IEHC 39, *O’Sullivan v An Bord Pleanála* [2022] IEHC 117.

2.4.2 1988 Baseline

In the circumstances, the earliest development in respect of which it could be necessary to carry out a retrospective environmental impact assessment or appropriate assessment in order to meet the requirements of EU and domestic law, is development which has taken place since July 1988. The baseline against which the development should be assessed would, if that earliest date was appropriate, be the condition of the relevant lands as that date.

Although no EIA or AA can be required of development which took place prior to the latest date for transposition of the Directives, it is clear that in considering cumulative or in combination effects of development to which the Directives do apply, it is necessary to consider the effects of that development cumulatively or in combination with existing development, even development which took place before the Directives came into force (see Case C-142/16 *Commission v Federal Republic of Germany* [2017]).



2.5 Works For Which Substitute Consent Are Being Sought.

The peat extraction works undertaken at the Application Site, which are subject to this application seeking substitute consent, consist of the following:

- Installation of surface water drainage infrastructure at the Application Site to facilitate peat extraction activities from 1988 to present day;
- Vegetation clearance to facilitate peat extraction activity from 1988 to 2017;
- Industrial scale peat extraction (milled peat) at the Application Site from 1988 to 2017;
- Use and maintenance of pre-existing ancillary supporting infrastructure and services to facilitate peat extraction (e.g. railway infrastructure, drainage (drains, silt ponds, pumps), etc.), from 1988 to present day;
- Control Measures associated with the above, inclusive of the IPC Licence measures (Ref. P0499-01) which commenced from August 2001 onwards to the present day; and
- All associated site development and ancillary works.

Other infrastructure such as workshops were also developed prior to the commencement of the formal planning system, while other ancillary services and infrastructure such as electricity distribution infrastructure, workshops, peat storage and loading facilities are located outside of the Application Site boundary and were previously granted their own respective planning consents, where required, and consequently do not form part of this substitute consent application. Nonetheless, they are assessed within the remedial Environmental Impact Assessment Report (rEIAR) and remedial Natura Impact Statement (rNIS).

Industrial scale peat extraction permanently ceased by the Applicant at the Application Site in 2017.



3. BACKGROUND

3.1 Development at the Application Site

The development of the Application Site for peat extraction was intrinsically linked to the plans outlined in a government White Paper, which became known as the First Development Programme. Under Bord na Móna's Second Development Programme, drainage works, buildings and railway networks were established at the Application Site from 1941, with the commencement of peat extraction activities in 1952. Aerial imagery from 1973 confirms that the Application Site was subject to peat extraction prior to 1988.

Industrial-scale peat extraction ceased at the Application Site in 2017, and the Applicant formally announced in January 2021 that peat extraction across all its land holdings would permanently cease. With the cessation of peat extraction, the former peat production fields will naturally revegetate and evidence for this is already apparent within the Application Site. However, full revegetation will likely take some time and measures to aid the site rehabilitation are outlined in the bog specific Bord na Móna Cutaway Bog Decommissioning and Rehabilitation Plans (refer to Appendix 4-2, Volume 3, of rEIAR).

The latest dates for the transposition of the EIA and Habitats Directives were 3rd July 1988 and 10th June 1994 respectively. These Directives do not purport to have retrospective effect, i.e., neither the EIA Directive nor the Habitats Directive apply to works undertaken prior to 1988 and 1994 respectively. As such, substitute consent is being sought to regularise the planning status of the Application Site for the period 1988 to the present day. This application is being made strictly without prejudice to the fact that the development benefitted from exempted development status for part of the period covered by this application.

Drainage works commenced in 1941 at the Application Site at Littleton Bog, and in 1947 at Longfordpass Bog. The first peat extraction began at the Application Site in 1952 at Littleton and Longfordpass Bog in the form of sod peat. In 1968, the installation of drainage commenced at both Lanespark and Derryvella bogs, with aerial imagery of the Application Site showing that peat extraction had commenced by 1973. The increasing consumption of electricity in the post-war period led Bord na Móna in 1950 to provide for further increases in sod turf production and also introduced major targets for a more mechanised form of peat production - milled peat. Annual Report year ended 31st March 1952 shows that machine (sod) turf was produced at Littleton Bog. Expenditure on bog development work at Littleton (drainage, machines, buildings, engineering supplies, overhead expenses, lands) is also shown during the same financial year.

The Annual Report for the year ending 31st March 1964 further indicates that development works were expanded at Littleton Bog by acquiring additional acreage. BnM records indicate that approx. 3,534,355 tonnes (sod and milled combined) were extracted from the Application Site for the period 1952 to June 1988 inclusive, as detailed in Chapter 4 - Description of the Development, Volume 2, of this rEIAR. Milled peat extraction continued on the Application Site during the Peat Extraction Phase, and BnM records indicate that the total volume of peat extracted at the Application Site from 1988 to 2017 is estimated to be 5,117,798 tonnes.

Industrial scale peat extraction ceased at the Application Site in 2017. BnM formally announced in January 2021 that all industrial scale peat extraction on lands within its management would permanently cease in line with its on-going climate action programme and its transition to becoming a climate solutions company. As part of the decommissioning process, the process of transporting remaining peat stockpiles off the bogs commenced following the cessation of peat extraction in 2017. the removal of remaining peat stockpiles from the bogs. This was completed by mid-2019. The removal of rail infrastructure in Lanespark and Derryvella was completed in 2024.



For a detailed description of the peat extraction activities and associated works that were carried out at the site please refer to Chapter 4 - Description of the Development, Volume 2, of the rEIAR that accompanies this application.

3.2 Planning History of the Application Site

There have been a number of previous planning applications adjacent to or within the Application Site, including:

Table 3-1: Planning History adjacent to or within the Site

Planning Authority	Pl. Ref	Year	Description	Planning Authority Decision
Tipperary County Council	P34576	1977	Littleton Briquette Factory	Granted
Tipperary County Council	P34921	1978	Briquette factory complex, workshops and office building	Granted
Tipperary County Council	6190	1978	Construction of underpass bridge for double line railway on Littleton Village to new Birmingham road	Granted
Tipperary County Council	6586	1978	Construction of an underpass bridge	Granted
Tipperary County Council	6848	1979	Erection of underpass bridge for double-line railway	Granted
Tipperary County Council	7511	1979	Construction of a level crossing on the new line road between Longfordpass Bridge and Castletown Bridge	Granted
Tipperary County Council	7199	1979	Construction of a level crossing for a single line railway on the Littleton to Ballinunty Road	Granted
Tipperary County Council	P39214	1983	Two level crossings	Granted
Tipperary County Council	11389	1985	Construction of a single rail line level crossing	Granted
Tipperary County Council	P39788	1985	Relocate bailing house at existing briquette factory	Granted
Tipperary County Council	991431	1999	Retention of extension for fire lighter manufacturer and storage and bund area	Granted



Planning Authority	Pl. Ref	Year	Description	Planning Authority Decision
Tipperary County Council	20802	2020	The erection of a guyed wind monitoring mast, with instruments, up to 100m in height - the purpose of the proposed mast is to assess the suitability of the company's adjacent lands for wind farm development	Granted
Tipperary County Council	2560154	2025	A recreational shared cycle and walkway to connect into the existing Loch Dhoire Bhile Loop - a) the delivery of a shared cycle and walkway on Bord na Móna lands. This will include the repurposing of 602 meters of existing former rail bed, 2859 meters along existing bog headlands / former high fields, and 721 meters along pre-existing machine access routes, b) the construction of car and / or bicycle parking facilities at a number of gateway locations along the proposed route and the provision of EV charging spaces at the gateway locations. This will include; i. 2 no. Type 2 Gateways, ii. 1 no. Type 4 Gateway, iii. 1 no. Minor Rest Points, c) Upgrade works to 1 no. local access road crossing and 4 no. agricultural access crossings, d) the erection of wayfinding and interpretative signage at Gateway locations along the route, e) the implementation of Sustainable Drainage Systems (SuDS) nature-based drainage proposals at the Gateway locations to cater for surface water drainage at car park locations, f) fencing and screening will be erected where required for health and safety and biodiversity reasons which will include 2250 meters of screening and 1925 meters of boundary treatment fencing, g) all other ancillary and associated site work. This Planning Application is accompanied by a Natura Impact Statement (NIS)	Granted

It is important to emphasise that these developments, where granted, have been constructed and operated in line with their specific conditions of permission and considered compliant within the planning system. As such, it is not intended that these developments are subject to a requirement for substitute consent. It should be noted also that some of the planning applications listed in the table above do not have any connection with the licenced peat extraction and ancillary activities undertaken within the Application Site. However, they are considered within the relevant environmental studies carried out as part of the rEIAR and remedial Natura Impact Statement (rNIS) where necessary.



Any development undertaken prior to the establishment of the formal Irish planning system with the enactment of the Local Government (Planning and Development) Act 1963 at the Application Site are considered exempt for the purposes of planning consent and did not require planning permission as outlined under the Planning and Development Act (1963). Thus, no formal planning applications were required or submitted for these structures.

3.3 Description of Development

The Application Site began operations in 1941 with the clearance and drainage of Littleton Bog to facilitate sod peat extraction. Sod peat extraction commenced in Littleton Bog in 1952. Drainage at Longfordpass Bog began in 1947, with extraction commencing in 1952. Drainage works began in Lanespark and Derryvella Bogs in 1968, and aerial imagery of the Application Site shows that peat extraction had commenced at these bogs by 1973. BnM records indicate that approx. 3,534,355 tonnes (sod and milled combined) were extracted from the Application Site for the period 1952 to June 1988 inclusive, as detailed in Chapter 4- Description of the Development, Volume 2, of this rEIAR. Peat extraction of sod peat commenced at the Application Site in 1952 and continued until 1984, and it is assumed that milled peat extraction commenced in 1978. Further details of estimated peat extraction volumes from 1952 to July 1988 is provided in Section 4.3 of Chapter 4 - Description of Development, Volume 2, of this rEIAR.

Milled peat extraction continued on the Application Site during the Peat Extraction Phase, and BnM records indicate that the total volume of peat extracted at the Application Site from 1988 to 2017 is estimated to be 5,117,798 tonnes. Further details of estimated peat extraction volumes for the Peat Extraction Phase are provided in Section 4.6 of Chapter 4 - Description of the Development, Volume 2, of this rEIAR.

Industrial scale peat extraction ceased at the Application Site in 2017. BnM formally announced in January 2021 that all industrial scale peat extraction on lands within its management would permanently cease in line with its on-going climate action programme and its transition to becoming a climate solutions company.

During the Current Phase, the operations at the Application Site have reduced to the removal of stockpiled peat which was completed by mid-2019.

The Application Site comprises an area of approximately 1,616 ha, which consists primarily of cutaway bog, railway network, ancillary structures and drainage features.

The closest settlement to the Application Site is Littleton village, approximately 3km northwest of the Application Site. Other towns and villages in the immediate surroundings of the Application Site include Twomileborris and Killenaule, while the main urban centres in the region are Thurles and Urlingford.

The surrounding landscape is a mixture of agricultural land, forestry, and cutaway peatland. The landscape is predominately flat.

In accordance with Condition 10 of the Integrated Pollution Control (IPC) (Reg. No. P0499-01), Cutaway Bog Decommissioning and Rehabilitation Plans are being implemented as appropriate across each of the four bogs within the Application Site. The key objective of Bord na Móna peatland rehabilitation is environmental stabilisation. The rehabilitation of the bogs will support biodiversity e.g., plants, insects, bird and mammals, and the formation of wetland habitats. In addition, peatland rehabilitation will bring a range of benefits to the local community via improvements in the local landscape and it is also complying with national policies and strategies regarding the reduction of carbon emissions, supporting biodiversity and enhancing water quality. It is anticipated it will take up to 30 years for naturally functioning wetland and peatland ecosystems to fully re-establish.



