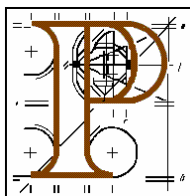


An Bord Pleanála



Inspector's Report

Reference Nos. 16. HA0042 & 16. KA0028

DEVELOPMENT: Roads development to form part of the N5 National Primary Route

ADDRESS: Between Westport and Turlough, Co. Mayo

APPLICATION TYPE: Approval under section 51 of the Roads Act 1993 as amended, Board Ref. No. 16. HA0042
Confirmation of Compulsory Purchase Order 2013 (No.1) by the County Council of Mayo, Board Ref. No. 16 KA0028

APPLICANT: Mayo County Council

ORAL HEARING: 14th, 15th, 16th, 17th, 21st, 22nd & 23rd January 2014 at Westport, Co Mayo

DATE OF SITE INSPECTION: 27th, 28th & 29th November 2013

INSPECTOR: Mr Stephen J. O'Sullivan

ASSISTING INSPECTOR: Mr Gerard Ryan

OBSERVERS:

Those who objected to the acquisition of their property under the compulsory purchase order—

Mr Pdraig McLoughlin
Ms Maeve Kelly
Mr Michael Mc Cormack and others
Ms Linda Price
Mr Thomas Bourke
The Reps. of Ms Nora O'Connor
Mr Henry Brogan
Mr Marc Lawless
Mr Enda McHale
Ronan and Marie Ó Cathasaigh
Mr John Heneghan
Mr Michael Nolan
Ms Mary B. Rice
Mr Edward Browne
Mr Joseph Hastings
Mr Vincent Irwin
Mr James Burke & Ms Mary Amelia McNally
Mr Dudley Filan
Mr John Jordan and Ms Helen Sarsfield
Mr Dónal Ó Gallachóir
Mr Thomas J. Tuohy
Mr Cyril Moran
Mr Thomas Horkan, Mr John Horkan & Paraic Horkan
H Bro

Prescribed bodies -

The Western Regional Authority
The Department of Arts, Heritage and the Gaeltacht
Health Service Executive
Inland Fisheries Ireland
Geological Survey of Ireland
An Taisce

Other observers -

Balloor Residents

Mr Eddie Grogan

Mr Kieran Horkan

Mr Mick Kane

Deerpark Residents' Group

Mr Dominic di Lucia

Annagh Residents

Marius and Ameila Greef

Caroline and Paul Ryder

John Ryder

Allergan Pharmaceuticals Ltd

Westport Tourism Organization

Westport Chamber of Commerce

Gerard and Sylvia Scott

Ms Niamh Walsh

Mr Peter Sweetman

Ms Noral Lunn

Noreen and William Coyne

Islandeedy Community Council

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1.0 INTRODUCTION

- 1.1 This report deals with two concurrent applications from Mayo County Council in respect of a proposed development to improve the N5 national primary route between Westport and Turlough in County Mayo. The proposed development would provide a new single carriageway road to the north of Westport that would meet a new dual carriageway road which would provide a by-pass to the south of Castlebar, and an upgrade of the existing N5 road to the east of Castlebar to a dual carriageway that would run past the village of Turlough.
- 1.2 One application, Ref. No. 16. HA0042, seeks approval under section 51 of the Roads Acts 1993, as amended, for the proposed roads development. The board may approve the proposed roads development with or without modifications, or it may refuse to approve it. The application was accompanied by an environmental impact statement and a natura impact statement. The board may not approve the proposed roads development until an environmental impact assessment and appropriate assessment of the development have been completed. The requisite assessments of the proposed development are set out in sections 5 and 6 of this report below.
- 1.3 The other application, Ref. No. 16. KA0028, seeks confirmation by the board under section 76 of the Housing Act 1966, as amended, of the Compulsory Purchase Order 2013 (No. 1) made by Mayo County Council for the purposes of the proposed roads development. The board may, after consideration of the objections to the confirmation of the order and this report, decide to confirm the order with or without modifications, or it may refuse to confirm the order.
- 1.4 The applicant served notice of the making of the compulsory purchase order on those whose interest in land would be affected. Those whose interests were affected could object to the confirmation of the order to the board in writing. Several persons did so. A notice was published of the application for approval and the submission of an environmental impact statement, and written observations to the board were invited from members of the public on payment of the prescribed fee. Several persons did so. Notice of the application was also sent to certain prescribed bodies, several of whom made written observations in the board. I conducted an oral hearing on the applications, which heard further objections to the confirmation of the order from affected persons and observations on the application for approval from prescribed bodies and persons who paid the prescribed fee. Information pertinent to the proposed development and the environmental and appropriate assessment was also heard from the applicant. The environmental impact statement and

the written submissions to the board are attached to the file. Section 3 of this report includes a summary of

- the objections to the confirmation of the compulsory purchase order made in writing to the board or at the hearing;
- the observations on the application for approval made in writing to the board or at the hearing;
- the applicant's direct responses to those objections and observations; and
- any relevant cross questioning between the applicant and other persons.

Sections 5 and 6 respectively of this report summarise information relevant to the environmental impact assessment and appropriate assessment of the proposed development, whether it was contained in the environmental impact statement, the written objections and observations to the board or was submitted in the course of the oral hearing. Where the objections to the confirmation of the compulsory purchase order referred to matters that are relevant to the likely effects of the proposed development on the environment or on Natura 2000 sites, then they have been considered in the course of the environmental impact assessment and appropriate assessment of the proposed development. The written briefs of evidence and other documents submitted at the hearing are attached to this report and submitted to the board. An audio recording of the proceedings at the oral hearing, which were generally in order, is also available to the board. However the board should note that certain proceedings involved hearing objections to the confirmation of the compulsory purchase order that were subsequently withdrawn, and which are not considered in this report.

- 1.6 The Planning Inspector Mr Gerard Ryan was appointed by the board to report on certain aspects of the proposed roads development regarding its likely effects on travel patterns and traffic, including its impacts on the safety and carrying capacity of the road network and the application of road design guidance and specifications. Mr Ryan has had access to all written documents connected with application and attended the entire oral hearing. The content of his report informs section 4 of this report in particular.
- 1.7 Although neither current application was made under the Planning and Development Acts 2000, as amended, the board's attention is drawn to section

146 of the act which pertains to the performance of its functions generally. In the course of this application that board is required to have regard to:

- the policies and objectives of the government, of the Minister and of other ministers, and of planning authorities which have a bearing on the proper planning and sustainable development of any area;
- to the national interest and issues of strategic social or economic importance to the state;
- and to the National Spatial Strategy and relevant regional planning guidelines.

Section 217B of the Planning and Development Act 2000, as amended, allows the board to request further information, hold meetings or seek alterations to proposals during its consideration of applications for approval under the Roads Act. Section 217C allows the board to impose conditions when granting approval under the Roads Act, including conditions requiring the construction or financing of a facility.

- 1.8 Section 17 of the Roads Act 1993, as amended, places a general duty on the National Roads Authority to secure the provision of a safe and effective network of national roads and gives it overall responsibility for the planning and supervision of works for the construction and maintenance of national roads. Section 19(1)(a)(i) states that the authority may prepare designs for construction or improvement works, while section 19(2) states that it shall arrange for that function to be performed on its behalf by the relevant roads authority as far as possible. Section 19(1)(e) states that the authority may specify standards in relation to construction or maintenance works. In the current case the applications were made by Mayo County Council as the roads authority. The National Roads Authority did not make a submission to the board or appear at the hearing. However the EIS and submission from the applicant made extensive reference to the various guidelines and standards which the NRA has published. Section 66(1)(d) of the Dublin Transport Act 2008 gives the National Transport Authority the power to issue guidelines to roads authorities on the design of cycle and pedestrian facilities. It published the National Cycle Manual in June 2011.

1.9 The board may wish to note previous decisions that it made in relation to road proposals in the area that may be relevant to its consideration of the current applications:

- 16.HA0003 – On 23rd February 2010 the board refused approval under section 51 of the Roads Act 1993 as amended for a development along the N26 National Primary Route between Ballina and Bohola Co. Mayo that would have involved the construction of c18km of type 2 dual carriageway. The reason for the refusal referred to the River Moy SAC and existing and predicted traffic volumes on the N26, and stated that it had not been demonstrated that the proposed development was justified or that a more sustainable road upgrade scheme was not available, and that the proposed development would therefore be an unacceptable intrusion into the environment and habitats at the Moy River valley.
- 16.JP0001 – On 2nd July 2012 the board granted approval under section 177AE of the Planning and Development Act 2000 as amended for a proposal to upgrade the N59 national secondary road between Westport and Mulranny, Co. Mayo. The southern end of that development would join with the western end of the development proposed under the current applications.

2.0 DESCRIPTION OF PROPOSED ROADS DEVELOPMENT

2.1 The proposed road development would consist mainly of a type 2 dual carriageway that would convey the N5 national route on a new line that would by-pass the town of Castlebar. It would include a new road to the north of the town centre of Westport between the N5 and the N59 national secondary road. The proposed road development would provide –

- 23.7 km of type 2 dual carriageway, which would have two 7m-wide carriageways, two 3m-wide verges of which 0.5m would be a hard strip, and a central reservation of 1.5m with a wire rope
- 2.1km of type 2 single carriageway, with a carriageway 7m wide and two verges of 3m of which 0.5m would be a hard strip
- 0.6km where there is a taper from type 2 dual carriageway to type 1 single carriageway at the eastern end of the scheme
- 3 compact grade separated junctions; 6 roundabouts; 2 left-in left-out junctions; 1 all-movement junction at grade; 11 overbridges; 2 underbridges; 2 bridges over the railway; and 7 farm underpasses.

2.2 The western end of the proposed road would commence on the Newport Road on the northern fringes of Westport, which is the national secondary road N59, where it would meet the road whose upgrade was approved by the board under JP0001. A roundabout would be constructed with three arms, two of which would serve the Newport Road. The proposed road proceeds to the east from the third arm of that roundabout as a type 2 single carriageway along a new road line. The applicant indicated that the numbering of this part of the road was not yet determined by the NRA, and it was referred to as the N5/N59 link road. It includes a priority junction serving the Attireesh Road to the north, a roundabout at Carrowbeg on the junction with the Allergan Road to the south. It terminates at a roundabout at Knockranny North which is the junction with the proposed dual carriageway. This part of the roads development is described in the EIS and in this report as section A. A stretch of dual carriageway runs south to the Knockranny South roundabout, which would be the junction with the existing line of the N5 on the eastern approaches to Westport. This part of the proposed development was referred to as the Knockranny Link Road.

- 2.3 The mainline of the proposed road would continue as a type 2 dual carriageway east from the Knockranny North roundabout, passing to the south of Castlebar. The road would have roundabouts at its junctions with the existing line of the N5 to the west and east of the town. It would have compact grade separated junctions at its junctions with the N84 and N60 national secondary roads to the south of Castlebar. The road would be conveyed over the railway twice, at Ch. 30+822 and Ch. 36+095. The part of the road between the Knockranny Link Road near Westport to the proposed roundabout west of Castlebar is described as Section B. The part from there to the roundabout east of the town is described as Section C.
- 2.4 To the east of the Castlebar East roundabout the proposed roads development would involve an upgrade of the existing N5 single carriageway to a type 2 dual carriageway. Left-in left-out junctions would be provided to the west of the Castlebar West roundabout to serve the local road L5785 Windsor Road on both sides of the dual carriageway. A compact grade separated junction would be provided at the local road L5779, the Gortnafolla Road, near the village of Turlough. The upgrading of the road would involve widening the bridge over the Castlebar River. The final 600m at the eastern end of the road would involve a taper from a dual carriageway to join the existing single carriageway. The part of the proposed roads development is described in the EIS and in this report as Section D.
- 2.5 The proposed road development would involve the diversion and construction of various side roads and link roads, which are set out at table 3.4 of the EIS. The board's attention is drawn to the proposed structure SB210 that would carry the local road L17101, the Annagh Road, over the dual carriageway in the vicinity of Lough Lannagh at Ch 19+564. The structure would contain 5 spans and would be 120m long.

