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[redacted]

25 October, 2026

Subject: MUL260006: Submission on Liscannor Bay site investigation surveys

Dear Sir/Madam,

We wish to make a submission on application MUL260006 and its Natura Impact Statement. (Tony Lowes, Director, Friends of the Irish Environment)

We ask MARA to refuse the licence as currently framed or, if it is minded to grant it, to do so only with the conditions listed at the end of this submission. Our concerns fall into four areas: the relationship between these surveys and the outfall they are meant to inform; the adequacy of the noise assessment, mitigation and baseline evidence; the term of the licence and the timing of the works and the protection of Cregg Beach and the area's archaeological heritage.

MARA may grant a licence only if, after appropriate assessment, there is no reasonable scientific doubt that the surveys will not adversely affect the integrity of any European site (*Waddenzee*, C-127/02). We ask MARA to apply that test strictly and to give equivalent weight to the protection of Annex IV species.

1. The surveys and the wider scheme

The applicant states that these surveys exist to inform the design of the long sea outfall for the Lahinch and Ennistymon wastewater treatment plant and MARA already has the outfall consent application (MAC260002) before it. The Court of Justice has held that the purpose of the EIA Directive cannot be circumvented by splitting projects and that failing to consider cumulative effects must not let projects that together are likely to have significant effects escape assessment (Commission v Ireland, C-392/96; Ecologistas en Acción-CODA, C-

142/07, para 44). We acknowledge these are EIA cases but they reflect the same principle that Article 6(3) of the Habitats Directive applies through its express requirement to assess effects in combination with other plans or projects. We ask MARA to confirm that its Appropriate Assessment treats these surveys as part of the scheme they serve and does not defer the assessment of the outfall's effects to a later stage.

2. Standard of Appropriate Assessment

The Court has held that a plan or project may be authorised only where, after an appropriate assessment, there is no reasonable scientific doubt about the absence of adverse effects on site integrity (Waddenzee, C-127/02). The assessment must not have gaps and must contain complete, precise and definitive findings (Sweetman, C-258/11). It must also catalogue the habitats and species present, including those outside the designated site, where they could affect its conservation objectives (Holohan, C-461/17). We ask MARA to apply this standard to the applicant's reliance on desk-based data and to its conclusions on species using Liscannor Bay.

3. Underwater noise

The Annex IV Risk Assessment relies on the sonar and profiling equipment operating at about 100-600 kHz and attenuating within a few hundred metres. The same document says the sub-bottom profiler will be a boomer or sparker system, which we understand typically operates at lower frequencies and can travel further. We ask MARA to require the applicant to state the actual source frequencies and levels and to provide site-specific propagation modelling for Liscannor Bay. The assessment also rates harbour porpoise noise risk as "low to moderate" while concluding that the overall risk is low and we ask how that conclusion was reached.

4. Mitigation

Section 6 of the Annex IV assessment describes a Marine Mammal Observer, a 500 m pre-start watch and a soft start but refers to dolphins only and the noise section applies these measures to drilling and vibrocoring. The assessment also allows continuous operations at night or in poor visibility, when visual watches are ineffective. We ask for these measures to be binding for all geophysical surveys, to cover all marine mammals present and for passive acoustic monitoring and weather and visibility limits to be required. To the extent that the screening conclusion depended on such measures, we note that the Court has held that mitigation measures cannot be taken into account at screening and belong in the Appropriate Assessment (People Over Wind, C-323/17). We ask MARA to confirm that its conclusions comply with this.

5. Regulation 54

We ask MARA to provide a written clarification, prior to issuing any decision, regarding the unresolved legal status of Regulation 54 consent.

- **Applicant Position:** Uisce Éireann contends within its Annex IV documentation that a Regulation 54 derogation remains unnecessary, asserting that proposed mitigation adequately reduces disturbance risks to minor levels.
- **Departmental Guidance:** Conversely, the Development Applications Unit noted in its correspondence of 8 April 2026 that while concurring with initial screening

conclusions, the applicant must acknowledge that formal Regulation 54 consent may be legally required under the Habitats Regulations.

As this process has advanced to a full Natura Impact Statement, we formally call upon MARA to clarify within its final determination whether Regulation 54 consent is mandated for the planned geophysical, geotechnical and intertidal operations, alongside full statutory reasoning. Should the current documentation prove insufficient to determine this point, MARA must issue a formal request for further information.

6. Baseline evidence
The species baseline relies largely on desk-based national datasets and the most recent otter record cited for the area dates from 2010. Relying on a 16-year-old record violates the strict requirement for 'up-to-date, site-specific data' mandated by the Habitats Directive. We formally ask MARA to state whether any real-time, site-specific data - such as mandatory Passive Acoustic Monitoring (PAM) or dedicated intertidal otter holt surveys - actually informed this assessment. Speculative assumptions based on stale data from 2010 cannot legally form the basis of an Appropriate Assessment.