The peat extraction and ancillary activities undertaken at the Application Site, which comprise the development for which Substitute Consent is being sought, consists of the following:

- Installation of surface water drainage infrastructure at the Application Site to facilitate peat extraction activities from 1988 to present day;
- Vegetation clearance to facilitate peat extraction activity from 1988 to 2017;
- Industrial scale peat extraction (milled peat) at the Application Site from 1988 to 2017;
- Use and maintenance of pre-existing ancillary supporting infrastructure and services to facilitate peat extraction (e.g. railway infrastructure, drainage (drains, silt ponds, pumps), etc.), from 1988 to present day;
- Control Measures associated with the above, inclusive of the IPC Licence measures (Ref. P0499-01) which commenced from August 2001 onwards to the present day; and
- All associated site development and ancillary works.

Industrial peat extraction is a historic activity, having ceased in 2017, with a considerable number of activities and site preparation works pre-dating both the commencement of the formal Irish planning system (i.e., were first carried out prior to establishment of the Planning & Development Act 1963 (which was enacted on 1st October 1964)) as well as the required EIA and Habitats Directive transposition dates in 1988 and 1994, respectively. Other ancillary services and infrastructure such as workshops are located outside of the Application Site boundary and were previously granted their own respective planning consents, where required.

For a detailed description of the peat extraction activities and associated works that were carried out at the site please refer to Chapter 4 - Description of the Development, Volume 2, of the rEiAR that accompanies this substitute consent application.

3.4 Historical Peat Extraction Licensing, Compliance and Regulation

The Applicant was granted an IPC Licence (Ref. P0499-01) by the EPA for the Littleton Bog Group, within which the Application Site is located, in August 2001. The IPC Licence is managed by the Applicant's Environmental Management Department in Land and Habitats, with a Compliance Officer located in these operational areas who manages the day-to-day compliance requirements.

The IPC Licence (Ref. P0499-01) (the "IPC Licence") regulates Bord na Móna's activities across the entire Littleton Bog Group, which includes the lands the subject of this application. IPC Licence conditions prescribed by the EPA are intended for the protection, and where possible, the improvement of the environment and apply from the time of grant of the licence. The EPA has undertaken Technical Amendments of the IPC Licence on 25th September 2012, 22nd August 2019 and 17th September 2021 for the purpose of aligning the operational conditions of the IPC Licence to the objectives of National and European environmental protection legislation enacted over the lifetime of the licence. The current IPC Licence contains 15 no. conditions relating to operation and monitoring, emissions to water and air, water protection, waste management and bog rehabilitation.



As per Condition 2 (Management of the Activity) of the IPC Licence, the Applicant is required to maintain an Environmental Management System (EMS) which fulfils the requirements of the licence and any associated objectives/targets relating to use of cleaner technology, cleaner production and the reduction and minimisation of waste. The EMS is required to form part of the Applicant's Annual Environmental Report (AER), which is submitted to the EPA by 1 of March of each year. IPC Licence AERs are included in Appendix 4-4, Volume 3, of the rEIAR submitted with substitute consent application. The EPA's online web facility (<https://leap.epa.ie/>) provides further opportunities for the public to observe records relating to the Applicant's the ongoing licenced operations and associated assessments. The public can also make observations/complaints directly to the EPA in relation to any licenced activities. The most recent AER submitted by the Applicant was the AER for 2024 and covers the 2024 calendar year.

The EPA regularly audit and inspect compliance with its IPC Licences, these reports are available on the EPA's web portal (<https://leap.epa.ie/>). The EPA conducted a site visit the Application Site in September 2021, there were no non compliances recorded during this site visit.

3.5 Mitigation and Monitoring Measures

As the site is subject to an IPC Licence from the EPA, it is worth noting the delineation between the Commission and the EPA regarding mitigation and monitoring and the conditions that can be imposed by the Commission as part of the granting of substitute consent.

Section 99F (1) of the EPA Act states as follows:

“Notwithstanding section 34 of the [Planning Act, or any other provision of that Act], where a licence or revised licence ... has been granted [by the EPA] or is or will be required in relation to an activity, a planning authority or An Bord Pleanála shall not, where it decides to grant a permission under section 34 or substitute consent, within the meaning of section 177A, of that Act in respect of any development comprising or for the purposes of the activity, subject the permission to conditions which are for the purposes of:

- (a) controlling emissions from the operation of the activity, including the prevention, elimination, limitation, abatement, or reduction of those emissions, or*
- (b) controlling emissions related to or following the cessation of the operation of the activity.”*

However, the Planning and Development Act 2000 (as amended) does include the following provisions in relation to the monitoring of emissions at Section 177K (2E):

“(a)(iii) subject to paragraph (b), where appropriate, [the Board may] specify in the decision measures to monitor the significant adverse effects on the environment of the development (being measures, as regards the types of parameters to be monitored and the duration of the monitoring, that are proportionate to the nature, location and size of the development and the significance of the effects on the environment of the development).

(b) Where the Board decides under subsection (1) to grant substitute consent for the development, it may, if appropriate to avoid duplication of monitoring, and without prejudice to existing monitoring arrangements pursuant to national or European Union legislation (other than the Environmental Impact Assessment Directive) identify such arrangements (or parts thereof as it thinks appropriate in the particular case) to be used for the purpose of paragraph (a)(iii).”

The conditions that may be imposed by the Commission may also include a condition or conditions relating to remediation of all or part of the site on which the development the subject of the grant of substitute consent is situated.



In this regard, it should be noted that regardless of whether substitute consent is granted by the Commission in respect of the Application Site, the Applicant intends to fully satisfy the requirements of Condition 10 of the IPC Licence. It follows that should the Commission include a condition or conditions relating to remediation of all or part of the site on which the development which is the subject of the grant of substitute consent is situated, the Applicant will be well-placed to comply with those condition(s) to the fullest extent.

3.6 Statutory Planning Policy Context

This section will outline relevant policies from the current Tipperary County Development Plan 2022-2028 and summarise previous Development Plans for context, where available, with regards to their policies relating to peat extraction.

From examination of the policies contained in the documents detailed, it is clear that the industrial activities on the Application Site have generally aligned with local planning policy through time. Bord na Móna's industrial legacy is acknowledged as a significant element of the landscape's cultural heritage and a vital contributor to the rural economy. In the historic Development Plans in particular (refer to Section 3.6.3.2), the importance of peat extraction as a key source of employment in the local area is highlighted. More recent Development Plans have incorporated policies to support the future transition of the peatlands, recognising their potential with respect to meeting both the evolving climate and energy objectives in addition to the ecological and amenity potential of the area.

3.6.1 National Policy

3.6.1.1 *Climate Change Strategies*

The use of peat as a power source in Ireland is coming to a close, however for a long period of time it was the main means by which power was generated en masse. The National Climate Change Strategy (2000) states the following with respect to the use of peat as a source of electricity:

"To the extent that peat continues to be used for power generation, its use will become more efficient with the commissioning of the new Clonbullogue plant in 2001, and the construction of two further new plants which will progressively replace all remaining, low efficiency, peat generation. These new plants will use the minimum amount of peat compatible with economic operation within the Public Service Obligation (PSO), and their construction, operation and management will be benchmarked on best industry practice to maximise the efficient use of peat" p. 33.

Under the National Climate Strategy (2007), government policy was supportive of "co-firing of biomass with peat in power generation as a means of reducing greenhouse gas emissions and introducing additional diversity into the fuel mix for power generation."

The above extracts from the National Climate Strategies demonstrate the historic favourable outlook towards the use of peat for power generation in Ireland. Peat was viewed as a key component for diversifying the fuel mix for power generation whilst supporting rural economies where this peat was being extracted.



3.6.1.2 The National Planning Framework: Project 2040

The National Planning Framework (NPF) and the National Development Plan (NDP) together make up Project Ireland 2040. It was published by the Department of Housing, Planning and Local Government (DoHPLG) in February 2018. The NPF is a framework to guide Ireland's development and investment in the coming years. It is the Government's high-level strategic plan to shape Ireland's development until the year 2040. It contains a set of national objectives and key principles from which more detailed and refined plans will follow.

The NPF sets out the key goals and objectives for the State, and central to this is the theme of Realising Our Sustainable Future. In particular, the NPF notes in Section 9.2: Resource Efficiency and Transition to a Low Carbon Economy that our transition to a low carbon energy future requires:

- A shift from predominantly fossil fuels to predominantly renewable energy sources;
- Increasing efficiency and upgrades to appliances, buildings, and systems;
- Decisions around development and deployment of new technologies relating to areas such as wind, smart grids, electric vehicles, buildings, ocean energy and bio energy; and
- Legal and regulatory frameworks to meet demands and challenges in transitioning to a low carbon economy.

The NPF also states that *"Rural areas have significantly contributed to the energy needs of the country and will continue to do so, having a strong role to play in securing a sustainable renewable energy supply."* Furthermore, the NPF goes on to state that, *"In meeting the challenge of transitioning to a low carbon economy, the location of future national renewable energy generation will, for the most part, need to be accommodated on large tracts of land that are located in rural settings, while also continuing to protect the integrity of the environment and respecting the needs of people who live in rural areas."* The NPF also states that future renewable energy planning will focus *"in particular on the extensive tracts of publicly owned peat extraction areas in order to enable a managed transition of the local economies of such areas in gaining the economic benefits of greener energy"*.

Some of the key National Policy Objectives aimed at further achieving the transition to sustainable energy include:

- National Policy Objective 23 of the NPF has a stated aim to: *"Facilitate the development of the rural economy through supporting a sustainable and economically efficient agricultural and food sector, together with forestry, fishing and aquaculture, energy and extractive industries, the bio-economy and diversification into alternative on-farm and off-farm activities, while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage which are vital to rural tourism."*
- National Policy Objective 52: *"The planning system will be responsive to our national environmental challenges and ensure that development occurs within environmental limits, having regard to the requirements of all relevant environmental legislation and the sustainable management of our natural capital";*
- The NPF also states that's the Government will support the roll out of renewables and the protection of and enhancement of carbon pools including forests and peatlands. National Policy Objective 54 has a stated aim to *"Reduce our carbon footprint by integrating climate action into the planning system in support of national targets for climate policy mitigation and adaptation objectives, as well as targets for greenhouse gas emissions reductions";*



- National Policy Objective 55: “Promote renewable energy use and generation at appropriate locations within the built and natural environment to meet national objectives towards achieving a low carbon economy by 2050”.
- Planning legislation provides for the Government to revise or replace the NPF every six years. An updated revised draft of the NPF was published in November 2024.
- The draft revised NPF retains the original NPF focus on a more balanced distribution of growth across all of Ireland’s regions and emphasising the potential for regional growth to harness the attractiveness and assets of all regions and places to a greater extent than ever before.
- The revised NPF amends there previous National Strategic Outcome 8 (which outlines the key steps to ‘transition to a low carbon and climate resilient society’) to reflect the updated legally binding renewable energy and greenhouse gas emissions targets.

3.6.1.3 *National Development Plan 2021-2027*

The revised NDP 2021 – 2027 is aligned with the delivery of the objectives of the NPF. It sets out the significant level of investment, almost €165 billion, which will underpin the successful implementation of the NPF and drive it forward over the next 10 years.

The NDP includes National Strategic Outcome 8 – Transition to Climate-Neutral and Climate Resilient Society. The NDP recognises that the national objective of transitioning by 2050 to a competitive low-carbon, climate resilient, and environmentally sustainable economy and society must influence public capital investment choices over the next 10 years. It acknowledges that Ireland’s energy system requires a radical overhaul to achieve its energy and climate objectives by 2050. This means how energy in Ireland is generated and used needs to fundamentally change. Investment in renewable energy sources, ongoing capacity renewal, and future technology affords Ireland the opportunity to comprehensively decarbonise our energy generation. Renewable energy, including wind technology, will play a key role in helping to diversify away from a reliance on fossil fuels.