3.0 SUBMISSIONS

3.1 Observations from certain prescribed bodies

- The **Western Regional Authority** made submissions in writing and at the hearing. It stated that the current regional planning guidelines identify the N5 as a main regional access route at Objective I 05. There is a general policy in the guidelines to improve roads. Safe crossings for vulnerable road users are needed at junctions, especially around Westport and to the west of Castlebar.
- The **Department of Arts, Heritage and the Gaeltacht** made a submission in writing. With regard to archaeology, it referred to a zone of archaeological potential MA078-046 around a crannog which should be assessed before a decision is made on the application. With regard to nature conservation, the submission stated that the project was within 30m of the SAC at the River Moy. It was the board's responsibility to carry out an appropriate assessment of the project. Proper fencing would be recommended where works occur close to the Castlebar River. Further information and quantification should be provided regarding the predicted loss of receptors of ecological value. More information regarding invertebrate communities should be provided.

In the course of the hearing the applicant submitted a copy of correspondence it sent to the department. It provided a more detailed statement of its proposed measures to control erosion and sediment release during construction. It also included a quantification of the habitats classified as receptors of ecological value and an analysis as to whether the annex I habitats would be considered significant in terms of appropriate assessment.

The department appeared at the hearing. It requested that the response given by the applicant to the department be formally referred by the board to the department. The department stated that it would not be responsible for devising mitigation measures nor would it be responsible for ensuring their implementation. In response to questioning, the department declined to state whether it had been established beyond reasonable scientific doubt that the development would not adversely affect any European site, or whether all necessary information had been presented to the board to enable an appropriate assessment to be carried out of the implications of the project for any European site in light of that site's conservation objectives.

- The **Health Service Executive** made a written submission which stated that the EIS included out-dated information regarding the source of certain water supply schemes. The route would impinge upon a watermain of the Lough Mask regional water scheme. The development might affect water quality at Clogher Lough which is the source of the Druminadoo/Fahy group water scheme. Lough Lannagh is no longer a source of drinking water. The impact of noise emissions of the environment at Black Lough should be considered, as should the potential impact on air quality during the operation of the extended Allergan facility at Westport.

The applicant submitted a written response at the hearing which acknowledged the errors in respect of the sources of water supply and the watermain along the N5, and referred to the mitigation measures outlined in the EIS and in the erosion and sediment control submitted at the hearing to illustrate the means by which water quality would be protected during construction and operation. Details were given of likely noise emissions if piling were required near Lough Lannagh. The applicant undertook to consult with Allergan and meet its requirements regarding emissions to air if construction overlaps with the operation at its plant. The applicant's response included a letter from the HSE stating that the HSE considered that response to be acceptable.

- **Inland Fisheries Ireland** made a written submission which noted that the River Moy was an important fishery for salmon and trout, and that half of the route is within its catchment. The Manulla River would be a spawning ground for the fishery. Clogher/Doon Lough is a notable trout fishery. The Castlebar River has potential as a salmonid fishery. All in-stream works need to be carried out sensitively. Appropriate mitigation measures should be in place. Angler access needs to be maintained at culverts SD403 and SB210. The applicant provided a written response indicating the detailed procedures that it would follow with regard to the matter raised in the IFI's submission.
- The **Geological Survey of Ireland** stated in writing that it had no comments.
- **An Taisce** made a written submission which stated that the board needed to consider the indirect impact of the project on the pattern of development in the area which would lead to an increase in rural sprawl. The EIS fails to address the policies set out in Smarter Travel or the issues of climate change and fossil fuel depletion. The board may not disregard these issues in its environmental

impact assessment of the project or set them aside as matters of public policy, particularly when those policies have not themselves been subject to strategic environmental assessment. The project would have an unacceptable impact on the church at Turlough.

The applicant provided a written response to this submission. The proposed road would not contribute to scattered rural development because there would be no junctions with the existing road network between the outskirts of Westport and Castlebar. The road will serve regional traffic and the towns of Westport and Castlebar. The applicant has the authority to control development along the line of the old N5 in accordance with the policies of the county development plan. The scheme will make cycling more attractive on the old N5 by removing most of the traffic from it. As stated in section 13.4 of the EIS, the proposed scheme will only increase the country's CO₂ emissions by 0.0031% of its 2018 Kyoto target and 0.0046% of its 2033 target. The EU as a whole is making good progress towards meeting its emissions target. The impact of the development on Turlough Church has been assessed and mitigation measures proposed. The development on would not effect the visual relationship between Turlough Church and Turlough Park. The NTA does not have a role in setting transport policy outside Dublin.

3.2 Objections to the confirmation of the compulsory purchase order by persons whose interest in land would be affected

Note – the reference numbers for various landholdings cited below are taken from the schedules and maps of the compulsory purchase order submitted by the county council for confirmation

- **Mr Padraig McLoughlin** objected to the acquisition, in writing to the board and at the oral hearing, of land from holdings P450 and P510 at Druminadoo, Westport, consisting of three pieces of agricultural land of 0.712ha in total, as well as parts of a public road and a part of a right of way. The lands would be traversed by the proposed road between the Knockranny roundabouts, linking it with the existing N5 east of Westport. Access roads A3 and A5 would cross these lands to provide access on either side of the proposed Knockranny link road. Mr McLoughlin also has lands on the southern side of the existing N5 in plot 540 part of which would be acquired under the order.

Mr McLaughlin stated that he inherited the lands and farms them. He offered his lands for sale in 2007, valued for development. The acquisition of land and the construction of a roundabout and revised access road A5 on the eastern side would diminish the value for development of the residual landholding. The proposed acquisition would take place at the weakest point in the market for development land. The revised access arrangements would also hinder the movement of livestock and the farming of the remaining land. The proposed link road should be reduced to a single carriageway with a smaller roundabout, which would have a lesser impact on the usefulness of the remaining land for development or farming. During questioning, the applicant queried whether it was currently possible to move livestock across existing the N5 from one part of Mr McLoughlin's land to the other. Mr McLaughlin stated that this could be done safely in the early morning.

- An objection was made on behalf of **Mr Michael McCormack** and others, in writing to the board and at the oral hearing, regarding the acquisition of land from holding P520 at Carrowbeg, Westport, consisting of 1.69ha of agricultural land, 0.29ha of garden, and 0.92ha of public road. The lands would be occupied by the Knockranny South roundabout, the line of the old N5 to the west of the roundabout and a small part of the new link road running north of the roundabout. There would be an access road, no. A3, running from the old N5 in a loop to provide access to the land to the north.

The objection states that the width and specifications of the Knockranny link road are excessive. A dual carriageway is proposed where a single carriageway would suffice to accommodate the recorded and projected traffic volumes. A single carriageway link road would allow a roundabout of lesser diameter to cater for the junction at Knockranny South. A report from a consulting engineer to this effect was submitted at the hearing. A revised roads design would allow a direct access, even if only a left-in/left-out junction, from the link road that would obviate the need for the long access road A3 over the objectors' land. It would also be cheaper and represent a better use of public funds, and would be consistent with the single carriageway of the proposed road by-passing the town to the north. The proposed road would injure the scenic view from the road approaching Westport that looks over the town and Clew Bay. This prospect is protected as view V8 of the Westport development plan, and objective LO-02 which requires visual impact assessments for relevant proposals. The applicant has not discharged this responsibility, and failed to identify the correct location view V8, which is on the objectors' land at

the same location as the proposed Knockranny South roundabout. The objectors' land is close to the town and is suitable for residential development, and the removal of the zoning for residential development by variation no. 2 of the 2008 Westport plan from land along the proposed roads corridor was unjustified, resulted in an unwarranted reduction in the value of the objectors' land, and may impinge on the propriety of the making of the compulsory purchase order.

The applicant's response stated that the approach to roundabouts generally required two lanes of traffic even if the main line of the road had only one lane in each direction. The Knockranny link road is an essential part of the N5 route to Westport, and so could be differentiated from the N59 national secondary road. A free flow slip road is proposed past the northern roundabout for traffic approaching on the new N5 and turning south. This requires two southbound lanes on the link road. There would only be a marginal reduction in the land take for a single carriageway compared to the proposed narrow dual carriageway. An access road could not be provided directly onto the link road within 80m of a roundabout even if it were a single carriageway. The development plan map for Westport does not accurately depict the location of the protected proposed V8. The views of the town and Clew Bay are clearest from a point c500m to the east. At the location of the proposed Knockranny South roundabout the views are screened by buildings and hedgerows.

The objectors made a closing submission to the hearing which repeated their objections, and included a second report from their consulting engineer re-stating his conclusions regarding the specifications and cost of the Knockranny link road. The applicant stated in its closing statement that the justification for the design of the Knockranny link road and an assessment of its visual impact had been included in the applicant's evidence.

- **Ms Maeve Kelly** made an objection in writing with regard to the acquisition of 340m² of garden at Drumminadoo, Westport, from holding P0579. The objector is concerned that the construction of access road A5 would encourage additional development in the vicinity of her house.
- **Ms Linda Pryce** objected in writing to the board regarding the acquisition of land from holding P670 at Carrownaclea, Westport, consisting of 0.152ha of agricultural land. The objection states that the acquisition of land and the

development of the road would seriously injure the rural amenity and setting of the house on the landholding.

- **Mr Thomas Bourke** objected in writing and at the oral hearing to the acquisition of 0.66ha of agricultural land from holding P1560 and part of the public road at Aghadrinagh, Castlebar Co. Mayo. The written objection raised several issues, including those relating to drainage, fencing, noise and impacts on the farmhouse. The submission at the hearing stated that the outstanding issue was that the acquisition and road development would split a viable agricultural holding, with 4ha to the north of the road being severed from the house and agricultural buildings. The proposed access along the N84 and the new access road C7 would require a round trip of 2.6km. An underpass for livestock should be provided. The use of the underpass could be shared to ameliorate the severance of the adjoining landholding P1565. The applicant's response was that it would not be feasible to provide an underpass at this location which would not be liable to flooding because that would require the level of the road to be raised. The applicant stated that the provision of a boxed underpass would increase costs by c€100,000. It also raised a concern about the safety of a long underpass arising from the possibility of a crush of cattle. The objector discounted the possibility that the underpass would be used during flood events, and stated that cattle in the underpass would have a clear view of the exit. The land falls to the north, and the underpass could be drained to an existing watercourse.
- **The Representatives of Ms Nora Connor** objected in writing and at the oral hearing to the acquisition of 0.55ha of agricultural land and garden and 0.107ha of public road from holding P1565 at Aghadrinagh, Castlebar Co. Mayo. The objections stated that an underpass should be provided to avoid severance of the holding and to reduce the need to build an access road across the holding to Mr Bourke's land at P1560. The proposed raising of the road level by c2.3m in front of the house along the N84 would have an unacceptable impact on the amenities of the property due to nuisance from noise and visual intrusion. The applicant responded that the change in levels would not alter the noise levels at the house, which were established by the traffic on the N84. The objector also referred to the variation in the zoning of adjacent land from industrial to agricultural.

- **Mr Henry Brogan** made an objection in writing, which was reaffirmed at the hearing, to the acquisition of c1.8ha of agricultural land in plots on either side of the existing N5 at Pheasant Hill, Castlebar, as well as parts of the public road, from holding P1340. The objection stated that the amount of land to be acquired to realign a local road off the old N5 was excessive. Less land would be required if the new local road was closer to the boundary of the landholding. Additional details are required of measures to screen the road from the house on the landholding.
- **Mr Marc Lawless** made an objection in writing, which was reaffirmed at the hearing, to the acquisition of 0.02ha of agricultural land and part of the public road at Capparanny, Turlough from holding P2484. The objection raised concerns that the closing of the junction of the local road with the N5 would create a cul-de-sac that would be vulnerable to dumping and unauthorised parking, and give rise to nuisance. The applicant submitted a copy of its written response to Mr Lawless, describing the proposed measures to address these concerns, which included fencing around verges and the removal of redundant road surfaces. .
- **Mr Enda McHale** objected in writing and at the hearing to the acquisition of a part of the public road and c6.5ha of agricultural land at Balloor, Castlebar from holding P1770. The objector stated that he was a full time farmer who owns 14ha at this location which he purchased in 2007, and he has since spent €120,000 on farm buildings there. The objector rents another c50ha. The proposed acquisition would remove nearly half of his landholding, with most of the acquisition not required for the construction of the road but to compensate another non-agricultural landowner, the neighbouring golf club. The acquisition is not justified for the purposes of the scheme. The objector should be left with the remaining part of his land, with suitable access, after the road is built. To do otherwise would be unfair to a young farmer.