7. Term and timing
The applicant expects surveys in Q4 2026 to Q1 2027 but seeks a 24-month licence as contingency. The assessment itself notes that cetaceans are recorded more often in summer and autumn. The application contains a profound internal contradiction regarding timing. The applicant states they expect to execute the surveys between Q4 2026 and Q1 2027, yet they are demanding an open-ended 24-month blanket licence as an operational contingency.
Crucially, the applicant's own environmental assessment explicitly notes that cetaceans are recorded most frequently in Liscannor Bay during the summer and autumn months. By seeking an unrestricted 24-month term, Uisce Éireann is seeking the legal right to deploy invasive acoustic sonar during the exact seasons their own report identifies as the highest-risk period for marine mammal presence. MARA must refuse to grant a multi-year contingency window that actively permits reckless acoustic exposure during peak ecological sensitivity. The term must be strictly tied to a defined, compressed winter programme with absolute, legally binding summer and autumn restrictions.

8. Cregg Beach
Intertidal works with excavators and tracked rigs are proposed at a beach used year round by surfers and the public. These works will have both immediate and long-term impact.

Immediate Impact: The Survey Phase (Next 2 Years)

Under the requested 2-year Maritime Usage Licence (MUL260006), Cregg Beach will face intertidal works in the form of direct, localised industrial disruption to gather engineering data:

- **Heavy Machinery on the Strand:** Uisce Eireann intends to deploy heavy, specialised mechanical equipment - including mini-excavators and tracked mini-drilling rigs - directly onto the intertidal sand and rock flats of Cregg Beach.
- **Benthic and Subsurface Physical Damage:** These rigs will perform invasive physical geotechnical testing, boring deep holes into the beach sediment and taking

core samples to evaluate the geological foundation. This will crush local intertidal ecosystems, disrupt baseline sediment layers and create localised noise on the shore.
- **Amenity Displacement:** Cregg Beach is highly valued for surfing, walking and local school geography fieldwork. Forcing industrial machinery onto the sand directly conflicts with its heavy community usage.

Ultimate Impact: The Final Infrastructure Project

The data gathered during this phase will be used to permanently build the Ennistymon, Lahinch, Kilfenora and Liscannor Sewerage Scheme outfall system at Cregg Beach which includes:

- **A Permanent Pipeline Landfall:** A massive, permanent marine outfall pipeline will be physically trenched and laid across the intertidal zone of Cregg Beach, cutting through the sand out into Liscannor Bay.
- **A Continuous Effluent Discharge Point:** Once operational, the pipe will continuously pump millions of litres of treated liquid sewage effluent directly into the marine waters immediately off Cregg Beach.
- **Threat to Imminent Public Bathing Status (2027):** Local community campaigns and Clare County Council have advanced processing to have Cregg Beach officially designated as a Public Bathing Area by 2027 due to its pristine water and popularity with families and surfers. Piping a major sewerage scheme outfall directly into an area designated for safe public swimming creates an immediate public health and environmental clash.
- **Threat to Lahinch's Blue Flag Status:** Because Liscannor Bay relies on complex, shifting tidal currents, there is a real danger that discharging large volumes of effluent at Cregg Beach risks pulling bacterial plumes into neighbouring waters, threatening the vital Blue Flag status of Lahinch's main tourist beach.

9. Zero-Discharge Alternatives and International Best Practice

We explicitly acknowledge and support the urgent necessity of upgrading the Ennistymon, Lahinch, Sewerage Scheme. The current infrastructure is visibly failing; during periods of heavy rainfall, storm overflows routinely compromise water quality and public health at Lahinch beach, threatening its vital tourist economy and Blue Flag status. The status quo is unacceptable. However, Uisce Éireann's proposed solution - replacing river pollution with a massive permanent marine outfall pipe that dumps millions of litres of effluent directly into the sensitive intertidal waters of Liscannor Bay and Cregg Beach - represents outdated, 20th-century engineering. Under Article 16 of the Habitats Directive, a project causing ecological risk cannot be granted if less destructive alternatives exist. The applicant has completely failed to evaluate modern, international best-practice alternatives that avoid marine effluent discharge altogether. MARA should refuse this licence until the applicant rigorously assesses zero-discharge inland solutions, including:

- Short Rotation Coppice (SRC) Willow Bio-Filtration: Utilizing inland willow plantations to naturally absorb and filter effluent, a proven zero-discharge standard across Sweden and Denmark.
- Advanced Water Reclamation & Membrane Bioreactors (MBR): Treating municipal wastewater to irrigation-grade standards for inland agricultural or forestry recycling.
- Constructed Inland Wetland Systems: Utilizing engineered reed bed networks to filter wastewater naturally before safe inland release, completely bypassing the marine SAC boundary.