The cessation of peat extraction and decommissioning of the peat extraction activities at the Application Site, followed by the rehabilitation of the bogs and regularisation of historic peat extraction, will contribute to the achievement of these NDP objectives. Further details are included in the Rehabilitation Plans contained in Appendix 4-2, Volume 3, of rEIAR.

3.6.1.4 *National Energy and Climate Plan 2021-2030*

The National Energy and Climate Plan (NECP) 2021-2030 aims to diversify and decarbonise Ireland’s electricity generation sector, with the long-term objective of decarbonising the energy sector and achieving an economic transformation with a carbon neutral agriculture and land use sector by 2050.

The NECP reiterates the plan to move away from peat-fired power generation and the implementation of the Just Transition Plan for the midland’s region particularly in response to the closure of two ESB power stations and the decision to cease all peat extraction a number of years earlier than had been planned. Bord na Móna’s Edenderry Power Station ceased burning peat at the end of 2023 but continues to operate, firing biomass to produce electricity.

3.6.1.5 *Climate Action Plan 2025*

It is within the context of the European Policy and National Policy and legislation that the Climate Action Plan is set. The Climate Action Plan 2023 (CAP23) was the first Plan to be prepared under the Climate Action and Low Carbon Development (Amendment) Act 2021, and follows the introduction, of the carbon budgets and legally binding sectoral emissions ceilings.



Since 2023, 2no. revisions of the Plan have been prepared, CAP 24 and CAP 25.

CAP25 underlines the important role the planning regime will play in developing Ireland's renewable energy capacity. The latest Climate Action Plan 2025 (hereafter CAP25) was approved by Government on 15 April 2025. It is the third statutory Climate Action Plan since the Climate Action and Low Carbon Development (Amendment) Act 2021 was passed and the fifth overall. It is the last Climate Action Plan of Ireland's first five-year carbon budget, representing an important half-way mark to 2030. If Ireland is to close the Greenhouse Gas (GHG) emissions gap and make headway towards our 2030 and 2050 emissions reduction targets, we must accelerate progress already made and deliver on the actions in CAP25 as well as rapidly and fully implementing those legacy/delayed actions and policies from CAP23 and CAP24.

CAP25 is to be read in conjunction with CAP24 as an updated and amended plan. All the measures and actions to support the delivery of binding climate targets are set out within the plan. CAP25 has an Annex of Actions which sets out new, high impact actions for 2025 and includes delayed actions from both CAP24 and CAP23 which will be tracked until completion.

The EU's Recovery and Resilience Facility, through the National Recovery and Resilience Programme, is investing up to €108 million in the Enhanced Decommissioning, Rehabilitation and Restoration Scheme (EDRRS) to rehabilitate 33,000 ha of peatlands over 82 no. Bord na Móna bogs, previously used for peat extraction for electricity generation.

Key metrics to 2030 highlighted by CAP25 to deliver abatement in wetlands are as follows:

1. 35,900 ha of peatlands to be rehabilitated as part of Bord na Móna EDRRS and LIFE People and Peatlands, and
2. Additional 30,000 ha exploited peat rehabilitated

Since 2021, approx. 350 no. Bord na Móna employees transitioned from working in peat extraction and haulage to operating the EDRRS. Another target of CAP23 which carried over to CAP25 is to improve peatland mapping by continuing to fund the RePEAT Project.

3.6.1.6 National Peatlands Strategy 2015-2025

A National Peatlands Strategy was published by NPWS in 2016. This Strategy aims to provide a long-term framework within which all of the peatlands within the State can be managed responsibly in order to optimise their social, environmental and economic contribution to the well-being of this and future generations.

In relation to the move away from peat extraction and a move toward bog rehabilitation and renewable energy, the Strategy notes the following:

- "P24 As part of Ireland's commitment to move towards a cleaner, more carbon efficient economy, means to reduce the dependency on peat as a source of fuel and horticultural compost will be fully explored."
- "P25 Consideration will be given to how best cut away bogs can contribute to a low carbon economy through their use as sites for renewable energy."
- "A10 The National Raised Bog SAC Management Plan will provide for the restoration of raised bog SACs"



- “P30 Coillte and Bord na Móna as the managers of significant tracts of peatlands on behalf of the Irish people will continue to show leadership in responsible management, rehabilitation and restoration of peatlands.”

It is noted that Bord na Móna have already committed and moved away from peat extraction. The date for this change was targeted as 2030, however in October 2018, Bord na Móna announced its intention to accelerate this strategy stating:

“Decarbonisation is the biggest challenge facing this planet. For Bord na Móna it presents both a serious challenge and a national opportunity. By accelerating the move away from peat into renewable energy, resource recovery, and new businesses we are supporting national policy and seizing the opportunity presented by decarbonisation. Standing still is not an option for Bord na Móna. We are embarking on a transition phase now which will see us become a leading provider of renewable energy on the Island of Ireland by 2026, a leader in high-value recycling and provider of a range of new low carbon goods and services. Allied to all of this, a key focus of our decarbonisation plan is ensuring that Bord na Móna remains a very significant employer in the Midlands of Ireland for the decades to come.”

In January of 2021, Bord na Móna formally ended all industrial peat extraction on its lands, marking a key milestone in its transformation into Ireland's leading climate solutions company. The company reiterated its commitment to the Brown to Green strategy that involves the transformation of Bord na Móna from a traditional peat business into a climate solutions company. The company is now fully focused on renewable energy generation, recycling and the development of other low carbon enterprises.

3.6.1.7 Ireland's Transition to a Low Carbon Energy Future 2015-2030 White Paper

The Government White Paper entitled Ireland's Transition to a Low Carbon Energy Future 2015-2030 sets out a framework to guide Ireland's energy policy development. This White Paper sets out to guide policy and actions that the Irish Government intends to take within the energy sector up to 2030 and also reaching as far as 2050. The framework was developed in the context of the significant role played by European institutions in determining energy policy, markets and regulation. Similarly, it takes account of European and international climate change objectives.

The overall vision within the White Paper means that by 2050, greenhouse gas emissions from the energy sector will be reduced by between 80% and 95%, compared to 1990 levels, and will fall to zero or below by 2100. However, specifically in terms of non-renewable energies such as peat bogs, the White Paper notes that:

“Fuels with higher carbon content (peat and coal) will become relatively more expensive and be replaced over time by fuels with lower carbon content, for example natural gas and renewables.”

It is significant as it was the first time a government has proposed the eventual elimination of fossil fuels from Ireland's energy system. The then Minister for Energy, Alex White, stated that “high-carbon fuels like peat and coal will give way to lower-carbon or renewable alternatives in the short to medium term before fossil fuels are largely replaced by renewable energy sources by 2050. Greenhouse gas emissions from the energy sector will “fall to zero or below by 2100”.



3.6.1.8 RePEAT Project

On 5th October 2021, the Minister for Agriculture, Food and the Marine along with Minister of State announced that their department is investing in two key projects that support the storing of carbon in our soils.

The projects will deliver increased and refined data and soil maps that inform the monitoring, reporting and verification of Greenhouse Gases (GHG) through two key actions:

Action no. 1: identification of potential areas for reduced management intensity; and

Action no. 2: the development of a National Soil Moisture Monitoring network.

The RePEAT project aims at addressing Action No. 1. The project is intended to be an interdisciplinary project that involves “A Modern Resurvey of Mapped Irish Peatlands to Refine Assessment of Land Use Change and Progress Greenhouse Gas Removal and Emissions Inventories”.

This is because the soil maps that are currently available are not at a scale to accurately identify, at field level, the location of peat soils. Accurate peatland maps will be part of the requirements to incorporate reduced management of farmed peatlands into a larger agri-environment programme under Ireland’s CAP strategic Plan.

Research is therefore required to enable the precise identification of agricultural land use and intensity of land use on former peatlands, which will in turn facilitate better management of these systems and help to mitigate national emissions.

3.6.2 Regional Policy

3.6.2.1 *Southern Regional Spatial & Economic Strategy 2020-2031*

The Southern Regional Spatial & Economic Strategy (SRSES) came into effect on 31st January 2020. The SRSES sets out a strategy to implement the NPF at a regional level and covers the period from 2020-2031 and contains a strategic vision which includes actions to mitigate against climate change. The SRSES recognises the urgency to transition to a low carbon future, accelerate the transition towards a low carbon economy and increase the use of renewable energy sources across the key sectors of electricity supply, heating, transport and agriculture in order to safeguard and enhance the region’s environment through sustainable development, prioritising action on climate change across the region, driving the transition to a low carbon and climate resilient society.

The SRSES includes a Regional Policy Objective to be applied to development on peatlands:

RPO 50 - Diversification: *It is an objective to further develop a diverse base of smart economic specialisms across the rural Region, including innovation and diversification in agriculture (agri-Tech, food and beverage), the marine (ports, fisheries and the wider blue economy potential), forestry, peatlands, renewable energy, tourism (leverage the opportunities from the Wild Atlantic Way, Ireland’s Ancient East and Ireland’s Hidden Heartlands brands), social enterprise, circular economy, knowledge economy, global business services, fin-tech, specialised engineering, heritage, arts and culture, design and craft industries as dynamic divers for the rural economy.*

The SRSES 2020-2031 recognises the value of peatlands as carbon sinks, states that these are key to carbon sequestration in the Region. The SRSES supports the NPS objectives underlining the importance of biodiversity and the protection of the national heritage and landscape and these policy objectives are reflected in regional policy objectives.

Other Policies in the SRSES which are indirectly relevant to the Application Site include:



RPO 44 - Common Agricultural Policy: *It is an objective to ensure the delivery of sustainable actions under the Rural Development Programme (RDP) 2014-20 and beyond in priority areas of innovation, bio-diversity restoration, water and soil management, renewable energy and waste management, carbon conservation and sequestration, diversification, job creation and ICT development in our rural areas.*

RPO 50 - Diversification: *It is an objective to further develop a diverse base of smart economic specialisms across the rural Region, including innovation and diversification in agriculture (agri-Tech, food and beverage), the marine (ports, fisheries and the wider blue economy potential), forestry, peatlands, renewable energy, tourism (leverage the opportunities from the Wild Atlantic Way, Ireland's Ancient East and Ireland's Hidden Heartlands brands), social enterprise, circular economy, knowledge economy, global business services, fin-tech, specialised engineering, heritage, arts and culture, design and craft industries as dynamic drivers for the rural economy.*

RPO 56 - Low Carbon Economy: *a. The RSES recognises the urgency to transition to a low carbon future and it is therefore an objective to accelerate the transition towards low carbon economy and circular economy through mechanisms such as the Climate Action Competitive Fund;*

RPO 58 - National Policy Statement on Bio-economy: *It is an objective to support the National Policy Statement on Bio-economy (2018), subject to the implementation of mitigation measures outlined in the SEA and AA undertaken where necessary and the exploration of opportunities in the circular resource-efficient economy including undertaking a bio-economy feasibility study for the Region to identify areas of potential growth (including opportunities presented in the EU Bio-economy Strategy updated in 2018 for urban bio-economies and piloting circular bio economy cities) to inform investment in line with the national transition objective to a low carbon climate resilient and circular economy.*

RPO 87 - Low Carbon Energy Future: *The RSES is committed to the implementation of the Government's policy under Ireland's Transition to a Low Carbon Energy Future 2015-30 and Climate Action Plan 2019. It is an objective to promote change across business, public and residential sectors to achieve reduced GHG emissions in accordance with current and future national targets, improve energy efficiency and increase the use of renewable energy sources across the key sectors of electricity supply, heating, transport and agriculture.*