The applicant's response was that plot P1770a201 was required for flood storage, while the cost of providing access to P1770b201 under the road would exceed the value of the land. An underpass at this location would be prone to flooding, and would require the construction of further accommodation roads. The estimated costs for these works was given as €205,000, nearly all of which is for an underpass. Providing an accommodation road from the Milebush Road within the landtake would be difficult as the said public road would be elevated to carry it over the new N5. It would also require a round trip of 4.6km between

the two parts of the existing landholding. The objector responded that €205,000 would be a reasonable expenditure in the context of an overall budget of €169,000,000 to keep a farm in operation, and restated his objection to the acquisition of a large part of his landholding to facilitate another landowner.

- **Ronan and Marie Ó Cathasaigh** objected in writing to the acquisition of 0.02ha of public road at Liscromwell, Castlebar from holding P2135. The objection referred to the impact of noise and lighting on their property, to fencing and planting, to the provision for surplus land and the general impact of construction. The applicant submitted a copy of its written response to the objector, which stated that the scheme would not impinge on the front boundary wall of this property while the gradient along the access would be 3%. It stated that fencing would be provided along the western boundary, and referred to the relevant section of the EIS for landscaping proposals and the likely impact of noise and light.
- **Mr John Heneghan** made an objection in writing to the board and at the hearing to the acquisition of c1.5ha of agricultural land at Balloor, Castlebar from holding P1800. The objector stated that access should be provided to the remainder of his lands after the road and its bridge over the railway is built in order to allow the landholding of c10ha to be farmed together. He also referred to the proposed acquisition of the land over which a right of way runs from his holding to Hawthorn House, which is occupied by a local golf club.

The applicant's response was that the provision of an access along the railway underneath the road bridge would require the span of the bridge to be increased, the cost of which would not be justified by the amelioration of severance that would result. Iarnród Éireann would require the bridge to be extended to 4m beyond the railway land, so the cost of extending the road bridge to accommodate the requested underpass is estimated at €750,000, or 50% of the entire cost of the structure. It is intended to close the right of way over the golf course, as it would serve no purpose after the acquisition of the eastern part of Mr Heneghan's land. Mr Heneghan then stated that his objection stood, and that the access should be provided to maintain the landholding as an operable unit.

- **Mr Michael Nolan** made an objection in writing and at the hearing to the acquisition of 170m² of garden, 50m² of right of way and 190m² of public road at Milebush, Castlebar from plot P1690. Agricultural land of 0.291ha would also be acquired from this property. The written submission referred to the excessive land take and the loss of part of the garden in front of the house and of trees and hedges that could be remedied by the omission of a proposed access road. The raising of the level of the public road in front of the property to allow it to pass over the new N5 would cause a concern regarding flooding. Inadequate information was provided regarding the reinstatement of the boundary. Mr Nolan also has an interest in land at holding P1795, from which 730m² of agricultural land would be acquired to provide a drainage outfall. Mr Nolan disputed whether this was an appropriate location for such an outfall.

In response to the objector at the hearing, the applicant stated that the level of the proposed N5 at the junction was as low as feasible to avoid flooding around Balloor. The alignment of the Belcarra Road over the new N5 was challenging and its vertical alignment already represented a departure from standards with regard to visibility. The applicant accepted that the road and its parapet would have a significant impact on the outlook from Mr Nolan's house, and would consult with him regarding the appropriate treatment of the 2.2m high boundary. All surface water runoff from the realigned access to the house will be diverted to the drainage system for the new road, as well from all entrances to the realigned Belcarra Road and the embankment to the north-west. The drainage at the driveway would be the outfall point for the curtilage of the house. Mr Nolan indicated that his objection stood, and that the levels of the new N5 at this location should be reconsidered.

- **Ms Mary B. Rice** made an objection in writing and at the hearing to the acquisition of 260m² of garden at Balloor Estate, Castlebar from holding P1790. It is also proposed to acquire part of the public road at a discrete plot at Milebush. The objector stated that the landtake was excessive. It could be reduced so that it would not impinge upon her back garden using bund screening. Concern was also expressed regarding the impact of the development on that house in terms of noise, visual intrusion, the loss of trees and hedges and the devaluation of property, as well the failure to specify adequate boundary treatments. The objection at the hearing was presented in conjunction with the submissions of the **Balloor Residents, Mr Kieran Horkan and Mr Eddie Grogan**. It sought movement of the road line 10-15m away from the southern boundary of the Balloor Estate to protect the woodland there, a dropping of the level of the road by c2m from its proposed level 4.8m above the

existing ground profile, and an increase in the height of the proposed sound barrier by 1m.

In response the applicant stated that the line of the road at this location was determined by the need to avoid the Shanvally Wetlands to the north. The height of the noise barrier was designed to block the line of sight between the upper floor windows of the houses at Balloor and the road surface, which is the dominant noise source. The levels and gradient of the road reflect the need to maintain surface water drainage and to avoid a hump in the bridge over the railway. The surface water outfall is at ch. 34,000, and a continuous gradient of 0.5% is required from the railway bridge. The development would result in the loss of a quarter of the woodland at Balloor, 260m² of 1,100m². The remaining trees would provide a substantial visual screen, with replanting on the upper half of the slope aiming to increase the density rather than the height of the screen. It would be more difficult to establish planting on a steeper embankment. The objector noted that most of the major trees at the golf course would be lost. Mr Horkan spoke to say that no one would wish a dual carriageway to be built in the vicinity of their houses with the resultant impacts of noise and devaluation, but that the 3 amendments sought would have a significant positive impact for the local residents. The design approach put forward by the applicant gives greater protection to the fenland at Shanvally and the golf course than to the amenities of local residents.

- **Mr Edward Browne** made an objection in writing and at the hearing to the acquisition of 260m² of agricultural land at Attireesh, Westport from holding P0320. The holding includes a bungalow and an older cottage associated with the former railway. The road development would have a serious negative impact of the private scenic amenity of the property with the road within 40m of the house at a level 10.2m above it, with the loss of trees. The residential value of the house would be diminished, and it would be substantially uninhabitable. The profound long term impacts on Mr Brown's property is recognized at Table APP 11.1A of the EIS on both houses on the property. The objector is not satisfied with the proposed mitigation measures of a 3m high fence and new hedgerow. There would be significant problems for those using the Greenway trying to cross the proposed roundabout, and it would be better to route the Greenway along the line of the old railway across Mr Brown's property. In these circumstances it would be better for all of the property to be acquired. In response the applicant acknowledged the impact on Mr Brown's property from the roads development. It stated that it had no interest in acquiring the line of the old railway for the Greenway.

- **Mr Joseph Hastings** objected in writing to the acquisition of 1.54ha of agricultural land at Druminadoo, Westport from holding P0430 due to the adverse impact on the farm and house there due to noise, injury to privacy, emissions and the devaluation of the property. The applicant gave a written response which referred to the 60bB_{Lden} criterion used in the noise impact assessment in the EIS, and to the fact that the road would be in a cutting at this location and the construction works would be screened by solid hoardings. The moderate impact of the farm holding identified in section 16 of the EIS was acknowledged. No significant impacts on air quality or on flora or fauna are likely to arise.
- **Mr Vincent Irwin** made in an objection in writing to the acquisition of 1.665ha of agricultural land at Islandeady from holding P0980 seeking clarification of the location of the cattle underpass proposed to link the severed parts of the landholding. It also raised concerns regarding the gradient of the access to the existing N5. The expense of building an underpass could be avoided if all the lands to the north of the new road were purchased.
- **Mr James Burke and Ms Mary Amelia McNally** made an objection in writing and at the hearing in respect of the acquisition of 1.319ha of agricultural land and part of the public road at Knockbrack, Westport. The acquisition would remove more than 10% of the holding. The land is stated to be well drained and of high quality, and an integral part of a family landholding since at least 1804. The road would sever access to a bog woodland. There was inadequate consultation on the EIS. Reliance on formal procedure is not adequate. The justification for the road development has not been established and it might generate additional traffic and lead to further congestion in towns. There is scope for improvements and better traffic management on the existing N5 to enhance safety. A fresh and creative approach is needed to transport in this part of the country. The use of other transport modes including the bus should be encouraged so people do not have to depend upon the use of the car, in line with the policies set out in the county development plan. The development would impinge upon bats and a pre-Famine village, and would be an unsightly feature in the landscape. The route should be moved further north to follow the lay of the land. The noise level of 60db could disturb fauna. Extensive archaeological testing should be carried out on the land. Specific details are not given regarding construction, with several important matters left to the

contractor, including the location of construction compounds. A stone wall should be provided on the property boundary rather than a post and rail fencing. The declassification of the existing N5 would give rise to pressure for sporadic development.

In response the applicant stated that achieving modal shift in Mayo would be very difficult. Significant changes had not been achieved even in places with denser populations and public transport networks, as in Dublin. There were no particular constraints in changing the alignment to the north of Mr Burke's property. The development would lead to less traffic and reduced noise along the old N5, as well as improved safety on that road. It is likely that an 80kph speed limit would be imposed upon it. The standard approach is to provide post and rail fencing, except where it replaces a different type of boundary. The area between Castlebar and Westport is designated as being under urban pressure and so there is a policy to control the development of one-off houses there. Commercial development is discouraged outside zoned settlements, except where a rural location is justified. The archaeological assessment did not involve the use of Lidar. The objectors responded that the inspector visiting the site should be accompanied by a noise expert. The enforcement of planning policy in Mayo can be problematical. Safety issues can be addressed without the need for a new road. The objectors made a closing submission wherein they reiterated their concerns regarding the roads development. The applicant stated in its closing submission that a sustainable transport system requires the provision of a safe road.

- **Mr Dudley Filan** made an objection in writing to the acquisition of 630m² of agricultural land and part of the public road at Shanvally, Castlebar from holding P1870. It states that access should be provided to the new road to allow development to occur on the landholding, or the funds that the purchasers invested in the property should be recouped. The applicant gave a written response stating that it was not proposed to provide direct access from private land to the dual carriageway.
- **Mr John Jordan and Ms Helen Sarsfield** objected in writing and at the hearing to the acquisition of 0.348ha of agricultural land at Liscromwell, Castlebar from holding P2060, and the right of way at plot P2075. The objection states that the road development is not necessary, so the compulsory acquisition is not justified and is an unjust and unfair attack on property rights and would sterilize other land that is suitable for development. The

infringement on the property rights of the objectors is exacerbated as the plot was purchased to provide a family home before the change in the development plan which restricted such development in the area, while the intervening delay was due to the applicant's devising of its proposals for the roads development. It would now be unfair for the applicant to obtain the property at its lower use value as farmland. The EIS and Natura Impact Statement are flawed and incomplete. There was an inadequate consideration of alternatives including the use of other modes of transport. The existing N5 could be upgraded on its existing line to the east of Castlebar. The EIS must provide a study of alternatives and the ECJ decisions in C-2/07 and C-142/07 are cited to the effect that an EIA must consider the indirect impact of the use of the proposed project. Other routes could have been provided for the roads development that did not impinge upon the objectors' property. The impact of the development on view no. 8 protected in the Westport Development Plan was not properly considered. The ecological surveys appear to have been carried out in 2005 and not subsequently updated. They do not take proper account of the copse on the objectors' land. The traffic surveys also appear to be flawed and incomplete. The mistaken addendum to the notice of the CPO that required a fee of €50 to accompany submissions on the EIS from those persons on whom notice of the CPO had been served was a fatal contravention of a mandatory provision of provision of the 1966 Housing Act which prevents the confirmation of the CPO. It would be impossible to reconstruct what objections might have been submitted if this mistake had not been made or what prejudice has arisen to the position of persons. It would be a contravention of the Aarhus convention and of European law for the board to approve the scheme in light of the deficiencies set out above.

The applicant responded to these objectors' points in its closing submission. It stated that there was no breach of the legislation governing the making of CPOs set out in the 1966 act. The only issue arose in connection with the notice of the EIS and not the notice of the CPO. There is no statutory requirement that submissions in relation to the EIS be free of charge, and a fee of €50 could not be said to be prohibitively expensive. According to the applicant the evidence indicated that alternative modes of transport had been considered but that they could not effectively meet the need which the proposed roads development. The ECJ decisions cited by the objectors determined whether an EIA of a project to expand an airport should address the increased activity that would result at the airport. It would not be feasible for the applicant to assess the expansion of airports in the EIS for this roads development.

