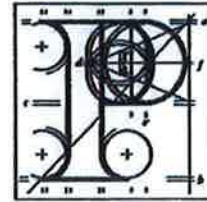


Our Case Number: ABP-313763-22



**An
Bord
Pleanála**

~An Taisce
Tailor's Hall
Back Lane
Dublin 8
D08 X2A3

Date: 15 August 2022

**Re: Proposed Fermoy Weir remedial works and fish bypass on the River Blackwater.
Fermoy Weir (Protected Structure), Fermoy, Co. Cork.**

Dear Sir / Madam,

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

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

If you have any queries in relation to the matter please contact the undersigned officer of the Board. Please quote the above mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,

Doina Chiforescu
Executive Officer
Direct Line: 01-8737133

AA02

Tel
Glaó Áitiúil
Facs
Láithreán Gréasáin
Ríomhphoist

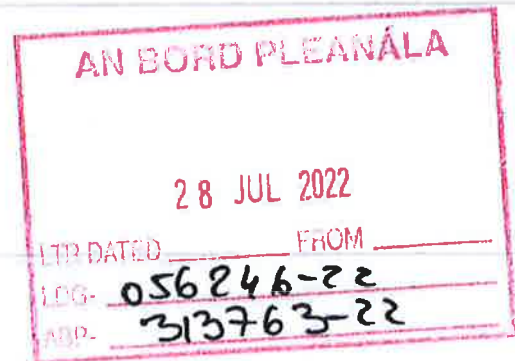
Tel (01) 858 8100
LoCall 1890 275 175
Fax (01) 872 2684
Website www.pleanala.ie
Email bord@pleanala.ie

64 Sráid Maoilbhríde 64 Marlborough Street
Baile Átha Cliath 1 Dublin 1
D01 V902 D01 V902

Doina Chiforescu

From: SIDS
Sent: Friday 5 August 2022 16:05
To: Doina Chiforescu
Subject: FW: Ref. 313763
Attachments: 20220728-ABP-313763.pdf

From: Sorcha Skelly <s.skelly@pleanala.ie>
Sent: Friday 5 August 2022 15:48
To: SIDS <sids@pleanala.ie>
Subject: FW: Ref. 313763



From: Appeals2 <appeals@pleanala.ie>
Sent: Friday 29 July 2022 12:33
To: Sorcha Skelly <s.skelly@pleanala.ie>
Subject: FW: Ref. 313763

From: Bord <bord@pleanala.ie>
Sent: Friday 29 July 2022 09:54
To: Appeals2 <appeals@pleanala.ie>
Subject: FW: Ref. 313763

From: Phoebe Duvall <planning@antaisce.org>
Sent: Thursday, July 28, 2022 6:06 PM
To: Bord <bord@pleanala.ie>
Subject: Ref. 313763

A Chara,

Please find attached a submission from An Taisce in relation to Ref. 313763.

Kind regards,

--

Phoebe Duvall

Planning and Environmental Policy Officer
An Taisce - The National Trust for Ireland
The Tailors' Hall, Back Lane, Dublin 8, Ireland
Phone: 01 454 1786
www.antaisce.org

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20220728-ABP-313763

An Bord Pleanála
64 Marlborough Street
Dublin 1

Sent by email to: bord@pleanala.ie

28th July 2022

Ref: 313763
App: Cork County Council
For: Proposed Fermoy Weir remedial works and fish bypass on the River Blackwater
Site: Fermoy, Co. Cork

A Chara,

An Taisce would like to make the following comments on the above application.

It should be ensured that all of the issues raised by the Department of Heritage in their letter of 28th February 2020 on potential impacts to the Blackwater River (Cork/Waterford) SAC have been fully addressed in the NIS and in the proposed design for the fish bypass and repaired weir. Full compliance with Article 6(3) of the Habitats Directive must be demonstrated.

The Blackwater River in the area of the subject site has been classed by the EPA as good status per EU Water Framework Directive (WFD) criteria. However, it is also deemed to be at risk of not meeting its WFD obligations for 2027. It is therefore submitted that a full assessment of the proposal against the requirements Article 4 of the WFD is needed to determine whether the project may cause a deterioration of the status of the river.

We would draw the Board's attention to the following points of relevant European caselaw regarding the WFD. In Case C-461/13 Weser the CJEU held:

"Article 4(1)(a)(i) to (iii) of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy must be interpreted as meaning that the Member States are required

— unless a derogation is granted

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Directors: Philip Kearney (Chair), Trish O'Connell (Vice-Chair),
Stuart McCaul (Secretary), Aoife O'Gorman (Treasurer), Hugh O'Reilly, John Sweeney, Olivia Rogers, Rónán O'Brien

— to refuse authorisation for an individual project where it may cause a deterioration of the status of a body of surface water or where it jeopardises the attainment of good surface water status or of good ecological potential and good surface water chemical status by the date laid down by the directive."

There is also provision for the protection of water-dependent Natura 2000 sites under Article 4(1)(c) of the WFD, the Blackwater River (Cork/Waterford) SAC in the case of the subject application. The Board should therefore evaluate if the proposal has the potential to affect the achievement of compliance with the conservation objectives of the water-dependent Natura 2000 sites listed as 'protected areas' in the context of WFD Article 4(1).

We would finally highlight that Article 5 of the Surface Water Regulations 2009 requires a public authority, in the performance of its functions, not to undertake those functions in a manner that knowingly causes or allows deterioration in the chemical or ecological status of a body of surface water.

Please acknowledge our submission and advise us of any decision made.

Yours sincerely,

Phoebe Duvall
Planning and Environmental Policy Officer
An Taisce – The National Trust for Ireland