RPO 88 - National Mitigation Plan and National Adaptation Framework: *The RSES is committed to the implementation of the National Mitigation Plan and National Adaptation Framework: Planning for a Climate Resilient Ireland to enable the Region transition to a low carbon, climate resilient and environmentally sustainable economy. It is an objective to ensure effective co-ordination of climate action with the Climate Action Regional Offices and local authorities to implement the National Mitigation Plan and the National Adaptation Framework in the development and implementation of long-term solutions and extensive adaptation measures.*

RPO 221 - Renewable Energy Generation and Transmission Network:

- a) *Local Authority City and County Development Plans shall support the sustainable development of renewable energy generation and demand centres such as data centres which can be serviced with a renewable energy source (subject to appropriate environmental assessment and the planning process) to spatially suitable locations to ensure efficient use of the existing transmission network;*
- b) *The RSES supports strengthened and sustainable local/community renewable energy networks, micro renewable generation, climate smart countryside projects and connections from such initiatives to the grid. The potential for sustainable local/community energy projects and micro generation to both mitigate climate change and to reduce fuel poverty is also supported;*
- c) *The RSES supports the Southern Region as a Carbon Neutral Energy Region.*



3.6.2.2 Conclusion

It is an objective of the RSES to develop a diverse base of smart economic specialisms across the rural Region and to recognise the urgency to transition to a low carbon future through sustainable development. It is recognised that the peatlands play a significant role in carbon storage, and that they must be conserved, protected and enhanced. The continued rehabilitation of the Application Site will preserve and enhance peatland ecosystems and biodiversity, which will contribute towards achieving the objectives outlined in the policies detailed above

3.6.3 Local Policy

3.6.3.1 Tipperary County Development Plan 2022 - 2028

In relation to peatland management, the Tipperary County Development Plan 2022 - 2028 states:

In line with the provisions of Chapter 3 Low Carbon Society and Climate Action, the Council will support the diversification of peatlands, for example the sustainable development of renewable energy, and or tourism related facilities, whilst ensuring the conservation of their ecological, archaeological, cultural and educational significance in line with the National Peatlands Strategy (DAHG 2015) and any review thereof. The Council will support projects which assist the transition of the industrial peatlands to sustainable after uses.

Section 11.4.4 of the Development Plan outlines the Council's general approach to peatlands. It acknowledges that these are unique habitats in a European context, as they have a significant role to play in carbon storage, biodiversity, and in some cases may offer synergies with tourism and amenity projects. In line with *Chapter 3 - Low Carbon Society and Climate Action* in the Tipperary County Development Plan 2022 - 2028, the Council will support the diversification of peatlands, for example the sustainable development of renewable energy, and or tourism related facilities, whilst ensuring the conservation of their ecological, archaeological, cultural and educational significance in line with the National Peatlands Strategy (DAHG 2015) and any review thereof.

Section 3.4.1 of the Tipperary County Development Plan 2022 - 2028 outlines the Council's approach to bioeconomy, peatlands and agriculture. It states that the Council follows the RSES objective to support the role of Tipperary in an expanding bioeconomy sector in Ireland. It is noted that Tipperary has extensive areas of cut-over peatland, and that peat-fired electricity generation will be phased out in line with the Government's Climate Action Plan (DECC, 2019). The Council recognises the potential of these industrial peatlands in relation to after uses and jobs opportunity, ranging from amenity, tourism, biodiversity services, energy development, industry, and many more. The Council also supports the preparation of a framework plan for the industrial peatlands, and will work with all stakeholders, including Bord na Móna, involved in the process in this regard.

Planning Policy 11-4 in the Development Plan relates to the treatment of peatlands, as areas to conserve, protect and enhance. Planning Policy 11-15 further outlines the Council's intention to support the diversification of peatlands, highlighting the potential for the Council to request landowners to prepare a 'Peatland Master Plan' for areas of industrial cut-over peatland.

Furthermore Objective 3-I of the Development Plan to support projects which assist the transition of industrial cut-over peatlands to sustainable after uses.

3.6.3.2 North Tipperary County Development Plan 2010 - 2016

In respect of historical activities carried out at the Application Site between 1988 until 2017, it is prudent to consider historical county development plans which would have been in force at that time.



From the outset it should be noted that as peat extraction has long been exempt from the requirement to obtain planning permission, historical local policy does not refer to the activity of extracting peat in itself, but instead recognises the broader community wide benefits of peat extraction such as employment, rural development and the provision of the supply of electricity.

The North Tipperary County Development Plan 2010 was extended in 2017, instating it as the continued valid Development Plan until the Tipperary County Development Plan 2022 - 2028 was instated in its place. This made the North Tipperary County Development Plan 2010 valid for two Development Plan cycles, from 2010 to 2022.

Section 7.3.4 of the North Tipperary County Development Plan 2010 outlines the Council's general approach to peatlands. It is noted that peatlands which are not protected by European designations can provide a resource for turf cutting renewable energy development, forestry, agriculture, nature conservation and recreation. The Council supports diversification of such peatlands in the county, whilst ensuring the appropriate management of same to ensure conservation of their ecological, archaeological, cultural and educational significance. It is acknowledged that Ireland's peatlands will continue to be used for many purposes including agriculture, development, peat extraction, forestry, conservation and amenity. In the revised 2017 North Tipperary County Development Plan 2010 reference is made to the National Peatlands Strategy 2015 published by the Department of Arts, Heritage and the Gaeltacht, which sets out objectives for bogs and peatlands so that they may be "managed responsibly in order to optimise their social, environmental and economic contribution to the well-being of this and future generations."

In Section 5.6 *Rural Economy and Natural Resources* the Council acknowledges that the rural economy makes use of industries developed to harness the natural resources of the county, including mining, quarrying, forestry, peat extraction and renewable energy. These industries provide economic resources which contribute to sustaining their local communities.

Policy LH10: Peatlands further outlines the Council's objectives as they relate to peatlands:

Policy LH10: Peatlands

It is the policy of the Council to have regard to the National Peatlands Strategy 2015 and to ensure the conservation of peatlands which are designated sites as set out in Appendix 4. The Council will support agricultural diversification, renewable energy development and the development of tourism and community recreational facilities in peatland areas, where appropriate, and where it is demonstrated that such developments would not significantly or adversely impact on the ecological and environmental sustainability of such sites.

3.6.3.3 South Tipperary Draft County Development Plan 2002

The South Tipperary Draft County Development Plan 2002 states that extractive industries should not affect the overall quality of the environment.

3.6.3.4 North Tipperary County Development Plan 1998

The North Tipperary County Development Plan 1998 states that it is an objective of the Planning Authority to facilitate job creating including industrial and commercial development in appropriate areas. The CDP also states that it will support the endeavours of other employment related bodies to create jobs in the county. These development proposals will all be subject to the relevant planning regulations and requirements.



3.6.3.5 South Tipperary Draft County Development Plan 1996

The South Tipperary Draft County Development Plan 1996 states that all industrial development to take place within the county should be designed to a high standard in order to reduce visual impact. They will also be subject to high safety standards on the site.

3.6.3.6 North Tipperary County Development Plan 1977

The North Tipperary County Development Plan 1977 states that it is the policy of the Planning Authority to promote and accelerate economic growth within the county, including industry within rural areas.

3.6.3.7 Conclusion

Historically, the extraction of peat at the Application Site has been supported by national policy and legislation.

The Tipperary County Development Plan 2022 - 2028 outlines policy guidance on the existing peatlands in the county. The Development Plan recognises the historic peat extraction as something to be phased out, and supports the diversification of use on these sites in line with climate policies. It is recognised that the peatlands play a significant role in carbon storage, and that they must be conserved, protected and enhanced. The site, which is the subject of the application for substitute consent, will be compliant with Planning Objective 3 - I in the Development Plan, which outlines the Council's intention to "*support projects which assist the transition of industrial cut-over peatlands to sustainable after uses*".

The bogs within the Application Site were not designated sites within the historic North Tipperary Development Plan 2010, and as such, they fell within the category of peatlands that the council listed as having capacity to provide a resource for turf cutting among other things. The North Tipperary Development Plan 2010, being valid for 12 years between 2010 and 2022, recognised the importance of the rural economy and natural resources in the county, specifically mentioning industries such as turf cutting. As such, the historical activities on the Application Site are considered to be within the policies and objectives of the North Tipperary Development Plan 2010. Furthermore, as described within the *North Tipperary County Development Plan 1977*, the Planning Authority listed policies and objectives to promote and accelerate economic growth within the county, including industry within rural areas, as far back as 1977.

There are significant international, European, national and local policies in support of concluding peat extraction activities, rehabilitation of peatlands for carbon sequestration and habitat regeneration, and development of renewable energy technologies as alternatives to fossil fuels.

2050 European targets mean that Europe's energy production will have to be almost carbon-free by that time, and while Ireland has come a long way in recent years to increase renewable energy generation, the targets are ever increasing. It is this commitment within energy and climate policy that justifies the regularisation of historic Bord na Móna peat extraction activities in Ireland in order to ensure that appropriate future development can occur on rehabilitated and cutover peatlands.

Furthermore, the continued rehabilitation of the Application Site will preserve and enhance peatland ecosystems and biodiversity, which will contribute towards achieving the objectives outlined in the policies detailed above. Further details are included in the Cutaway Bog Decommissioning and Rehabilitation Plans contained in Appendix 4-2, Volume 3, of rEIAR.

As evidenced in this rEIAR, Bord na Móna has transitioned away from peat extraction and is focused on development of renewable energy, resource recovery, and new businesses in line with European, national, regional and local policy. Continued alignment with these policies is dependent on the regularisation of historic peat extraction and associated activities at the Application Site



4. EXCEPTIONAL CIRCUMSTANCES

It has been established by the Court of Justice of the European Union in Case C-215/06 *Commission v. Ireland* [2008] that what is now “*substitute consent*” can only be permitted in exceptional cases. The judgment of the Supreme Court in *An Taisce v. An Bord Pleanála* [2020] IESC 39 found that Sections 177C(2)(a) and 177D(1)(a) of the Act were inconsistent with the EIA Directive, as interpreted by the Court of Justice, in that they failed to provide adequately for the exceptionality test as demanded by that Court. The provisions of the Act have now been amended to make adequate provision for the exceptionality test³.

In considering whether exceptional circumstances exist, subsection 177K(J1) of the Act sets out the matters which must be considered by the Commission, viz.:

- (a) whether regularisation of the development concerned would circumvent the purpose and objectives of the Environmental Impact Assessment Directive or the Habitats Directive;*
- (b) whether the applicant had or could reasonably have had a belief that the development was not unauthorised;*
- (c) whether the ability to carry out an assessment of the environmental impacts of the development for the purpose of an environmental impact assessment or an appropriate assessment and to provide for public participation in such an assessment has been substantially impaired;*
- (d) the actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out or continuation of the development;*
- (e) the extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated;*
- (f) whether the applicant has complied with previous planning permissions granted or has previously carried out an unauthorised development;*
- (g) such other matters as the Board considers relevant.*

Having regard to the above, the following section sets out in detail how the exceptional circumstances criteria have been complied with for the subject application. These are set out below, using the above matters under 177K(J1) of the Act as headings to aid the Commission's consideration of this case.

4.1 (A) Whether regularisation of the development concerned would circumvent the purpose and objectives of the EIA Directive or the Habitats Directive.

In the first instance, it is worth re-iterating at this point (and as detailed in Chapters 1 - Introduction and Chapter 4 - Description of the Development, Volume 2, of the rEIAR) that industrial-scale peat extraction was on-going within the Application Site prior to 1988, before the required transposition of the EIA Directive and Habitats Directive in Ireland, with peat extraction commencing as early as 1952 for individual bogs within the Application Site.