- **Mr Dónal Ó Gallachóir** made objections to the board in writing and at the hearing to the acquisition of 180m² of public road at Breaghwy, Castlebar from plot 1880. They describe the objector's struggle to achieve equality of treatment from the planning system and his physical involvement in the construction of his own house. The objections stated that the raising of the N60 in front of the objector's house would have a devastating impact, leaving it wedged between the line of the N60 and the N5. The roads development would impair drainage at this residential property, and serious concerns were expressed about blasting during construction. The objector required various mitigation measures, including triple glazed windows, the retention of trees on the neighbouring land (through their acquisition by the council and subsequent disposal to the objector), a property condition survey prior to blasting, and a drainage system for the objector's property with continual pumping. Despite the extensive range of experts deployed by the applicant in the EIS and at the hearing, no expertise was presented to address the impact of the scheme from the perspective of the common householder.

In response the applicant stated that it was conscious of the impact of the road development on this householder. Ground investigations have identified limestone of a variable state at this location, and the extent to which blasting is required will not become clear until the overburden is removed. Blasting might be less intrusive than rock breaking which would occur over a longer period. The main line of the proposed N5 would be in a cut near the objector's property and would not be likely to interfere with drainage there. The drainage design seeks to segregate the runoff to the Castlebar River and so it is not proposed to connect private properties to the system serving the new road. The tree line to the side of the objector's property is within the CPO lands. The applicant cannot commit to how lands acquired may be subsequently disposed of, as the latter function is reserved to the elected members. There is no basis within the proposed scheme to include the trees behind the objector's property in the CPO. The new line of the N60 would be c11m further away from the objector's house than the existing road, and the development is predicted to lead to a decrease in the noise at the façade of the house. The objector pointed out that the new N5 would be 100 feet from his house, while the N60 will be at a higher level and so increase noise. The proposed drainage remedy would be a source of stress for the ordinary person.

- **Mr Thomas J. Tuohy** made an objection in writing and at the hearing to the acquisition of 0.88ha of agricultural land and part of the public road at

Breaghwy, Castlebar from holding P1980. His daughter appeared on his behalf at the hearing. Mr Tuohy is an elderly gentleman, whose house would be surrounded by a motorway after the development, with the consequent visual intrusion and a risk of damage to the house. The road would isolate the house and segregate the village of Kilkenny and injure its social life. It would also damage the wildlife of the area. It would cause the loss of a standalone tree of value to folklore. The road access would be 30m closer to the house than at present. The loss of land from such a small holding would render the farming of the remainder impractical. The objector stated that the applicant's submissions have not addressed the impact on the quality of people's lives arising from the roads development, particularly on the original homesteads at Kilkenny. There would be a negative impact in terms of noise and air pollution, and the disturbance would pose a threat to mental health. Mr Tuohy's daughter stated that the building up of the landholding was his life's work and that is provided a wonderful quality of life for his family. The human impact of the development should be recognised, and the fact that it is an injustice to the objector. The route should be reconsidered. The applicant responded that it recognized the particular human impact of the proposed development, but that the need for it arises from considerations of road safety.

- **Mr Cyril Moran** objected to the acquisition of 0.283ha of agricultural land and part of the public road at Clogher, Turlough from holding P2376. The objector had purchased the site with the intention of securing planning permission upon it. The proposed access road D4 that would cross this land should be moved to the west, allowing a portion of the holding to be retained that would be capable of development. The applicant responded the proposed acquisition was required to provide access to two landholdings to the south that would be severed by the main line of the new N5. The applicant indicated that it could examine the movement of the access road, but that it could not commit to this as it would require the agreement of the landowners to the south regarding joint access. The applicant denied that a plan submitted by Mr Moran was part of any such commitment. However, even if the access road were moved, the remainder of the plan would be smaller than the minimum site area for a one-off house required under the county development plan. Any further movement of the access road would result in a junction with less than the minimum visibility required under NRA standards, when measured over the public road.
- **Mr Thomas Horkan** (on behalf of himself, **John Horkan, Paraic Horkan and H Bro**) objected in writing and to the hearing to the acquisition of 0.197ha of

commercial land from holdings P2950 and P2951. The written objection outlined the function of the objectors' garden centre in providing services to travellers on the N5. Closing the existing junction onto the N5 would reduce access to their business. Adequate pedestrian and cycle access was needed to the village of Turlough. The proposed acquisition might impinge on the percolation area of the wastewater treatment system and on the signage announcing the business on the main road. The submission at the hearing stated that the outstanding issue related to signage for the garden centre. The centre complements the nearby national museum. Signage was needed to announce the centre on the same poles as the sign for the museum. The applicant stated that the current signs on the N5 on the Castlebar side would be re-erected. Signage at the junction for Turlough would be subject to NRA policy which would allow brown information signs for the museum and village, but not necessarily one that used the objectors' tradename. Signs that amounted to advertising would not be allowed. The objectors stressed to importance of the Horkans' brand name to the service that they provide.

3.3 Observations on the application for approval under section 51 of the Roads Act 1993

- The submissions from the **Balloor Residents, Mr Eddie Grogan, Mr Kieran Horkan and Mr Mick Kane** referred to the impact of the roads development on their houses at Balloor, Castlebar. The road would pass in close proximity to the houses at a raised level and would require the removal of trees and hedges. It would give rise to visual intrusion and noise pollution at the houses and devalue them. The proposed noise barrier should be replaced by a more effective solid berm. The concerns were re-stated at the hearing by Mr Horkan who spoke at the same time as the representative of Ms Mary B. Rice. I would refer the board to the questioning and responses that occurred then as they were pertinent to these submissions.
- The **Deerpark Residents' Group** made a submission in writing and at the hearing stating that the roads development would have an adverse impact on a residential area of Westport due to noise and light pollution. In response the applicant stated that the proposed N59 near Deerpark would be lit by cut-off lanterns 12m high. The cut-off lanterns will direct the light down towards the road, and not back from the lanterns towards the houses at Deerpark. The proposed road would have an impact on the semi-urban character of this area.

It would be at a lower level than the houses. No specific noise mitigation was proposed here, but there would be planting on both sides of the new road, with a deeper landscaped belt on the southern side between it and the houses. The group stated that its objections stood, and pointed out that noise from the GAA pitch was clearly audible at the residents' houses, even though it was at a lower level than the proposed road.

- **Mr Dominic Di Lucia** made a submission in writing. It raised particular concerns with the impact of the roads development near his residence at Attireesh, Westport, identified as H0094 on the drawings submitted with the EIS. The acquisition of all of the plot P0135a.201 seems excessive for the needs of the scheme and the land may be used for other forms of infrastructure. The landscaping proposals are unclear. The noise from the development could cause a nuisance at the property. The development would devalue all the properties near the road. The applicant submitted a written copy of a response to this submission. It stated that the land at P135a.201 was required to provide a stormwater attenuation pond; it referred to landscape mitigation measure LM-A1 that would apply at this location; to the noise surveys and assessment in the EIS; and to chapter 17 of the EIS regarding the impact of the project on material assets.
- The **Annagh Residents** made submissions in writing and at the hearing. They objected to heavy construction vehicles using the local road L17107 known as the Annagh Road, a winding country road used by children. The proposed bridge to carry that road over the new N5 at Lough Lannagh would seriously injure visual amenity and natural heritage. An alternative proposal was put forward which would involve a parallel access road along the northern side of the new road to an underpass that would connect with the Fore Annagh Road to the west. This would provide a less obtrusive and less costly way to maintain access to the Annagh Road.

The applicant responded to the proposal to state that a diverted L17107 Annagh Road would have to cut across the farmland in plot 1260 near the farmhouse, to maintain appropriate radii, and that the owner of that plot was not a signatory to the submission. The access road would then require an S bend to turn and pass under the N5 at a right angle. The Fore Annagh Road to which it would connect is of a poor standard and its junction with the old N5 has restricted visibility that would be difficult to correct due to its proximity to a

house. The proposed bridge would not be boxy as it appears on the photomontages presented by the Annagh Residents.

- **Marius and Amelia Greef** make submissions in writing and to the hearing. They objected to the impact of the proposed road development on their house at Carrownaclea, Westport which is identified as H0667 on the drawings submitted with the EIS. The couple moved to Ireland in 2005 to live in a peaceful rural area. The new road would be 110m from their house. It would give rise to a negative visual impact on their home, and would give rise to light pollution. Concern was expressed about noise and vibration during construction, and the effects of the development on air quality, flora and fauna and upon the value of their property.

The applicant's response stated that the road would be at a lower level than the house, and the long view towards Croagh Patrick from the property would remain. The EIS outlines the noise barriers, screening bund and landscaping along this part of the new road. These were illustrated on a sectional drawing submitted by the applicant showing the Greefs' house. The applicant acknowledged the interference that the scheme would cause to the Greefs' property in the medium term.

- **Caroline and Paul Ryder** make submission in writing. They objected to the impact of the proposed road development on their house at Carrownaclea, Westport, which is identified as H0671 on the drawings submitted with the EIS. The scheme would seriously injure the character of the countryside and the outlook from the house, and give rise to noise pollution and have negative impacts on air quality, flora and fauna and upon the value of the Ryders' property. **Mr John Ryder** made a submission in writing and at the hearing on his own behalf and for Caroline and Paul Ryder. It stated that the proposed development would devalue their houses. Adequate surveys of flora and fauna had not been carried out, or for noise or dust pollution. Consultation by the applicant was inadequate. The stringent conditions imposed by the applicant when granting Mr John Ryder planning permission for a house were cited. The scheme is not justified, and an upgrading of the existing road would be adequate. It is not acceptable that the observers are simply regarded as casualties of a scheme which has been conceived for the benefit of one company at Westport. In response the applicant stated that the mitigation measures outlined in response to the submission from the Greefs would also mitigate the impact of the road on the Ryders' properties.

- **Allergan Pharmaceuticals** made a submission in writing which welcomed the proposed road development and stated that it made future development at the plant at Westport more likely.
- **Synergy Health Westport Ltd** made a submission in writing that supported the proposed road development.
- The **Westport Tourism Organization** made a submission in writing that supported the proposed roads development.
- The **Westport Chamber of Commerce** made a submission in writing which stated that the substandard road network in the region impedes the export of millions of euro worth of product. This much-needed road project should be advanced as quickly as possible.
- **Gerard and Sylvia Scott** made submissions in writing and at the hearing which objected to the development due to the negative impact that it would have on their house at Derrylea, Castelbar which is identified as H1362 on the drawings submitted with the EIS. The road would be 60m from their house. It would give rise to emissions of dust, noise and light that would have a serious negative impact on the amenities of their house, as would the visual intrusion of the road and its impact on drainage and ground subsidence. Concern was expressed about illegal parking along the public road along the local road L17106 which would be made a cul-de-sac by the project. The line of the proposed road should be diverted to the unpopulated scrubland to the north. The level of the road would be 4m over that of the house, and it would give rise to overlooking that would seriously injure privacy.

The applicant responded that the road would be 80m from the house, although the boundary line of the CPO comes within 60m of it. The proposed road alignment seeks to respect the boundaries of landholdings and is equidistant from the Scotts' house and another house to the north. The applicant is satisfied that the noise assessment which it carried out indicates that noise levels at the house would not exceed the 60dB_{Lden} target. The road would not be lit at this location. Landscape proposals include a 20m wide strip of planting

which should be sufficient to provide visual screening of the road from the house and vice versa. Re-wetting of land to the north of the road will not affect the drainage on the Scotts' property. Casual parking on the local road will be discouraged by the breaking up of the surface on any unused part of the road, and the application of the county council's general policy on temporary dwellings.

- **Ms Niamh Walsh** made a submission in writing which stated that the road would seriously injure the residential amenity of her house at Balloor, Castlebar and give rise to air pollution.
- **Mr Peter Sweetman** made a written submission with stated that the submitted EIS does not include all the likely effects of the project, both direct and indirect. In response to questioning from Mr Sweetman at the hearing, the applicant stated that it did not consider an EIS to be a description of a completed EIA process. Mr Sweetman stated that it was for the board itself to carry out the EIA. The applicant stated that a type 1 single carriageway road was appropriate to provide service level D for a road with annual average daily traffic of 11,600, as set out in the Table 6/1 of TD9 issued by the NRA. Existing traffic flows to Castlebar from the west were recorded as 9,700 AADT, projected to increase to 11,600 by 2033 in the absence of the project. Mr Sweetman stated that the consideration of alternatives to the project did not refer to improvements to public transport. The applicant stated that the consideration of improvements to the railway is a matter for Iarnród Éireann. The new road would not cater for bus stops, and bus routes would run along the existing N5. Mr Sweetman questioned whether previous road schemes had reached the level of traffic projected for them, and stated that the Swinford bypass was designed to twice the level of existing traffic. The applicant responded that the NRA's traffic model had been changed since the projections for traffic on previous schemes were made. The applicant stated that it had survey results which indicated that the level of long distance traffic on this part of the N5 is low, and that it caters mainly shorter trips within the county. Mr Sweetman then questioned whether the project should be regarded as a local road. The proposed type 2 dual carriageway has the capacity for 20,000 AADT, which represents a flawed design concept. The needs could be met with an upgraded rural road with urban relief roads at Westport and Castlebar.