Conditional Provisos & Formal Request to the Competent Authority (MARA)

In light of these compounding flaws, MARA cannot legally fulfil its obligations under the Birds and Habitats Regulations by assessing these exploratory works in an environmental vacuum.

However, in the alternative event that MARA resolves to grant the licence, the competent authority is legally obligated to enforce stringent, non-negotiable conditions. Because this survey licence represents an inseparable first phase of a larger, permanent wastewater development, these conditions must actively mitigate the cumulative, multi-phase industrial footprint being forced upon Liscannor Bay and Cregg Beach.

Therefore, we formally request that any granted licence strictly incorporate the following conditions in full:

1. **Comprehensive Acoustic Safeguards:** Mandatory deployment of a qualified Marine Mammal Observer (MMO) enforcing strict 'soft-start' or 'ramp-up' procedures for all geophysical surveys. These protections must legally extend to *all* marine mammal species, without exception.
2. **24-Hour Acoustic Tracking:** Continuous deployment of Passive Acoustic Monitoring (PAM) to map underwater mammal presence. Sonar operations must be strictly bound by weather, visibility and absolute night-working limits.
3. **Strict Seasonal Exclusion Windows:** Implementation of legally binding seasonal limits prohibiting all marine and shore works during critical ecological cycles. The overall term of the licence must be strictly tied to the immediate survey programme, preventing an open-ended, multi-year disturbance window.
4. **Rigorous Cregg Beach Containment Controls:** Strict physical boundaries, machinery weight limits and site-restoration conditions placed on Cregg Beach to safeguard its imminent 2027 Public Bathing Status and prevent irreversible intertidal benthic destruction.
5. **Full Heritage Compliance:** Immediate and absolute integration of the Department’s underwater and terrestrial cultural heritage conditions in full, mandating real-time archaeological tracking of all borehole extraction.
6. **Definitive Regulation 54 Determination:** MARA must provide a clear, legally sound and explicit determination under Regulation 54 of the Birds and Natural Habitats Regulations. MARA must formally rule on whether the ecological disturbance caused

by these surveys - when viewed as the operational trigger for a permanent 9,300 PE sewerage pipeline - constitutes a threshold of damage that cannot be legally mitigated.

7. **Zero discharge alternatives**: MARA must insist that the applicant provide evidence that these alternatives have been fully explored as well as a comprehensive rationale for disregarding same.

Failing to apply these conditions would allow the applicant to exploit this temporary licence as an unmitigated back-door mechanism to secure a permanent pipeline landfall, using outdated engineering solutions and cementing an illegal project-splitting strategy.

Please acknowledge receipt of this submission and keep us informed of the decision.

Yours faithfully,

[redacted]

On behalf of Friends of the Irish Environment

Annex I

Friends of the Irish Environment CLG (FIE) is a non-governmental charity formed in 1997 by a group of environmental voluntary activists from across Ireland, with the company limited by guarantee established in 2001 towards the following goals:

- monitoring the full implementation of European law and assisting in its development,
- advocating for changes in the Irish planning laws,
- encouraging the implementation of the right to full public participation and access to justice,
- supporting individuals, local groups, and the wider public in understanding environmental issues, and
- seeking the proper implementation of environmental and planning laws to support sustainable communities, including pursuing concerns and cases in both the built and natural environments.

FIE has extensive experience in the application and enforcement of EU environmental law in Ireland, including litigation and regulatory engagement concerning large-scale peat extraction, Environmental Impact Assessment, and Appropriate Assessment, contributing to the scrutiny of long-standing regulatory practices. These extend to the assessment of indirect and cumulative environmental effects under the EIA Directive, and is relevant in the development of both onshore wind power and solar farms as well as other land use changes.

Formal complaints to the European Commission over biological contamination of Irish Drinking water in 2011 led to the enforcement of the standards required to protect public health, followed by further proceedings resulting in a 2024 judgment against Ireland for inadequately addressing chemical contamination.

In recent years, FIE has taken legal action to hold the Irish Government accountable for meeting national and international commitments to reducing carbon emissions, including 'Climate Case Ireland' where in 2020 the Supreme Court upheld FIE's challenge and struck down the Government's first National Mitigation Plan. Further challenges to subsequent plans are before the Courts, as well as a number of specific Judicial Reviews of planning decisions and regulations that we believe undermine or disallow citizens' rights under national and European law.

FIE conducts policy research, advocacy, and public awareness campaigns alongside litigation. As an independent and principled environmental advocate, FIE strives to be both challenging and cooperative, effective yet respectful. A commitment to fact-finding, truth-telling, integrity, and transparency drives FIE.

FIE is a member of the Irish Environmental Network and the European Environmental Bureau and cooperates regularly with national and international organisations pursuing the same goals.