Furthermore, peat extraction benefited from exempted development status up until the 20th September 2012 when the Environment (Miscellaneous Provisions) Act 2011 was enacted, and Section 4(4) was inserted within the Act (refer to Chapter 5 - Population and Human Health, Volume 2, of the rEIAR for further details on the legislative background to peat extraction).

³ Planning and Development and Residential Tenancies, Bill 2020 (December 2020)



In this regard, it is submitted that the regularisation of the development concerned would not circumvent the purpose or objectives of the EIA or Habitats Directive, given that the Oireachtas clearly legislated for the subject works to be exempted from the requirement to obtain planning permission.

The purpose and objectives of the 1985 EIA Directive (85/337/EEC) are discussed in its preamble as set out below:

- “...preventing the creation of pollution or nuisances at source; rather than subsequently trying to counteract their effects; whereas they affirm the need to take effects on the environment into account at the earliest possible stage in all the technical planning and decision-making processes...”
- “...take account of concerns to protect human health, to contribute by means of a better environment to the quality of life, to ensure maintenance of the diversity of species and to maintain the reproductive cap...”

4.1.1 2011 EIA Directive

Neither the codified 2011 EIA Directive (2011/92/EU) nor the 2014 amendment to the EIA Directive (2014/52/EU) state any specific purpose or objectives in their preambles.

The 2011 codified Directive emphasises the precautionary principle in relation to environmental protection:

“Pursuant to Article 191 of the Treaty on the Functioning of the European Union, Union policy on the environment is based on the precautionary principle and on the principles that preventative action should be taken, that environmental damage should, as a priority, be rectified at source and that the polluter should pay. Effects on the environment should be taken into account at the earliest possible stage in all the technical planning and decision-making processes” (paragraph (2) (2011/92/EU)).

Paragraph (14) of the Preamble states that:

“the effects of a project on the environment should be assessed in order to take account of concerns to protect human health, to contribute by means of a better environment to the quality of life, to ensure maintenance of the diversity of species and to maintain the reproductive capacity of the ecosystem as a basic resource for life”.

4.1.2 1992 Habitats Directive

The purpose and objectives of the Habitats Directive (92/43/EEC) are contained in its preamble, as follows:

- *Whereas the preservation and improvement of the quality of the environment, including the conservation of natural habitats and of wild fauna and flora, are an essential objective of general interest pursued by the Community, as stated in Article 130r of the Treaty;*
- *The main aim of this Directive being to promote the maintenance of biodiversity, taking account of economic, social, cultural and regional requirements, this Directive makes a contribution to the general objective of sustainable development; whereas the maintenance of such biodiversity may in certain cases require the maintenance, or indeed the encouragement, of human activities;*



- *In European territory of the Member States, natural habitats are continuing to deteriorate and an increasing number of wild species are seriously threatened; whereas given that the threatened habitats and species form part of the Community's natural heritage and the threats to them are often of a transboundary nature, it is necessary to take measures to Community level in order to conserve them; Whereas, in view of the threats to certain types of natural habitat and certain species, it is necessary to define them as having priority in order to favour the early implementation of measures to conserve them;*
- *In order to ensure the restoration or maintenance of natural habitats and species of Community interest at a favourable conservation status, it is necessary to designate special areas of conservation.*

There are no designated habitats within the boundary of the Application Site. The nearest designated sites are Cabragh Wetlands pNHA (001943) approximately 17km downstream (at its closest point) from the Application Site, River Barrow and River Nore SAC approximately 10.6km from Derryvella Bog and River Suir SAC approximately 10km from Derryvella Bog.

The following sections outline how Bord na M6na undertook the responsibility to ensure that the environmental impacts arising from the extraction activity at the Application Site was as minimal as possible in the absence of regulatory responsibilities and guidance.

4.1.3 Drainage

Peat extraction activities began at the Application Site in 1941, with the commencement of site clearance and the installation of drainage at Littleton bog. Draining the surface water from the bogs over a period of years is the essential pre-cursor to peat extraction. The consequence of drainage is dehydration of surface vegetation and changes to the chemistry of surface water resulting in a fundamental change to the nature of the habitats that existed prior to drainage. As drainage took place over a number of years (typically 4-7 years), the changes to habitats within the bogs would also have taken place within that timeframe prior to peat extraction, allowing time for resident species to relocate. These changes occurred on all bogs in the Application Site. As set out in Chapter 4 - Description of the Development, Volume 2, of the rEIAR, all drainage channels were in place prior to 1988. Therefore, the vast majority of drainage took place prior to the EIA and Habitats Directive being transposed into Irish Law.

4.1.4 Silt Committees

As detailed above, the central purpose of the 1985 EIA Directive is preventing the creation of pollution or nuisance at source. Until 1977 and the introduction of the Water Pollution Act there was no statutory regulation of water pollution in Ireland. While there was no legal obligation on Bord na M6na to treat surface water run-off from the bogs under the Water Pollution Act (1977) or various fisheries acts, company policy dictated that all bog effluents should be of an acceptable standard.

During the 1970s Bord na M6na revised its surface water drainage arrangements and developed a program to control all effluent arising from the drainage of the sites. The impetus for increased controls on silt run-off from the bogs was company policy on pollution control and public concern with water quality. The primary control measure was the installation of silt ponds to address the levels of the suspended solids.

In October 1975 Bord na M6na established Silt Committees for all of its bog groups to study the benefits and feasibility of removing silt from bog effluent. It was concluded that at milled peat bogs such as the Application Site, surveys should be carried out and silt ponds locations selected.



Further details of measures control water pollution are contained in Chapter 4 - Description of the Development, Volume 2, of the rEIAR. These measures were introduced to prevent the deterioration of water quality as a result of production activity at the Application Site. These measures which were introduced by Bord na Móna in the absence of any regulatory requirements demonstrates Bord na Móna's historic commitments to reduce the impacts of their peat extraction activity on the receiving environment as much as possible.

The outcome of the Silt Committee studies was the provision of silt ponds and revised drainage on all bogs in order to reduce the discharge of silt into streams and watercourses. The concentration levels of effluent discharge were set at 100mg/l suspended solid. In summary, the efforts and commitments of Bord na Móna prevented the deterioration of water quality as a result of extraction activity where possible, helping to prevent pollution in line with the purpose and objectives of the 1985 EIA Directive and 1992 Habitats Directive.

4.1.5 Exempted Development

As outlined in Section 2.2 above, before 20th September 2012, industrial-scale peat extraction activities were considered exempted development. The Environmental (Miscellaneous Provisions) Act 2011, effective from 20th September 2012, added Section 4(4) to the Act, which states that such activities are no longer exempt if they require an Environmental Impact Assessment (EIA) or an Appropriate Assessment (AA). However, as a robust rEIAR and rNIS has been carried for the subject works, the granting of substitute consent would not circumvent the purpose and objectives of the EIA and Habitats Directive.

4.1.6 IPC Licence

The Applicant's IPC Licence includes the requirements to prepare and implement an Environmental Management System (EMS) to reduce and improve environmental emissions through mitigation measures and established best practice and achieve compliance with emission limit values (as regulated by, and agreed with, the EPA). The subject activities undertaken within the Application Site have been reviewed and audited by the competent authority (EPA) and no significant adverse impacts to the receiving environment, including European Designated Sites, have been identified throughout the Applicant's operating regime under this licence.

4.1.7 Summary

The Applicant has fulfilled all statutory and legislative requirements in terms of planning and environmental protection, as outlined above, throughout the decades of peat extraction. In fact, Bord na Móna went beyond its statutory obligations by setting up Silt Committee across its network of bogs in 1975 and introducing silt control measures to all bog surface water discharges.

It cannot be the case that the carrying out of exempted development in accordance with planning legislation at the time the works were carried out, would circumvent the purpose and objectives of the EIA and Habitats Directives. It is also submitted that the regularisation of the works would not circumvent these same purposes and objectives, given that a robust rEIAR and rNIS has been carried out, the Applicant has ceased all peat extraction and is committed to rehabilitating the Application Site.

A full rEIAR and rNIS accompany this application for substitute consent which provide a comprehensive assessment of the subject works in accordance with the EIA and Habitats Directives. Based on the foregoing it is apparent that regularisation of historic peat extraction would not circumvent the purpose and objectives of the EIA and Habitats Directives.



4.2 (B) Whether the applicant had or could reasonably have had a belief that the development was not authorised.

4.2.1 Historic National Energy Policy

Following the Second World War, the Irish State was keen to continue to develop indigenous fuel resources to increase national energy security, particularly in the event that imported fuels were ever scarce again. The TDB were asked of the Government to devise a programme to develop the country's bogs. The initial result of this was the transformation of the TDB into Bord na Móna, which was established as a statutory authority responsible for the 'development of the nation's peat resources' under the Turf Development Act 1946 ('the 1946 Act'). The functions of Bord na Móna, as per Section 17(1) of the Act, are as follows:

- To produce and market turf and turf products;
- To foster the production and use of turf and turf products;
- To acquire bogs and other lands;
- To manage, develop and work bogs and other lands vested in the Board [Bord na Móna] and;
- Generally, to do all such other things as arise out of, or are consequential upon, the duties mentioned in the preceding paragraphs of this section.

At this time, the Government issued a White Paper which set out a comprehensive plan for the development of the country's peat resources by mechanical methods, and which would also consequently reduce the country's reliance on imported fuel, while also providing substantial employment. This White Paper later became known as the First Development Programme. The principal proposals of the First Development Programme were as follows:

- The development of 24 no. bogs for peat extraction;
- The improvement of Lullymore Briquette Factory;
- The erection of a peat moss litter factory at Kilberry;
- The establishment of a Government-funded peat research station; and,
- The building of Portarlinton, Allenwood, and Lanesboro peat-fired power stations.

The First Development Programme also outlined policies which underpinned the Government's commitment to developing the national peat resource for energy production, namely that new projects for the production of electricity were to be based on the use of turf, that all public or state-assisted housing in turf-producing areas were to have appliances suitable for burning turf, that all institutions built by local authorities were to have boilers capable of burning turf, and that any factories in turf-producing areas receiving government grants would be obliged to install turf-burning equipment.

By 1946, Bord na Móna employed 5,138 workers, and several bogs were either in development or already in production.

In 1947, Bord na Móna proposed to the Government the doubling of the output of the ongoing First Development Programme. The proposal was well-received and resulted in the enactment of the Turf Development Act 1950 ('the 1950 Act'), effective from July 26th, 1950, which empowered Bord na Móna to broaden its scope of operations. This legislation marked the beginning of the Second Development Programme.



Plans were made for expanding activities to achieve a capacity of two million tonnes of machine sod turf annually as well as the construction of five additional power stations at Ferbane, Rhode, and Shannonbridge Co. Offaly, Bellacorick, Co. Mayo, and Unit 2 of Lanesboro Power Station, Co. Longford. Furthermore, under Section 5(1) of the 1950 Act, Bord na M6na was granted the authority to build housing for its permanent workforce. Nine housing schemes, totalling 582 houses, were proposed to the Minister of Industry and Commerce for approval, with site development work commencing in 1951.

In the early 1950s, discussions between Bord na M6na and the Electricity Supply Board ('ESB') focused on expanding turf usage for electricity generation. They also considered the potential of milled peat as a boiler fuel for power stations. By 1952, Bord na M6na began supplying peat to the ESB's Allenwood station and identified suitable bogs for further development. In subsequent years, milled peat production started in the Boora bogs to fuel the planned Ferbane and Lanesboro stations. Additionally, briquette factories were constructed, and horticultural endeavours expanded.