Mr Sweetman questioned the date on which the certificate of compliance with the development plans was signed in relation to the variation in the Tree

Preservation Orders which was required to allow the project. In response to questions from Mr Sweetman, the applicant stated that the projected emissions to air from the scheme had not been considered in cumulation with other schemes. The calculation of the likely greenhouse gas emissions from the construction of the scheme were calculated in accordance with IPCC guidelines, as referenced in section 13.4 of the EIS, and found to be 40 tonnes of CO₂ per annum over decades. Emissions would be from the surface of the spread area of 8.2ha. The applicant stated that the cost benefit analysis which it prepared does not necessarily provide information on the environment, and if Mr Sweetman considered that the failure to submit the analysis was a breach of the Aarhus directive then he should make a complaint in the manner set out in that legislation. Mr Sweetman submitted a copy of that analysis to the hearing.

Mr Sweetman submitted evidence from Mr Liam McNally as to the historical significance of the house at Druminadoo as the homeplace of Brigadier General Joseph Ring, whose house was destroyed by the Black and Tans during the War of Independence. General Ring played a pivotal role in the establishment of An Garda Síochana, and was shot while serving with the National Army at a skirmish in the Ox Mountains. The applicant responded by stating that the determination of the historical significance of any particular structure can be a difficult matter. The applicant stated that the setting of the church at Turlough would not be significantly affected by the proposed roads development. Mr Sweetman submitted that the loss of trees inherent in the roads development would affect the church.

In response to questions from Mr Sweetman, the applicant submitted a written report of archaeological test trenching that was carried out on the route. The applicant stated that its archaeological assessment allowed for the possibility of new discoveries while the project was being carried out. The applicant stated that its noise assessment represented a worst case scenario, and the surface noise was the main component of the noise that would be generated, so that lower traffic speeds would result in less noise. Road traffic noise does not have a characteristic tonal element. The noise receptor used in the model at Lough Lannagh is directly beside the road. The applicant stated that noise attenuation may be less across water than over land, but that water would not amplify noise.

Mr Sweetman stated that the impact of noise on otters needed consideration in the EIS. The applicant restated the conclusion in the EIS that the project would not have a significant negative impact on otters, which are widespread in the area. Mitigation measures proposed include dedicated underpasses and

mammal ledges on water crossings, with barriers to stop otters entering the road. Otters can be tolerant of disturbance. Otters are a qualifying interest for the River Moy SAC. Mr Sweetman submitted that the judgement of the ECJ at C258/11 stated that there can be no lacuna on the information presented as to the impact of a project on the integrity of a site for the purposes of appropriate assessment, so the impact on any species protected under the Habitats Directive should be treated in the same way as the impact on any part of a designated site. Reliance on pre-construction surveys indicates an unacceptable gap in the knowledge as to the impact of the project on otters. The applicant stated that a derogation may be required in respect of otter disturbance, and that such would be determined prior to the commencement of construction. Mr Sweetman stated that, under Annex IV of the Habitats Directive, if a species is effected by the project, then a derogation is required to determine if mitigation of that impact would be acceptable. This is a matter for the NPWS, and needs to be concluded before the board completes its EIA of the project. Considered without mitigation, the development would have a significant effect on otters, and so could only be authorised on the basis of the procedures at article 6(4) of the directive. The board needs to take account of the ECJ's decision in C258-11, and to paragraph 32 of the advocate-general's report on the case. The bog woodland along the route is priority habitat under the directive and class 91DO of the interpretation manual issued by the European Commission. The applicant disputed this, and stated that the secondary scrub woodland on bog does not conform to the priority habitat type. The applicant submitted written reports of bat surveys, and stated that bats are adaptable creatures and the development was not likely to have a significant negative impact upon them. There is no record of lesser horseshoe bats along the route, which would be on the edge of their range.

- **Ms Nora Lunn** and others made a submission in writing as landowners adjoining the floodplain at Balloor, Castlebar. It stated that this land was often underwater during the winter, with the waters extending into farmland and gardens. The proposed road would have an outfall into this floodplain at OC-04. This defies common sense. The development would damage the capacity of watercourses and exacerbate the risk of flooding in this area.
- **Noreen and William Coyne** made a submission to the hearing which stated that the proposed road would give rise to visual intrusion at their house at Cloggernagh, Islandeady, which is identified as H1077 in the EIS, blocking views of the lakes and mountains. The road would be in an elevated position

over Islandeady Lough. It would be preferable to have the road at a lower level, with the crossing of the local road L3180 passing over the road rather than under it. In response the applicant stated that distant views from the Coynes' house would be maintained, with the road appearing in the foreground. The mainline of the road needs to cross a stream at Ch. 18,620 at a level of 35mOD, so it would not be possible to lower it to allow the L3180 to cross over on a bridge.

- The **Islandeady Community Council** made a submission to the hearing which expressed support for the project, but also particular concerns regarding its impact on the landscape, water quality, safety at the national school during construction, the impact on farming and the rural economy, and future maintenance of the existing N5. The council requested that the applicant communicate with the local community prior to commencement, maximise landscaping and access to the lake, provide pathways and traffic calming, minimise the elevation of the road and various other matters. The applicant's response stated that the development would reduce traffic levels on the old N5 and so reduce the severance which it causes at Islandeady. The management of works in accordance with health and safety legislation will address safety issues that arise in connection with the national school. The old N5 will remain an important road to serve the dispersed rural population. Current access routes to the lough will be maintained, except that Cemetery Road will be diverted.

3.4 Submission from the applicant

- The **applicant** made a closing submission. It included responses to submissions from other persons, which are summarised in the relevant paragraphs above. It addressed issues of ecology. It reiterated the rationale for the design of the proposed road set out in the EIS and other submissions by the applicant at the hearing, noting that traffic figures on this part of the N5 were significantly higher than those recorded in the midlands, and were forecast to grow in line with a revised NRA traffic model which is more conservative and more responsive to local conditions than the previous NRA model, with traffic on the eastern end of the proposed road rising to an AADT of 14,700 in the design year of 2033. The undesirability of short sections of dual carriageway renders the selection of a consistent cross section of a type 2 dual carriageway the optimum selection of road type. The proposed type 2 dual carriageway would have a paved area only 3m wider than an alternative type 1

single carriageway and whose construction would generally not require a greater land take. It would provide opportunities for overtaking that avoided the potential for head on collisions and would avoid an estimated 23 fatalities compared to a single carriageway road. It referred to various public documents to indicate that the proposed roads development would be supported by public policy, including the National Roads Needs Study of 1998; the identification of Ballina and Castlebar as a hub under the National Spatial Strategy 2002-2020; the policy to address bottlenecks on roads in Smarter Travel; the capital investment programmes in Transport 21; the TEN-T trans-European Network referred to in EU Regulation 1315/2013 that requires a comprehensive upgrade of the full length of the N5 to express route standards; the strategic goals SG1 and SG2 in the Western Regional Planning Guidelines 2010-2022 to upgrade national roads and the reference at section 1.5.3 to build a new dual carriageway on the N5 from Bohola to Westport. The submission concluded by acknowledging the impact of the proposed development on persons including those who made submissions to the board and at the hearing. It noted that compensation would be available for those losing land that would be calculated in accordance with established principles that disregarded the impact of the scheme itself, but that this was not a matter for consideration by the board in the course of the current applications.

4. JUSTIFICATION FOR THE PROPOSED ROADS DEVELOPMENT

- 4.1 Before considering a grant of approval for a roads development of the scale and significance of that now proposed, or the confirmation of a compulsory purchase order to that end, the board must satisfy itself that the development would be justified by the exigencies of the common good and that it complies with applicable public policy. This section of the report addresses these matters. It is largely informed by the report from Inspector Ryan and should be read in conjunction with it, having due regard to the submissions from the applicant and other observers that were made to the board in writing and in the course of the oral hearing.

Policy

- 4.2 With regard to policy, I concur with the following conclusions of Inspector Ryan–
- The proposed roads development does not have a strong basis in strategic or national policy. I would add that the EU regulation 1315/2013 that underpins the guidelines for the TEN-T network are directly applicable to the board's consideration of this case. However those guidelines address transport issues matters at a European level. The part of the N5 route whose upgrade is proposed in this case is not part of the core network of roads designated in figure 2.4 of the regulations, nor does it provide an integral link with other parts of the comprehensive network shown there. The TEN-T guidelines would support a conclusion that identifiable impediments on the existing route that hinder long distance links between the peripheral and core areas of the Union need to be removed, but article 17.3 of the regulations makes it clear that this could be achieved by a conventional strategic road rather than a motorway or express road. Therefore the guidelines do not require a road in the form currently proposed if it is considered that alternative type of transport infrastructure could provide an adequate long distance link.
 - The regional and local policies set out in the applicable regional guidelines and development plan do support the proposed roads development. However the observation at section 7.1 of Inspector Ryan's report that the county development plan and regional planning guidelines in general favour schemes to upgrade nearly all national roads that have not already been built to motorway or dual carriageway standard is pertinent. The prevalence of such

policies might be taken into account by the board when it considers the weight to be given them in relation to other material considerations for the current applications.

Empirical justifications

- 4.2 The applicant has established the general need for the proposed roads development which is sufficient to demonstrate that it is justified by the exigencies of the common good. Following the format set out in Table 24 of Inspector Ryan's report, I concur that section A of the proposed road is justified by its removal of national route traffic and through traffic from the historic town centre of Westport which is of high heritage value; that section B is justified by its improvement of safety on a section of a national primary route which has poor horizontal and vertical alignment; and that section C is justified as a strategic by-pass of Castlebar which is part of 'hub' designated in the National Spatial Strategy and by its removal of traffic from an inner relief route that causes severance within the built fabric of the town. I also concur with Inspector's Ryan's conclusions at sections 7.3.29 and 8.1 and table 25 of his report that the proposed type 2 dual carriageway is an acceptable and prudent cross section for the construction of a road along the relevant parts of the N5 route where a greenfield scheme is being pursued, including the Knockranny Link Road. The conclusion stated at section 7.3.17 of Inspector Ryan's report that the proposed type 2 single carriageway is an acceptable cross section for the N5/N59 by-passing Westport is also accepted.

Section D

- 4.3 I would not be inclined to accept the case presented by the applicant with regard to the justification for section D of the proposed road development, which is the online upgrading of the N5 from a single carriageway to a dual carriageway from the proposed Castlebar East junction past the village of Turlough. The existing 6.8km stretch of road was built in the early 1990s on a greenfield line. As noted in the report of the project manager for the National Roads Regional Design Office dated 13th July 2013, it was built to a design standard comparable with those currently in force. Its pavement condition is satisfactory. Its cross sectional dimensions are compliant along 90% of its length. Its horizontal and vertical alignments are compliant with the 100kph design standard. This piece of the road has continuous hard shoulders that are generally wider than those required by design standards (cf. the commentary on slide 33 of the engineering brief of evidence submitted by applicant at the

hearing, OH Doc. No5). Its overtaking value is given in the NRDO report as 78%, compared to a minimum value of 30% for a new single carriageway road specified at table 7/3 of TD9 of the DMRB. This section of road has 10 junctions, 1 access for a house and 57 field accesses, giving a frequency of 10 per km, compared to 30 per km on the section of the N5 in the rural area between Westport and Castlebar.