The Second Development Programme resulted in a significant increase in peat production output with 15 no. bogs coming into production between 1955 and 1959. Notably, Bord na M6na prepared for the construction of a milled peat power station in Bellacorrick, Co. Mayo, and development continued for the Shannonbridge station. Significant investments were also made in infrastructure, such as railways and roads within bog areas, as well as machinery development, to improve the efficiency and safety of peat extraction and transportation. By the late 1960s, Bord na M6na's operations had significantly increased, supplying seven ESB power stations. The company was also running three briquette factories and two horticultural peat factories, and the area of bogs allocated for energy, fuel, and horticultural peat production had notably expanded.

The growing need for resources to supply the country's peat-fired power stations, and the later oil crisis emerging in the 1970s, highlighted the importance of indigenous fuel resources, and furthermore, Bord na M6na's role in supporting the provision of a robust power system. Peat emerged as a cost-effective alternative to other fuels during this period of hardship, prompting the government to request investments from Bord na M6na. In response, the Turf Development Act of August 1975 increased the company's capital borrowings to £60 million, facilitating the implementation of the Third Development Programme. This programme involved purchasing approximately 30,000 additional hectares of land and investing £164 million, including plans for expanding peat generating capacity and constructing new briquette factories.

By 1980, significant progress had been made in drainage and development works on about 17,000 hectares of the acquired land. The majority of these works related to the extension of its existing operations and the expansion of horticultural peat production. For example, growing demand for packaged sod peat in polythene bags led to a bagging plant being constructed and commissioned at the Ballivor Works between 1969-70. Bord na M6na became a vital contributor to Ireland's social and economic landscape, employing approximately 7,000 workers at its peak. Major civil works were carried out to extend the railway network and associated infrastructure, supporting the expansion of operations and horticultural peat production.

However, despite the increased utilisation of peat, the Third Development Programme faced financial challenges as it relied on high oil prices, which did not materialise. Additionally, the emergence of natural gas from Kinsale in 1979 and the Private Turf Development Act of 1981 led to shifts in consumer preferences towards more efficient fuels and encouraged private development of smaller bogs. Consequently, Bord na M6na's market share decreased, leading to the decision to construct only one new briquette factory in Littleton, Co. Tipperary.

Following the completion of the Third Development Programme in the late 1980s and in response to a changing domestic and international market regarding, but not limited to, the availability of alternative fuels (i.e. oil and natural gas), private peat production as facilitated by the Private Turf Development Act 1981 and rising production costs, Bord na M6na undertook a significant review of its operations, assets and standard procedures in order to both remain viable and continue to develop the nation's natural peat resources.



A key outcome arising from this review process was the commitment to secure the continued use of peat within Ireland's energy mix. In June 1993, a feasibility study for a proposed peat-fired generator ('Europeat 1' - Edenderry Power Plant⁴) at Edenderry, Co. Offaly was submitted to the Minister for Transport, Energy and Communications, and in April 1995, an agreement was reached with the European Commission on the provision of financial support for the proposed 120MW power plant. The Ballydermot Bog Group and Derrygreenagh Bog Group were identified as the primary supply bogs for the power plant. Construction of the Edenderry Power Station was commenced in January 1999 and was commissioned for operation in December 2000.

Industrial scale peat extraction ceased within the Application Site in July 2019 following the High Court's judgment on *Friends of the Irish Environment Ltd v Minister for Communications, Environment & Climate Action & Ors.* [2019] IEHC 646 (discussed in greater detail in Section 2.1.3 of the rEIAR accompanying this planning application). The High Court set aside the Peat Regulations⁵ in their entirety.

It is clear from the foregoing that peat extraction has been an integral part of national energy policy and security of national energy supply since at least 1934. Bord na Móna was established to source and supply domestic fuel for use by households and in electricity generation. Therefore, the extraction of peat at the Application Site since 1949 has been in accordance with national energy related policy and legislation.

4.2.2 Planning Legislation

Peat extraction activities, which fell within the definition of 'agriculture' with regard to turbarry, were classified as exempted development under Section 4(1)(a) of the Local Government (Planning and Development) Act 1963.

Class 17, (Part 3 Schedule 2) of the Planning and Development Regulations (2001) restricted the exempted development status by inclusion of the following:

Class 17 (Part 3, Schedule 2)

- d) Peat extraction in a new or extended area of less than 10 hectares, or
- e) Peat extraction in a new or extended area of 10 hectares or more, where the drainage of the bogland commenced prior to the coming into force of these Regulations

This exemption was amended in 2005 by the Planning and Development Regulations 2005 making it conditional on not being subject to an EIA.

The provisions of Class 17 remained relevant to peat extraction activity until the enactment of the Environmental (Miscellaneous Provisions) Act (2011) on 20th September 2012, which inserted Section 4(4) into the Planning and Development Act (2000)⁶,

"Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection(2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required."

⁴ Edenderry Power Plant (Offaly County Council Reference 98/437) – 3rd Party Appeal (P.L19.107858): Grant of Permission with revised conditions (dated 24th December 1998)

⁵ S.I. No. 4/2019 – European Union (Environmental Impact Assessment) (Peat Extraction Regulations 2019)

⁶ Section 4(4) did not apply to development "completed not later than 12 months after such commencement"



As mentioned previously, prior to 20th September 2012, all industrial scale peat extraction activities were classified as exempted development. The Environment (Miscellaneous Provisions) Act 2011 came into effect on the 20th September 2012 which inserted Section 4(4) of the Act. Section 4(4) legislates that development which is typically exempt (e.g., industrial peat extraction pre-2012) is no longer exempt if an Environmental Impact Assessment (EIA) or an Appropriate Assessment (AA) of the development is required. Notwithstanding this provision, the legal planning status of industrial peat extraction remained uncertain and unclear in practice up until September 2019.

With regard to Class 17 of the Planning & Development Regulations (2001) and Section 4(4) of the Planning & Development Act (2000) it is important to highlight the observations of Justice Simons in his judgment on the 'Peat Regulations' (*Friends of the Irish Environment Ltd -v- Minister for Communications & Ors* [2019] IEHC 646 - 20th September 2019) (see section 2.3 of this Report),

"One of the curious features of the approach initially taken to peat extraction under domestic legislation is that a distinction had been drawn between existing peat extraction, and peat extraction involving "new or extended" areas. Although not stated in express terms, the assumption underlying the legislation seems to have been that existing peat extraction did not have to comply with the EIA Directive. In order to benefit from this special treatment under domestic law, all that was necessary was that the drainage of the bogland had commenced prior to the coming into force of the relevant parts of the Planning and Development Regulations 2001 on 21 January 2002. Thus, it was not necessary even that the peat extraction had commenced prior to the implementation date for the EIA Directive on 27 June 1988".

The observation of Mr Justice Simons on the interpretation of previous planning law for peat extraction activities is insightful as he states that the assumption underlying the legislation appeared to be that existing peat extraction did not have to comply with the EIA Directive as long as the drainage of the bogland had commenced prior to the coming into force of the relevant parts of the Planning and Development Regulations 2001 on 21st January 2002. As mentioned previously, drainage at the Application Site had commenced in the late 1940s.

The application of Section 4(4) of the Act, to on-going peat extraction was subsequently challenged in 2013 by Westland Horticulture Limited and Bulrush Horticulture Limited (*Westland Horticulture Limited and Bulrush Horticulture Limited v An Bord Pleanála* (2013/398/JR – [2018] IEHC 58). The applicants for judicial review in that case argued that the extraction of peat was a 'use', rather than works, and therefore, the development / works required to facilitate this use would have been completed 'not later than 12 months after such commencement' and peat extraction (as a use) should continue to be exempted development. This argument was ultimately rejected by Mr. Justice Meenan in his judgment (February 2018) in which he held that peat extraction was both works and use and, as peat extraction involving a new or extended area of 30 hectares or more required Environmental Impact Assessment as per Schedule 5, Part 2, Class 2a of the Planning & Development Regulations (2001), planning permission was required. As discussed above, this decision was then subject to an application for leave to appeal, which was refused on 7th December 2018.

As referred to in Section 1.1 of this Report, between 2013 and December 2018 peat industry representatives and environmental groups were engaged in extensive consultation, with Government Departments and State bodies on regulations pertaining to large-scale peat extraction - the European Union (Peat Extraction) Regulations. The peat extraction industry anticipated that a new statutory regime would be put in place which would assist in clarifying the planning status of on-going peat extraction activities across the country. In January 2019, the 'Peat Regulations' were published, however, the legislation would ultimately be quashed by Mr Justice Simons on the 20th September 2019 (*Friends of the Irish Environment Ltd. -v- Minister for Communications & ors* [2019] IEHC 646).



Mr Justice Simons found that “first, the form of regularisation procedure provided for under the amended legislation is inconsistent with the EIA Directive and the Habitats Directive. Whereas a Member State does enjoy a limited discretion to make provision for the regularisation of development projects which have been carried out in breach of the requirements of either or both of the EU Directives, the amended legislation exceeds this discretion”. Secondly, the use of secondary legislation to amend primary legislation was impermissible.

During the period between 20th September 2012 – 20th September 2019 planning law concerning industrial scale peat extraction activities and the requirement for planning permission and EIA / AA has been ambiguous. The Applicant operated the bogs in accordance with Planning and Development legislation of the time in the belief that the development was authorised and was exempt from a requirement for planning consent. Between 2000 until the present day the Applicant has held an IPC licence and operated in accordance with EPA requirements. The judgment of Mr Justice Simons on the 20th September 2019 on [2019] IEHC 646 ultimately provided the certainty required by the Applicant, and the peat extraction industry, to fully understand the planning status of peat extraction in Ireland. On foot of this decision, the Applicant ceased all industrial scale peat extraction on boglands within its ownership, including the Application Site.

The Applicant acted at all times in accordance with planning legislation and national policy. All facilitating and ancillary works associated with peat extraction were subject to applications for planning consent as required (refer to Section 2.2 of this Report). The Applicant has also fulfilled their requirements under Part IV of the EPA Act (1992) (as amended).

In summary, the following are considered to be the key points that demonstrate how the Applicant could reasonably have had a belief that the development was not unauthorised:

- Industrial-scale peat extraction was on-going within the Application Site prior to 1988, before the required transposition of the 1988 EIA directive and 1994 Habitats Directive, with peat extraction commencing as early as 1952 for individual bogs within the Application Site. These works benefited from exemption up until 20th September 2012 when the Environment (Miscellaneous Provisions) Act 2011 was enacted, and Section 4(4) was inserted within the Act.
- Peat extraction was supported by Government Policy, and fundamental to ensuring a secure supply of energy generation since the First Development Program.
- The implications of Section 4(4) on the peat extraction industry remained ambiguous between 2012 and 2019 as planning cases on peat extraction and EIA/AA were considered and tested within both the planning system (An Bord Pleanála Ref. PL25.RL.2975) and legal system ((*Westland Horticulture Limited and Bulrush Horticulture Limited v An Bord Pleanála* (2013/398/JR – [2018] IEHC 58)).
- The ‘Peatland Regulations’ (January 2019) which attempted to provide further clarity on this issue (e.g. exemption from planning permission for large scale peat extraction activity (30ha or over) were ultimately quashed by the High Court ([2019] IEHC 646 - September 2019) on the grounds that the legislation was inconsistent with the requirements of the EIA Directive and the Habitats Directive.

In the interim, the Applicant had proceeded with industrial scale peat extraction in line with the conditions of its IPC licence. On foot of [2019] IEHC 646, the Applicant ceased peat extraction on boglands within its management, including the Application Site, and dutifully proceeded to prepare and lodge an application seeking leave to apply for substitute consent in March 2023 (ACP Ref. 316033) for the relevant works at Longford Pass, Littleton, Lanespark and Derryvella bogs.

The Applicant formally announced in January 2021 that all industrial scale peat extraction on lands within its management would permanently cease, with peat extraction at the Application Site having ceased notably sooner than that in 2017.



In summary, the peat extraction activities carried out by the Applicant to September 2012 at the Application Site benefited from exempted development status. On receipt of its IPC Licence (Ref. P0499-01) in August 2001, the Applicant undertook the subject works in line with the conditions of its licence, as regulated by the EPA. The application of Section 4(4) of the Planning and Development Act (as amended) to peat extraction activities remained ambiguous between September 2012 and September 2019 (peat extraction ceased on the Application Site in July 2019). During this period, live planning cases were being considered within both the planning and legal systems relating to peat extraction; concurrent to this, the Applicant maintained operations in line with its IPC Licence. The Applicant continues to comply with these conditions and requirements subsequent to the permanent cessation of peat extraction within the Application Site in 2017.

It is apparent from the foregoing that the Applicant acted reasonably in believing that the development was not unauthorised.

4.3 (C) Whether the ability to carry out an assessment of the environmental impacts of the development for the purpose of an EIA or AA and to provide for public participation in such an assessment has been substantially impaired

The Applicant has been engaged in peat extraction activities at the Application Site since 1941 and has operated under its IPC Licence (Ref. P0499-01) since August 2001. As part of the initial licensing application process in 1999, there was public participation under the statutory publication and notification framework set out under the Environmental Protection Agency Act, 1992. The public participation process required:

- A newspaper notice to be published;
- A site notice to be erected;
- Notification to be issued to the planning authority in whose functional area the activity is located (i.e. Tipperary County Council); and
- The application to be placed on public display at the EPA's offices from the date of receipt of the application until 2 months after the licence was granted.

Pursuant to this licence, the Applicant is permitted to carry out the extraction of peat in the course of business which involved an area exceeding 50 hectares. The extant IPC Licence contains 15 no. conditions relating to operation and monitoring, emissions to water and air, water protection, waste management and bog rehabilitation. The licence sets emission limit values which are subject to ongoing monitoring by the Applicant to ensure licence compliance as well as regulatory oversight and enforcement by the EPA. The Applicant has also been audited and inspected, in relation to compliance with the conditions of its IPC Licences by the EPA (as the competent authority). The Applicant is required to submit an Annual Environmental Report (AER) to the EPA each year (prior to the 1st of March), which details the Applicant's annual record of compliance with the terms of its Licence.

In February 2012, a Code of Practice between the Department of Arts, Heritage and the Gaeltacht, the National Museum of Ireland and the Applicant was published. The purpose of this Code was to provide a framework within existing legislation, policy and practice to enable the Applicant to progress with its programme of peat extraction within the framework of Government strategy, whilst carrying out archaeological mitigation in line with the principles and actions agreed by all parties.

Furthermore, the Applicant has actively consulted with a number of relevant agencies, authorities and affected parties, as identified by the Applicant and the EPA, in relation to the work carried out on its peatlands. Consultees have included, but are not limited to, the following:



- EPA;
- National Parks and Wildlife Service (Local, Regional and National levels);
- Inland Fisheries Ireland;
- Applicable County Councils;
- Heritage Council;
- Coillte;
- An Taisce;
- Irish Peatland Conservation Council;
- Irish Wildlife Trust;
- BirdWatch Ireland;
- Butterfly Conservation Ireland;
- Fáilte Ireland;
- Midlands Regional Planning Authority;
- Waterways Ireland.

Bord na Móna produce periodic Biodiversity Action Plans for which open engagement was carried out annually with a range of stakeholders at the annual Bord an Móna Biodiversity Action Plan review days between 2010-2018. The most recent Biodiversity Action Plan was launched by Bord na Móna in 2016 with the Biodiversity Action Plan review day being held in May 2018. Prior to that, A Biodiversity Action Plan was in place for the period 2010 – 2015. It should also be noted that the EPA, via their website (<https://www.epa.ie/our-services/licensing/waste/waste-licensing/submissions/>), provides the necessary contact information to individuals to allow for the submission of any observations or complaints associated with the Applicant's licensed operations. The Applicant's AERs, submitted in compliance with the conditions set out within IPC Licence P0499-01, as well as any licence audits carried out by the EPA, are also available for public review via the EPA's web portal. This facility provides further opportunities for the public to participate within the on-going management of the Applicant's licensed operations and associated assessments.

As outlined previously a rEIAR and rNIS is submitted with this application for substitute consent, which both facilitate further public participation on the regularisation of the subject activities together with the statutory public consultation process associated with the substitute consent application. As such, there has been no impairment on the ability to carry out an EIA or AA or to provide for public participation in those assessments.

4.4 (D) The actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out or continuation of the development

Industrial-scale peat extraction was on-going within the Application Site prior to 1988, with peat extraction commencing as early as 1941 for individual bogs within the group. The bog development works and industrial scale peat extraction activities have over the decades elicited a direct change in habitat composition within and adjacent to areas of peat extraction and in areas of ancillary activity.

This habitat change resulted from, inter alia, localised changes in hydrology associated with land drainage and from direct removal of vegetation and peat from the production areas. In terms of the actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out of the subject peat extraction activities and associated site development work, it is noted that peat extraction has historically had the potential to result in the following impacts:



- Habitat change;
- Change in Water Quality;
- Change in Hydrological Regime;
- Disturbance to Species.

The nearest designated sites are Cabragh Wetlands pNHA (001943) approximately 17km downstream (at its closest point) from the Application Site, River Barrow and River Nore SAC approximately 10.6km from Derryvella Bog and River Suir SAC approximately 10km from Derryvella Bog.

It is important to again emphasise that the Applicant has operated within the remit of its IPC Licence since August 2001, which sets out specific monitoring regimes, standards for avoiding and mitigating impacts to local hydrology and emission limit values on water emissions, and 100% compliance on water emissions has recently been achieved for 2024. As mentioned previously, Bord na Móna went beyond its statutory obligations by setting up Silt Control Committees in 1975 in accordance with company policy on emissions and pollution control. The network of silt ponds and drainage controls established during that time and the limits on suspended solid concentrations to 100mg/l mitigating any potential impacts on nearby SACs and SPAs resulting from peat extraction. The success of these measures is evidenced in the EPA Inspector's Report on Bord na Móna's IPC licence application which states that water samples were in the most part of good quality.

It is of note that these monitoring procedures precede the date of designation of the Lower River Suir SAC. As such, measures have been put in place and have been evolving and improving responsively to monitoring output (e.g. Environmental Monitoring System) and EPA enforcement for the protection of water quality since the time of the IPC licensing.

An rEIAR and rNIS are produced as part of this substitute application which provide robust assessments of the significant effects on the environment and European sites. These reports present a detailed assessment of the actual and likely significant effects on the environment and on designated European sites arising from the now completed peat production at Application Site.

4.5 (E) The extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated

The Application Site operated in accordance with the Applicant's IPC Licence (Ref. P0499-01) between during the period of active peat extraction (i.e. August 2001 and July 2017) and continues to comply with the conditions of the licence, and will continue to comply with the conditions of licence until such a time as the licence surrendered. The taking of effect of the licence predates the designation of the Lower River Suir SAC in 1999.

Licence conditions prescribed by the EPA are intended for the protection, and where possible, the improvement of the environment and apply from the time of grant of the licence. The EPA has undertaken Technical Amendments of the licence on 25th September 2012, 22nd August 2019 and 17th September 2021 for the purpose of aligning the operational conditions of the licence to the objectives of National and European environmental protection legislation enacted over the lifetime of the licence. For example, the licence was subject to a Technical Amendment (A) in 2012 for the purpose of the European Communities Environmental Objectives (Surface Water) Regulations, 2009.



While the conditions prescribed under the licence in relation to water quality are to address 'current' environmental effects of peat extraction, they have been prescribed with regard to the objectives of the surface water regulations to 'maintain' or 'restore' the water quality to the defined 'Good Status'. The following amendments included under Technical Amendment (A) provide useful insight on the robust monitoring system required by the EPA for the protection of local hydrology:

- 6.2: The licensee shall, by the 1st February 2013, submit for agreement by the Agency a revised proposal for a surface water discharge monitoring programme. This programme shall have regard to the following:
 - The current status of each bogland (virgin, under development, operational or worked out);
 - The sensitivity of the receiving water;
 - The relevant River Basin Management Plan;
 - The nature, magnitude and variability of the discharges;
 - The reliability of the silt ponds control measures; and
 - The status of the silt pond upgrade programme.

The revised surface water discharge monitoring location programme shall ensure that a representative selection of all surface water emission points from boglands within the licensed area is monitored annually and that all emission points are monitored at least once every five years. Surface water emission points shall be monitored as set out in Schedule 2(ii) Monitoring of Emissions to Water of this licence.

- 6.13: *The licensee shall trend the monitoring results for total ammonia and determine any statistically significant relationship that exists between the results and the current status of each bogland (virgin, under development, operational or worked out), rainfall, silt pond control measures or other factors. The licensee shall report annually as part of the AER on the trends and on any statistically significant relationship identified.*

Under Condition 10 of the IPC Licence (Ref. P0499-01), the Applicant is required to complete the following:

- 10.1 *Following termination of use or involvement of all or part of the site in the licensed activity, the licensee shall:*
 - 10.1.1 *Decommission, render safe or remove for disposal/recovery, any soil, subsoils, buildings, plant or equipment, or any waste, materials or substances or other matter contained therein or thereon, that may result in environmental pollution.*
 - 10.1.2 *Implement the agreed cutaway bog rehabilitation plan*

The discharge of Condition 10 will facilitate rehabilitation of the Application Site in conjunction with any parallel future uses (such as wind energy infrastructure). Accordingly, it is anticipated that significant effects on the environment can be remediated.



4.6 (F) Whether the applicant has complied with previous planning permissions granted or has previously carried out unauthorised development

The Applicant is the second largest landowner in the state with c. 80,000 hectares within its management, mainly across the midlands of Ireland. Within this overall landholding, the Applicant has in excess of 250 no. separate planning permissions for a variety of developments, from renewable energy installations (wind farms, battery energy storage systems etc.) to rail level crossings and other support infrastructure for various commercial operations. It should also be noted that the Applicant has been in existence since 1946, and as planning regulations were first introduced in 1963, some of their developments were constructed prior to the introduction of the planning regulations.

The Applicant has never been the subject of any actual or threatened 'Section 160' enforcement action from Tipperary County Council in relation to Application Site concerning development undertaken by the Applicant.

4.7 (G) Such other matters as the Commission considers relevant

As noted previously within this report, the Applicant formally announced in January 2021 that all industrial scale peat extraction on lands within its management would permanently cease, and therefore, the above matters referenced are now even more pertinent in the context of the Application Site. Notably, peat extraction ceased some years in advance of this announcement, in 2017.

There is very little ambiguity remaining with regard to the climate change emergency occurring both within Ireland and at a broader global scale. The Climate Status Report for Ireland 2023 similarly reflects on clear and distinct impacts arising from climate change effects within an Irish context. The reduction of emissions is a key proponent of the enacted Climate Action and Low Carbon Development (Amendment) Act 2021 ('the Climate Act'), which aims to achieve a climate neutral economy by no later than 2050, and a 51% reduction in greenhouse gas emissions by 2030. These objectives have been translated into the Climate Action Plan 2024/2025 (CAP), which sets out an ambitious course of action over the coming years to ensure that Ireland achieves its legally binding target of net-zero greenhouse gas emissions no later than 2050, and a reduction of 51% (including from Land Use, Land Use Change and Forestry - LULUCF) over the period 2018 to 2030. The rehabilitation of the Application Site can contribute to carbon sequestration and the reduction of carbon emissions associated with land use in line with the CAP.