- 4.4 So the existing N5 between Castlebar and Turlough consists of a single carriageway road that complies with current design standards and is adequate to carry the current level of traffic upon it. As such it can be distinguished from the other parts of the N5 that the proposed road would replace, which are clearly deficient in terms of safety and capacity. The justification for section D of the proposed road is therefore fundamentally different than that for sections A, B and C. It would not address a serious tangible deficiency in the existing roads infrastructure, as the existing road at section D is of a high standard and provides an acceptable level of service for the traffic upon it. Rather it relies on the desirability of carrying out substantial works to a satisfactory road that would accommodate a very large increase in its carrying capacity in order to meet a forecast of further growth in traffic. The traffic levels recorded in 2013 on this part of the road to the east of Castlebar yielded an AADT of 11,154 (cf. appendix 1 of document OH65 submitted at the hearing by the applicant). The technical guidance document TD9 issued by the NRA indicates that the capacity for a type 1 single carriageway road, which the road between Castlebar and Turlough most closely resembles, is to provide a level of service to standard D to an AADT of 11,600, after which 75% of traffic would be slowed by other vehicles and platoons would form. If one accepts that traffic levels on this part of the road will continue to grow, then a failure to carry out section D of the proposed roads development is likely to lead to slower traffic on this part of the N5. This is justification for the upgrade of section D presented by the applicant. It has been stated clearly and reasonably, and the board should give it full consideration. However it is a weaker justification than that presented for sections A, B and C, and would fail to justify the negative impacts on the scheme on cultural and natural heritage described in chapters 5 and 6 of this report below.
- 4.5 Furthermore, as stated by the applicant in its closing submission, the construction of short lengths of dual carriageway is undesirable and a consistent provision of road type is optimum. If section D of the road were upgraded in the manner proposed, then the transition between the dual carriageway and single carriageway parts of the N5 would reflect the boundary of the River Moy SAC. The propriety of building dual carriageways within the

SAC remains to be established following the board's decision on 16.HA0003. Having regard to the requirements of article 6 of the Habitats Directive, it cannot be assumed that it will be determined that such road construction there will be deemed acceptable. Nor can the issue be addressed in the course of the current application, cf. section 6 of this report below. The proposed transition at Turlough should therefore be considered as a permanent feature of the N5. From the perspective of motorists this location would be rather arbitrary, and would be likely to encourage accelerated and risky overtaking manoeuvres by certain vehicles travelling east through the transition. This risk would not be associated with a transition provided in conjunction with the Castlebar East junction, where the proposed roundabout would control vehicular speeds and movements. A transition at this junction would not constrain the options for future road improvements to the national primary roads between the linked hub of Castlebar and Ballina, and between them and the rest of the national road network. If it is determined, following appropriate assessment, EIA and consideration of traffic demands, that dual carriageways should be provided along those links across the River Moy SAC, then an upgrade of section D of the N5 might then be considered, approved and built as part of a wider scheme that would provide a consistent road type. Given the acceptable quality and carrying capacity of the existing road along section D, the deferral of such upgrades would not be likely to have significant negative consequences in terms of traffic safety or congestion in the intervening period. I would advise the board against giving undue deference to the proposal of the applicant as to the location of the transition from dual to single carriageway along the N5 as it raises significant questions for environmental impact assessment and appropriate assessment. The board, rather than the roads authority, is the competent authority to determine such questions.

Junctions and vehicular traffic

- 4.6 I note that Inspector Ryan has concluded that the junction strategy adopted by the applicant in the design of the proposed roads development is generally acceptable and would provide proper facilities for vehicular traffic. I concur with this conclusion.
- 4.7 I further note that Inspector Ryan has particular concerns regarding the capacity of the proposed compact grade separated junction between the N60 Breaffy Road and the proposed N5 Castlebar by-pass to cater for traffic turning at that junction without leading to delays on the N60, and that his report has a recommendation to seek further information from the applicant on the matter.

Inspector Ryan's concerns in this regard are cogently expressed and have a sound basis in the surveys of existing traffic flows, applicable road design standards and proposed schemes elsewhere along the N60. They should be given full consideration by the board. Nevertheless I would not be inclined to recommend that further information be sought on the matter. The applicant has made clear its rationale for the choice of a compact grade-separated junction, referring to the lighter volume of turning traffic that it anticipates here; the additional land-take that would be required for a roundabout at a location where there is extensive ribbon development of housing along the N60; and the desirability of having a greater distance between roundabouts on the N5 and a greater legibility along the Castlebar by-pass which could be achieved by the proposed type of junction. The applicant has therefore presented clear reasons for its choice that are related to the performance of the road for vehicular traffic. Inspector Ryan has raised questions that could provide persuasive grounds to depart from the applicant's position. However the applicant is a public body which, as a roads authority, has statutory duties towards road users and a particular expertise and experience in providing a road network to enable the flow of traffic in this area. I would therefore advise that the applicant should be granted a significant margin of appreciation for its design of the appropriate treatment for this junction. In this context, the rationale for the proposal of the compact grade separated junction is considered reasonable and therefore acceptable. Although the possibility remains that the pursuit of the question as recommended by Inspector Ryan might yield evidence that would support a view that a roads authority might be better advised to propose a roundabout for this junction.

- 4.8 I note that Inspector Ryan was not convinced about the submitted justification for the construction of the proposed roundabout at the Carrowbeg junction on the N59 link road near the Allergan factory. The applicant has submitted a clear rationale for its design of the proposed junction, which relates to desirability of providing direct access to an industrial development promoted by the IDA, and the fact that a roundabout rather than a ghost island at this junction would allow a horizontal alignment for the new road that avoided the land associated with the GAA club and the Allergan plant. Therefore I would advise again that a significant margin of appreciation be given to the applicant's road design choices regarding the junctions. A re-appraisal of the matter on grounds related to road design would require a clear and over-riding imperative, which has not been established. It is also considered appropriate, with regard to economic strategy and the proper planning and sustainable development of the region, that facilities such as the Allergan plant which attract investment and which generate significant amounts of employment and the export of goods are

given particular consideration in the design of major road schemes. The particular characteristics of such facilities, including the mobility of investments, the need for goods transit by road and the benefits that accrue from the economic activity which they bring into the area and which would not occur in their absence, may justify specific facilities on the national road network to support them that would not be justifiable for other forms of commercial development. I would also accept the applicant's projected traffic figures of 9,000 AADT as sufficient to justify the proposed roundabout at the junction with the Newport Road N59 at the western end of the scheme. The junction strategy proposed for section A of the proposed roads development is therefore acceptable with considered with regard to vehicular traffic.

Facilities for Pedestrians and Cyclists

- 4.9 I concur with Inspector Ryan's conclusion that adequate regard has not been had for pedestrians and cyclists in the design of the proposed roads development. The type 2 dual carriageway provides an inherently threatening environment for such road users. There are certain deficiencies in the cross section of the proposed footpaths and cycleways along the Knockranny Link Road and the N59 link road regarding the appropriate kerbs and verges to separate vehicles, pedestrians and cyclists. However these issues are minor and would not preclude a grant of approval. However the usefulness of these facilities would be undermined by the grossly defective provision for pedestrians and cyclists to negotiate the junctions and cross the carriageway on the proposed KLR and N59 link road. The proposed uncontrolled at-grade crossing points across a type 2 single carriageway road in the vicinity of high capacity roundabouts and other junctions would be hazardous and intimidating for pedestrians and cyclists. They would strongly discourage travel along and across the line of the proposed roads development by pedestrians and occasional cyclists on leisure trips, while encouraging experienced cyclists to use the main carriageway even though it has not been designed with them in mind. The provision of such inadequate cycle facilities would contravene the guidance on the matter set down in the National Cycle Manual issued in 2011 by the National Transport Authority, which has the specific statutory power under section 66(1)(d) of the Dublin Transport Act 2008 to issue guidelines to roads authorities in all parts of the country on the design of cycle and pedestrian facilities. The proposed roads development would introduce a significant degree of severance along the Great Western Greenway, isolating it from the town of Westport. This would seriously reduce its amenity and recreational value and damage its role in generating economic activity in the

area which would not otherwise occur. To approve the proposed roads development before these matters had been adequately addressed would be profoundly ill-advised.

4.10 The question therefore arises as to the proper way to address the deficiencies. Section 7.6 of Inspector Ryan's report has outlined a compelling argument, based on public policy, as to why the proposed roads development should facilitate cyclists and pedestrians between Westport and Turlough parallel to section B, C and D, and why the road geometry of the existing N5 road between Westport and Castlebar renders it unsuitable to fulfil that function. The report also outlines useful approaches as to how facilities could be provided along the route from Westport to Turlough, using the emerging Greenway at section D, the existing relief route past Castlebar in Section C, and an extension of the parallel access roads proposed in the current applications in Section B between Castlebar and Westport. The board should give that advice full consideration. Nevertheless, having due regard to the applicant's role as the roads authority and the proposer of roads developments, I would be more inclined to accept its position that the proposed road between Westport and Castlebar should be regarded as a development to serve the needs of motorised traffic, and that other means will be pursued by the roads authority to meet the needs of non-motorised road users in the wider region.

4.11 The elements of proposed roads development which did not affect pedestrians or cyclists one way or the other might therefore be regarded as acceptable. This would apply to sections B and C of the proposed development. Section D of the proposed development would replace a single carriageway with hard shoulders that can be used by pedestrians and cyclists, with a dual carriageway without hard shoulders that could not be safely used by them, although such use of the existing road is likely to be sparse. Of greater concern is the inadequate facilities and severance of the existing Great Western Greenway proposed at Section A and the Knockranny Link Road, which would perpetrate an injury to the prior position of pedestrians and cyclists and are therefore unacceptable. Modifications of the proposed roads development to remove this defect should therefore be requested from the applicant before a grant of approval is considered, in accordance with the recommendations in this regard from Inspector Ryan. It would also be prudent to ensure that the proposed roads development accommodated the future provision of facilities for pedestrians and cyclists at the Lodge Road, the Islandeady Road over-bridge and the Castlebar River, as recommended by Inspector Ryan.

4.12 I refer the board to the discussion at section 5 of Inspector Ryan's report of the road design standards applicable to the scheme, particularly in relation to pedestrian and cycle facilities. Section 29 of the Public Transport Regulation Act 2009 extended the functional area of the National Transport Authority (NTA) outside Dublin for certain sections of the 2008 Dublin Transport Act 2008, but not explicitly with regard to section 66 of the latter act. Nevertheless the National Transport Authority has a specific statutory remit to increase recourse to cycling and walking as means of transport. It also has specific expertise on the provision of facilities to support such means of transport. It would therefore be a rather perverse interpretation of section 66 of the 2008 act that held that the NTA's power to issue technical guidelines to roads authorities on the design of cycle and pedestrian facilities did not apply to the current applicant, notwithstanding the fact that the NTA does not have the power to make transport or planning policies outside the Greater Dublin Area. The *National Cycle Manual* issued by the NTA in 2012 therefore constitutes technical guidance on the design of cycle facilities that is applicable to the current case. The applicant stated at the hearing that it had not had regard to that document when designed in the cycle facilities in the proposed roads development. The applicant's attention should therefore be directed towards that manual at this stage. Indeed, given the particular statutory role and expertise of the NTA in relation to pedestrian and cyclists, I would advise the board that its guidance should be preferred to that contained in the NRA Interim Advice Note 3/12, were any inconsistency to arise between the two. I would also concur with Inspector Ryan's conclusion that the *Design Manual for Urban Roads and Streets* issue by the Department of Transport in 2013 would be applicable to certain parts of the proposed road development where it effects existing roads where the speed limit is 60kph or less, as well as parts of the proposed roads where the design speed is 60kph or less.

Submissions relating to road design

4.13 Several of the objections to the confirmation of the compulsory purchase order and the submissions on the application for approval questioned the suitability of various elements of the proposed roads design. Inspector Ryan addressed those questions in his report, and I shall address them in this section of my report.

4.14 Both Mr Padraig McLoughlin and the submission by Mr Michael McCormack and others argued that proposed specifications of the Knockranny Link Road and the roundabouts upon were excessive. Following the advice from

Inspector Ryan, I would advise the board that the size of the proposed road and roundabouts there have been justified.

- 4.15 The submission on behalf of the Annagh Residents presented an alternative means to maintain the link between the Annagh Road and the existing N5 that would avoid the need for the over-bridge in the vicinity of Lough Lannagh. I would concur with Inspector Ryan's conclusion that there is merit in the alternative proposal, but that the constraints on its implementation that were raised by the applicant accurately reflect the position on the ground.
- 4.16 The applicant's response to the submissions from Mr Thomas Horkan and others regarding signage and access for the garden centre at Turlough is considered acceptable.
- 4.17 Mr Dominic di Lucia questioned the scale of the land acquisition from plot P0135 near his house at Attireesh, Westport. The applicant has justified this by reference to the need for stormwater attenuation, which is considered acceptable.