Additionally, Section 15(1) of the Climate Act requires relevant bodies to, in so far as practicable, perform their functions in a manner consistent with:

- (a) the most recent approved climate action plan,*
- (b) the most recent approved national long term climate action strategy,*
- (c) the most recent approved national adaptation framework and approved sectoral adaptation plans,*
- (d) the furtherance of the national climate objective, and*
- (e) the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State.*

This requirement of relevant bodies has been subject to scrutiny in the Irish legal system, with the Supreme Court delivering judgment in *Coolglass Wind Farm Limited v An Coimisiún Pleanála* [2026] IESC 5 on 4th February 2026.



It is considered that should the Commission grant substitute consent in respect of peat extraction and ancillary activities at the Application Site, they would be acting in a manner consistent with plans, policies and objectives as defined in Section 15(1) of the Climate Act. Industrial peat extraction ceased at the Application Site in 2017. Since that time, a programme of decommissioning and rehabilitation works has been implemented in line with the Applicant's IPC Licence. The key objective of these measures is achieving environmental stability. Additionally, enhanced rehabilitation measures in the form of PCAS will optimise ecosystem service benefits of peatland rehabilitation and restoration, particularly carbon storage and reducing carbon emissions. This will also benefit biodiversity and water (e.g. water quality and catchment management).

The Application Site is an important natural asset and has the potential to play a strategic role in meeting national climate action targets, which have become all the more significant in light of the Climate Act, the Climate Action Plan 2025, the Climate Change Performance Index 2025, and the Change Advisory Council's Annual Report 2025. These reports provide an updated assessment of both global climate change and climate change in the context of Ireland and identify the increasingly discernible impacts climate change is having on both the environment and society. In line with the Applicant's vision to assist in achieving a climate neutral Ireland by 2050, it is intended to utilise the Application Site for both peatland rehabilitation and wind energy infrastructure. The regularisation of the planning status of the Application Site via a granting of substitute consent is a critical component to delivering this important future development, and crucially ensuring that the lands deliver the maximum climate and environmental benefits possible for the Irish state.



5. CONCLUSION

This Planning Report has been prepared in support of an application for substitute consent made by Bord na Móna Energy Ltd. in order to regularise, without prejudice, the planning status of historic peat extraction (and all associated bog development works) carried out within the Application Site (Longfordpass Bog, Littleton Bog, Lanespark Bog and Derryvella Bog), located within the Littleton Bog Group in north Co. Tipperary.

This application for substitute consent is made pursuant to updates to the legislation around substitute consent which allows for a single stage application process and removes the need for leave to apply from the Commission.

In this regard, Section 177K(1A) of the Act requires that in any given case the Commission must be satisfied that exceptional circumstances exist that would justify the grant of substitute consent. This report, and the supplementary documentation that form part of this application, set out the specific circumstances underpinning the Applicant's case which, in our opinion, demonstrates the required exceptionality to permit the Applicant an opportunity to regularise the subject peat extraction completed at the Application Site by substitute consent. This opinion is based on a number of key considerations, summarised as follows:

- The Applicant has fulfilled all statutory and legislative requirements in terms of planning and environmental protection, as outlined above, throughout the decades of peat extraction. In fact, Bord na Móna went beyond its statutory obligations by setting up Silt Committees across its network of bogs in 1975 and introducing silt control measures to all bog surface water discharges.

The peat extraction works at the Application Site, carried out by the Applicant until July 2017, were exempt from development status. Upon receiving IPC Licence Ref. P0499-01 in August 2001, the Applicant conducted works per the licence conditions regulated by the EPA. The application of Section 4(4) of the Act in regard to peat extraction activities was ambiguous between September 2012 and September 2019. During this time, ongoing planning and legal cases were being considered, and the Applicant continued operations in line with its IPC Licence.

- An rEIA and rNIS are submitted with this substitute consent application, facilitating further public participation in the regularisation of the activities and the statutory public consultation process. Thus, the ability to conduct an EIA or AA and ensure public participation in those assessments remains unaffected.
- Since August 2001, the Applicant has operated under its IPC Licence, meeting strict monitoring standards. Notably, the Applicant achieved 100% compliance with water emission limits as recently as 2023. Bord na Móna's proactive measures, such as the establishment of Silt Control Committees in 1975, have effectively mitigated potential impacts on nearby areas.
- The discharge of Condition 10 will facilitate rehabilitation of the Application Site in conjunction with any parallel future uses (such as wind energy infrastructure). Accordingly, it is anticipated that significant effects on the environment can be remediated.
- The Applicant has never been the subject of any actual or threatened 'Section 160' enforcement action from Tipperary County Council in relation to the Application Site concerning development undertaken by the Applicant.
- The Cutaway Bog Decommissioning and Rehabilitation Plans outlined as part of this application are compatible and can be integrated with the development of the Application Site for future uses to benefit both the climate and the economy.



With regard to the above, it is submitted that exceptional circumstances do exist with regard to the works carried out at Application Site.

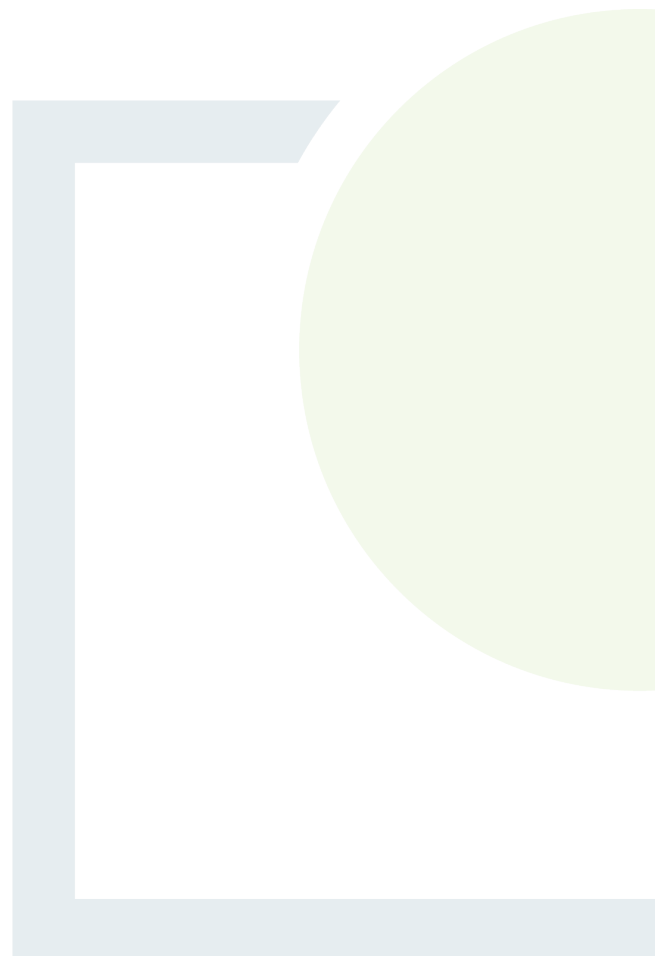
As such, it is respectfully requested that the Commission grant substitute consent for the subject works.

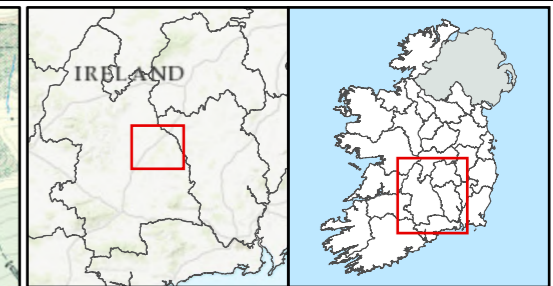
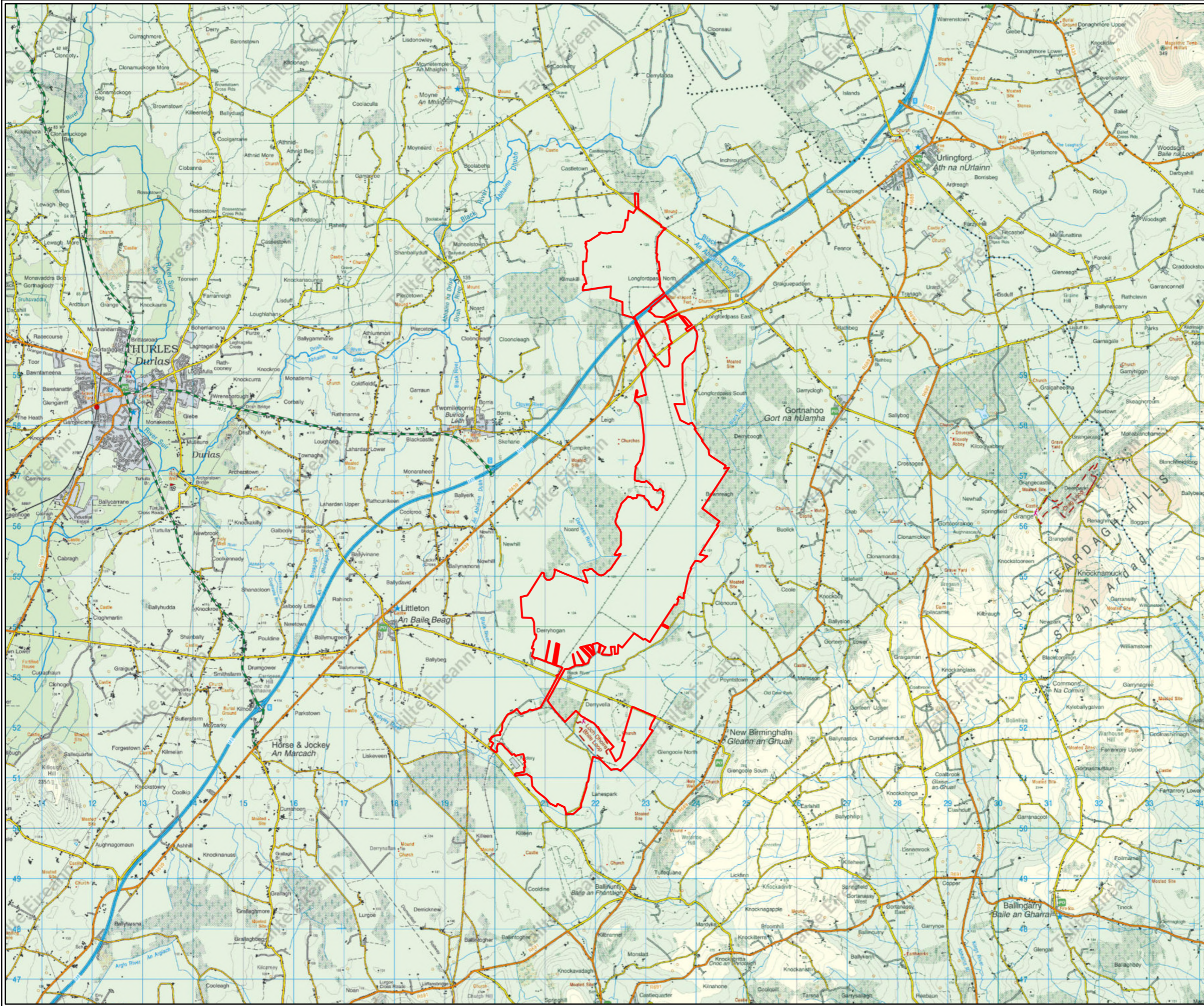


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APPENDIX 1

Site Location Map





Legend
 Site Boundary

TITLE:	Site Location
PROJECT:	Littleton Peat Extraction Substitute Consent
FIGURE NO:	1.1
CLIENT:	Bord na Móna Energy Limited
SCALE:	1:75,000
REVISION:	0
DATE:	07/05/2026
PAGE SIZE:	A3





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