Summary of conclusions

- 4.18 The board is advised that -
- The proposed road development does not have clear or strong support in strategic or national policy. It is consistent with the provisions of the applicable regional planning guidelines and development plan. However it may be noted that those documents tend to support improvements to the national road network in general and so would not support an exceptional approach or a high priority to works on the section of the N5 route with which the current applications are concerned.
 - An empirical approach indicates that there is a strong justification for section A of the proposed road to remove national and through traffic from the town centre of Westport; for section B to remedy the sub-standard alignment of the existing N5 between Westport and Castlebar; and for section C to remedy congestion on the existing inner relief road in Castlebar which gives rise to severance within the town.
 - It is not considered that section D of the proposed roads development is justified, having regard to the quality and capacity of the existing single

carriageway road along the N5 from Castlebar to Westport, notwithstanding the traffic levels that have been recorded along this part of the road and the future growth forecast by the NRA's traffic model.

- The cross section of the proposed dual and single carriageways and the scale and form of the junctions proposed by the applicant are generally appropriate, when considered with regard to the needs of motorised vehicles.
- Adequate regard has not been had for pedestrians and cyclists in the design of the proposed roads development. Section A of the scheme would not provide safe or convenient facilities for them to cross the road and negotiate the junctions along it. The proposed development would therefore sever the existing Great Western Greenway and seriously impair its value as an amenity and tourist facility. It would be profoundly ill-advised to consider granting approval for the proposed development until these defects in the proposal have been remedied.

5.0 ENVIRONMENTAL IMPACT ASSESSMENT

5.1 The following assessment draws on the environmental impact statement and other submissions made by the applicant, prescribed bodies and members of the public during the course of the applications and the hearing. It seeks to identify, describe and assess the direct and indirect effects of the proposed roads development on the environment with regard to the following factors -

- Human beings, including the impact from noise and vibration
- Flora and fauna
- Soil
- Water, including flood risk
- Air
- Climate
- Cultural heritage, including architectural and archaeological heritage
- The landscape
- Material assets, including residential, commercial and agricultural assets and infrastructure
- The interaction of the foregoing

Is also considers the adequacy of the environmental impact statement

Human Beings, including the impact from noise and vibration

5.2 The likely effects of the proposed development on human beings are addressed under several of the headings of this environmental impact assessment, which should be considered as a whole. This section specifically deals with the likely effects from noise and vibration which were described in Chapter 12 of the Environmental Impact Statement. Concerns regarding the impact of noise and vibration arising from the development were raised by a large proportion of the persons who made submissions to the board and at the hearing, including the HSE, Ms Linda Pryce, the representatives of Nora O'Connor, Ronan and Marie Ó Cathasaigh, Mr Thomas Bourke, Ms Mary B. Rice, the Balloor Residents, Mr Kieran Horkan, Mr Eddie Grogan, Mr Joseph Hastings, Mr James Burke and Mary Amelia McNally, Mr Dónal Ó Gallachóir, Mr Thomas J. Tuohy, the Deerpark Residents' Group, Mr Dominic Di Lucia, Mr John Ryder, Caroline and Paul Ryder, Marius and Amelia Greef, Gerard and Sylvia Scott, Mr Peter Sweetman, Noreen and William Coyne and the Islandeady Community Council.

- 5.3 The central concept in the assessment of emissions of noise from the proposed development is the design goal set by the NRA in the Guidelines for the Treatment of Noise and Vibration in National Road Schemes issued in October 2004, which is to achieve a noise level of 60dB_{Lden} or less at the facades of residential properties. The Lden noise metric describes a noise level equivalent to that over a continuous period of 24 hours but with a 5 dB weighting for noise in the evening and a 10 dB weighting for noise at night. The NRA's target was not made under any particular statutory procedure, although the NRA has general duties and competences with regard to the national roads system. Nonetheless the target is a well-established standard that has been used in the environmental impact assessment of numerous previous proposals for road development, including those carried out by the board. It is considered to be a reasonable standard to employ for a roads proposal. It has proper regard to the characteristics of noise that would be likely to be generated by the operation of a national road, particularly its volume and recurrence over time, which can be usefully described in the generalised manner of a dB_{Lden} measure. No submissions were made in the course of the application that would require or justify the use of a different criterion.
- 5.4 The EIS included the results of surveys of existing noise levels along the route of the proposed road and predictions of the likely noise arising from the operation of the road at identified sensitive receptors, which mainly comprise the houses in the vicinity. The models used to predict noise levels are based on inputs that relate to the physical characteristics of roads, of the vehicles that use them and of the media through which noise travels. These characteristics are measurable and would be consistent from one road to the next. So the models provide testable results, and they have been so tested. In these circumstances it is considered that the use of proven models would yield predictions of the noise levels generated by the operation of the proposed road that are likely to be accurate. So the predicted noise levels set out in table 12.6 of the EIS are accepted as a proper basis to assess the impact of the proposed development. A resultant noise level of more than 60dB_{Lden} was predicted at 12 houses numbered H0140, H0152, H0600, H0622, H0630, H0670, H1230, H1260, H1750, H1790 and H1930b, as well as on the part of Lough Lannagh that would be in close proximity to the proposed road. In response to this potential impact, mitigation measures in the form of earth berms or noise barriers, ranging in height from 1m to 3.5m, are proposed at the 12 locations described at table 12.7 of the EIS. The board may also note the increased noise mitigation proposed at the hearing by the applicant at Carrownaclea, Westport in the vicinity of the houses owned by Linda Pryce, Marius and Amelia

Greef, Caroline and Paul Ryder, and John Ryder. There are also a number of houses where the noise level would be exceeded whether or not the road was built. No mitigation is proposed there as the development would not increase noise levels. So the predicted residual effects of the operation of the proposed road would not result in noise levels exceeding the design goal of 60dB_{Lden} at any of the houses, although it would be breached on part of Lough Lannagh. The EIS also referred to the likely reduction in noise levels at certain properties along the existing line of the N5 due to the diversion of traffic onto the new road. The information and analysis of the likely impact of noise emissions contained in the EIS is robust, and the stated conclusion that the operation of the road is not likely to result in a breach of a reasonable noise limit of 60dB_{Lden} at residential properties is accepted. The likely residual breach of that limit on a part of Lough Lannagh should be noted by the board. However this would not require a refusal of permission or substantial modifications to a scheme that was deemed to be justified by the common good.

- 5.5 The EIS also addressed noise and vibration that may be generated during construction of the proposed roads development. Given the temporary nature of the construction and the variability in how any particular activity would effect any particular occupied property, it is considered appropriate that these potential impacts be mitigated by imposing limit values with which contractors involved in construction would have to comply. The limits in that regard set out at tables 12.10, 12.11 and 12.13 of the EIS are reasonable. The works should be monitored and controlled by the applicant to ensure compliance with them. Works at night time would not normally occur, but may be required in exceptional circumstances, such as the construction of the bridges over the railway. The residual emissions during construction would still give rise to a negative impact on human beings. However these temporary effects would be acceptable to facilitate a road that was justified by the common good.

Flora and Fauna

- 5.6 The greater part of the proposed road development would run through agricultural land with grassland habitats that are not of particular ecological value. However the undulating landscape and slow drainage across much of the route occasionally leads to a mosaic of habitats with pieces of scrub and wetland within a small area. All the peatland habitats on the route have been characterised in the EIS as cutover or degraded, although some areas of rich fen were identified. The information presented in the EIS describes 9 sites of ecological value, set out in table 7.1.8. These include Knockbrack Bog near

Ch. 12+400. At Lough Lannagh the road would intersect with the southern part of a complex of marshes and wet grasslands. The lough itself is characterised as a mesotrophic lake. The wetland at Aghadrinagh between Ch. 32+600 and Ch. 33+100 includes rich fen, marsh and wet grassland. Shanvally Wetland and Woods between Ch. 36+100 and 36+750 is a complex of habitats which includes rich fen, which would be equivalent to the Annex I habitat 'alkaline fen', and a small deciduous woodland of oak, ash and hazel. The transition mire at Derrylea at Ch. 30+750 is regarded as equivalent to an Annex I habitat. There is wet woodland along the Castlebar River, but it is intermittent and does not provide a canopy. Otters and badgers would be present along the entire route, as would the typical bat populations for the west of the country. However the route would be at the northern edge of the range of the lesser horseshoe bat. The numbers of wintering wild birds on Lough Lannagh is low, with no populations of national or international significance. The results of surveys of habitats, plant species and fauna, including bat and otter surveys, were submitted with the EIS and presented at the hearing.

- 5.7 The proposed development would involve the loss of the habitats along the route, and the fragmentation of those around it. The EIS concludes that, despite the loss and fragmentation of wetland habitats at Lough Lannagh, its wetland function should remain intact. The weir at Black Lough would have to be managed to protect water levels in that lake. The mire at Derrylea will be lost. As would some mature beech woodland at Clogher, and fenland at Aghadrinagh. The works will not directly affect the rich fen at Shanvally, but they would result in the loss of ash and hazel woodland, and proper drainage systems would be required to avoid de-watering the fen. Four areas were identified at table 7.1.18 of the EIS near ecological receptors that would be maintained as wetland or woodland of biodiversity value. At the hearing the applicant submitted additional information regarding the size of the sites of ecological value that would be lost during the development, particularly those that could be regarded as Annex I habitats. The mire at Derrylea has an area of 0.2ha. Its small size and isolated position indicate that it would not warrant designation as a site under the habitats directive. There is an area of 870m² of fen at Aghadrinagh that could be regarded as a rich fen and flush habitat, but again its small size and position within degraded habitats would count against its designation. The design of watercourse crossings will allow uninterrupted fish pass and the widening of the bridge over the Castlebar River will not involve works within the stream. The development will not result in the loss of salmonid fisheries or spawning grounds. The information submitted with the application and at the hearing is considered to be reasonably accurate and comprehensive, and the board is advised that the proposed roads development

would not be likely to have a significant residual adverse impact on existing habitats or flora of ecological value, including those which conform to the habitat types set out in Annex I of the habitats directive. The development would itself provide an opportunity for the establishment of new habitats along c40ha road verges.

- 5.8 The development would involve the removal of 2 inactive badger setts, but no otter holts were found along the route. 30 mammal underpasses would be provided across the road, mainly at culverts, with mammal resistant fencing at specified locations to divert the animals to those crossings and away from the road as set out in table 7.1.19 of the EIS. A preconstruction survey will be carried out for badgers and otters, with the treatment of setts or holts in accordance with the NRA's guidance on the matter. The design of bridges would allow for roosting by bats. It was clarified at the hearing that no significant invertebrate populations were found along the route. The marsh fritillary butterfly was encountered elsewhere as part of the surveys for a separate scheme. The information submitted by the applicant at the hearing also stated that the implementation of the mitigation measures would not require the participation of the National Parks and Wildlife Service. The information contained in the EIS and otherwise submitted by the applicant with regard to the likely impact of the development on fauna, including those of species specified at Annexes II and IV of the Habitats Directive, is considered reasonably comprehensive and accurate. It demonstrates that the development would not be likely to have a significant negative impact on fauna.
- 5.9 Having regard to the foregoing, and after consideration of the submissions from the applicant and others, including the Department of Arts Heritage and the Gaeltacht and Inland Fisheries Ireland, the board is advised that, subject to the implementation of the mitigation measures described by the applicant, the carrying out and use of the proposed roads development would not have a significant direct adverse impact on natural heritage.

Soil

- 5.10 Chapter 8 of the EIS addressed issues regarding soil and geology. It gives a description of the underlying geology of the area. A karst feature was identified at Balloor Ch35+540, with a number of other areas that show signs of possible karstification. Five significant areas of peat were identified at Ch2+020; 12+900; 19+600; Ch30+600; and at Black Lough. The total volume of peat to be excavated is estimated at 149,000 m³. 8 restoration areas are identified at

table 8.12 of the EIS for the deposit of the excavated material. The earthworks involved in the construction of the development will be subject to standard mitigation techniques to avoid the release of soils to surface waters. Piling is likely to be required where the proposed road crossing soft organic soils at Deerpark East, c. Ch2+050, in the vicinity of Lough Lannagh, c. Ch19+600, and at Derrylea, c. Ch30+360. The EIS contains a reasonably comprehensive description of the impact of the development on soils and the proposed measures to mitigate it. The conclusions in the EIS that only moderate or slight residual effects are likely are accepted, and the board is advised that the impact of the proposed development on soils would not require a refusal to approval or substantial modifications to the proposed development.

Water, including flood risk assessment

5.11 Chapter 9 of the EIS addressed issues of hydrogeology. It states that it is not possible to identify all karst features or preferential groundwater pathways that may exist along the route prior to construction. The results from boreholes indicate that the swallow hole identified at Balloor at Ch35+400 is part of a series of features associated with karstification. Other likely areas are at Chs. 37+300, 39,+050 and 43+150. There would be 20 outfalls for drainage from the road, all of which would be to surface water via attenuation ponds and constructed wetland systems in certain places. The development would increase the vulnerability of groundwater where the road is in a cutting due to the removal of the overburden. There would be a lesser likelihood of impact in areas of fill where drainage paths may be blocked or where compacted soil lost porosity. Improperly constructed settlement ponds might allow contaminated water to seep into the ground. Although most of the scheme overlays a regionally important aquifer, and there a number of houses in the area served by private wells, the scheme would not affect any major sources for the supply of groundwater. Measures to mitigate the impact of the development on groundwater are described. Sealed drains, attenuation ponds and constructed wetlands would be installed in locations where the groundwater is vulnerable. In sections of deep cut a separate drain would be installed to intercept and convey groundwater flow away from the road drainage. Stormwater will be conveyed away from the land at Balloor which floods seasonally, and drainage channels will be provided beneath the road to connect the flood waters on either side. A revised water supply will be provided for the cottage on holding P2080 at Liscromwell, which is the only private water sources that would be removed during the carrying out of the project. The residual impacts of the project on ground water are predicted to consist of some lowering of the

groundwater level near cuttings, with some risk of contamination or damage to wetlands and karst areas at Shanvally and Balloor.

5.12 Chapter 10 of the scheme addresses issues of hydrology. The description of the existing environment states that the larger part of the scheme is within the catchment of the River Moy, with smaller parts at its western end in the catchment of the Moyour River. The proposed development would include 43 crossings of watercourses, and 20 outfalls for surface water drainage. The bridge over the Castlebar at Gortnafulla is to be widened. The area between Ch 19+100 and 37+450 is regarded as being at a medium risk of flooding. The proposed development would have the potential to have an adverse impact on surface water by blocking drainage paths, removing flood storage and releasing pollutants from the road into water bodies. Construction of the project could release sediments into surface water, or hydrocarbons, cement or sewage. The development could exacerbate the flooding that regularly occurs over an area of c6ha at Balloor between Ch34+000 and 36+000. Mitigation measures are described, including standard methods to prevent the release of sediments or chemicals during construction. No construction compounds should be located within 100m of a watercourse or on land at risk of flooding. During operation spill containment and silt ponds should be provided upstream of the drainage outfalls on the road. Sealed drains and constructed wetlands will be provided at outfalls at sensitive areas. The drains and outfalls shall be designed with attenuation measures that will reduce runoff to greenfield rates for storm events up to the 1 in 100 year return period, except for the outfall to Lough Lannagh and the Castlebar River where capacity of the receiving waters would render such attenuation immaterial. The roads development would result in the loss of existing flood storage at Balloor, which will require compensation. This will be achieved by lowering the level of the land beside the flood zone. All road drainage would be diverted to the Knockrawer Lough to the north west. No significant adverse residual risks to hydrology are predicted. The attenuation and compensatory flood storage included in the design should mitigate the flood risk arising from the development.

5.12 The impact of the development on surface water and flood risk was raised in the submissions, particularly the impact at Balloor which was raised by Mr Michael Nolan and by Ms Nora Lunn and others. A roads project of the scale proposed would certainly have a very significant potential impact on the quality of ground and surface water and drainage patterns. Nevertheless it is considered that the information contained in the EIS and that presented at the hearing adequately considers the likely effects of the development in this regard. The standard measures to mitigate the potential impact along the

proposed road are appropriate. The statement also properly identifies those areas which are at a greater risk of an adverse impact on waters, including the land already prone to flooding at Balloor, and proposes adequate additional mitigation measures there. The board is therefore advised that the proposed development is not likely to have significant negative effects on water that would require refusal or substantial modifications to the proposed roads development.

Air

5.13 Section 13.2 of the EIS included the results of a survey of the baseline air quality in the area with respect to Nitrogen Dioxide and particulate matter, none of which approach the limit values set out in the relevant air quality standards under directive 2008/50/EC and SI180 of 2011. It also includes national data on the concentrations of Nitrogen Oxides, Benzene and Carbon Monoxide. A prediction of the likely impact on the concentrations of these pollutants at 21 locations arising from the operation of the proposed road was carried out in accordance with the air dispersion model described in the UK's Design Manual for Roads and Bridges. The levels of Carbon Monoxide and benzene are predicted to be between 10% to 23% of the applicable limit value in the design year 2033, as set out in tables 13.15 and 13.16 of the EIS. The effect on the levels of particulate matter, both PM10 and PM2.5 are predicted to be negligible, as set out in tables 13.17 and 13.18, while tables 13.19 and 13.20 indicate that Nitrogen Dioxide concentrations would remain well below the relevant limit values. The maximum predicted impact at the River Moy SAC at the eastern end of the scheme would be an increase of 1.2µg per m³ to 21.62µg per m³ in the concentration of NOx, compared to a limit value of 30µg per m³. This model used to predict the likely effects on local air quality is well established in the assessment of roads schemes, and the limit values are established by law. The prediction that the proposed development is not likely to have a significant adverse impact on the quality of air in the vicinity of the proposed roads development is therefore accepted. The construction of the road would give rise to a risk of dust emissions. The EIS outlines standard mitigation measures in this regard that are likely to be successful in avoiding significant adverse impacts from dust emissions.

Climate

5.14 Chapter 13 of the EIS and the submission at the hearing on behalf of the applicant by Dr Porter addressed the impact on emissions arising from the development on climate. In the design year 2033, the development would lead to an additional emission of 531kg of volatile organic compounds or 0.001% of the national emission ceiling of 55kt; 6,657kg of nitrogen oxides or 0.1% of the national emission ceiling; and 2,865 tonnes of carbon dioxide or 0.0046% of Ireland's target of 62,800kt under the Kyoto protocol. In response to Mr Sweetman at the hearing, it was stated that the emissions from the disturbance of peat would give rise to emissions of 40 tonnes of CO₂ per annum. The applicant's position is that the predicted contribution of the scheme to greenhouse gas emissions is not significant in national terms. This may be contrasted with the submission from An Taisce, which stated that the issues of climate change and the depletion of fossil fuel must be addressed in the EIA of this project. I would tend to agree with this argument. The assessment of the proposed development should acknowledge that it would increase the emissions of greenhouse gases from the state, and that it would also tend to increase the dependence upon fossil fuels. These impacts might be regarded as marginal on a national scale, but the cumulative impact of a series of similar small scale negative impacts could well be significant. The board would therefore need to be satisfied that the proposed development met a clearly established public need before it considered granting approval for it.

Cultural Heritage

Archaeology

5.15 Chapter 14 of the EIS presented the results of a desktop archaeological assessment that covered a corridor 500m wide along the route and of field walking along a 100m wide corridor. It also referred to test trenching at 8 locations carried out under licence. A written report of the results of test trenching was submitted at the hearing. 53 sites of potential interest were identified, including 21 sites on the Record of Monuments and Places. There are also 9 areas of archaeological potential. Site A4 refers to a crannóg at Lough Lannagh, while the ecclesiastical site at Turlough includes a round tower, A21. The site at Turlough is a national monument. No recorded site or monument will be directly affected by the proposed roads development, and no impact is predicted on the crannóg at A4 or the round tower at A21. However

there would be a direct impact on 20 of the other sites, and indirect impact on 16 sites. Mitigation measures would include additional assessments before construction, including investigations by non-invasive methods, followed by invasive methods if necessary, with preservation *in situ* of any archaeological remains of significance preferred, and preservation by record if this is not compatible with the construction of the project. Procedures for archaeological monitoring of the works were set out. At the hearing applicant also undertook to comply with the detailed requirements set out in the submission from the Department of Arts, Heritage and the Gaeltacht which concerned the impact of the development as it crossed watercourses and upon the crannóg at A4. In response to the submissions from Mr James Burke and Ms Mary Amelia McNally that applicant acknowledged the likely presence of the remains of settlements along the route dating from the early modern period which are generally described as pre-Famine villages. 30 such sites were identified and they will be tested prior to development. It was not proposed to use LIDAR as a test method. In response to the written submissions from Mr John Jordan and Ms Helen Sarsfield the applicant stated that test trenching will be carried out as mitigation of the impact of the development on site C25 where a copse of trees has grown over a series of 19th century buildings.

- 5.16 The information contained in the EIS and at the hearing provides a reasonable and comprehensive basis on which to assess the likely effects of the proposed roads development on archaeological heritage. While a project which involves such a large scale of works to land that would inevitably have an impact on remains, the design of the scheme has avoided any foreseeable profound impacts in this regard. The proposed mitigation measures are a sufficient response to the lesser foreseeable effects and the unforeseeable effects of the development. Therefore, after consideration of the submissions from the applicant and other parties, the board is advised that the proposed roads development would not have significant adverse impact on archaeological heritage.

Architectural Heritage

- 5.17 Chapter 15 of the EIS contains the results of a survey of the historic buildings in the vicinity of the proposed road. Hawthorne House (ref. BH-10 in the chapter 15), which is now occupied by the Castlebar Golf Club, and the house at Turlough Park (BH-16), now occupied by the National Museum, are protected structures, as the bridge is in the grounds of Turlough Park. The church at Turlough (BH-17) is a proposed protected structure. The development would

encroach on part of the demesne of Hawthorne House that is now used as a golf course, which impact the EIS describes as slight. This description is accepted.

- 5.18 The development would involve widening the existing single carriageway road though that was built through the demesne of Turlough Park in the 1990s to a dual carriageway with access roads on either side. This would involve the removal of a line of trees planted along the existing road, which would be replaced by new landscaping. The EIS identifies the negative impact that this would have on Turlough Park in visual terms and by the erosion of the former demesne. The residual impact after mitigation by landscaping is described in the EIS as imperceptible. This description of the residual impact is unduly sanguine. Over and above the physical severance which the existing N5 caused through the demesne when it was built, the presence and use of road immediately beside the remaining attendant grounds of Turlough Park gives rise to a level of disturbance and intrusion that diminishes the setting of the protected structure. The impact is not severe, but it is noticeable. A proposal to significantly widen that road to cater for more traffic would inevitably magnify that intrusion, even after the new planting achieved the density of the existing trees that would be removed. The residual impact of the proposed development on the setting of the protected structure would therefore be negative and considerable.
- 5.19 The development would also involve the construction of a grade separated interchange beside Turlough Church, with a new access road laid behind the church through a wood, and the erection of a new bridge over the mainline of the proposed dual carriageway c80m from the church. The development would therefore enclose the church in new roads. Most of these would be at a level significantly below the ground on which the church stands. However the proposed bridge to the east would intrude into long views towards the church that are available from the N5. These views from a road built in the 1990s could not be regarded as part of the historic character of the area, but the opening up of that vista would have mitigated to some extent the severance that the road would have caused between the church and the big house with which it would be associated. The intrusion of the bridge into those views could not be mitigated to any great extent, and it would remain a negative residual effect of the scheme which should be considered in conjunction with the disturbance to the attendant grounds of Turlough Park. The board is therefore advised that the proposed roads development would have a negative impact on the architectural heritage of Turlough. The effect would not be severe and would not necessarily render the proposed roads development contrary to the

proper planning and sustainable development of the area, but a clear public benefit for the widening of this part of the N5 would need to be demonstrated in order to justify that negative effect.

- 5.20 The EIS considers the impact of the scheme on the early medieval site at Turlough (BH-19) to the north east of Turlough Park and the village. It stated that the site is c630m from the proposed main road and on higher land, so the development will not have an impact upon it. This conclusion is accepted and commended to the board. The EIS also includes a survey of other historic structures within 50m of the roads development. It notes that the development would have a significant impact on the line of the former Westport to Achill railway beside the town's GAA grounds (BH-02), much of which would be removed, and a bridge at Claggernagh (BH-06), which would be demolished.
- 5.21 The submission at the hearing of Mr Peter Sweetman regarding the house at Drummindoo at the birthplace of Brigadier General Ring was noted, and provided a valuable contribution to the information available on the impact of the roads development on the cultural heritage of the area. It usefully augments the rather sparse description of the structure at ref. no. C11 in chapter 14 of the EIS. Nevertheless, given that the importance of the site is historical, and that during the War of Independence the structure whose demolition is proposed replaced the house that was on the site at the time of Brigadier Ring's birth, the proposed mitigation measure set out at table 14.8 of the EIS, which is preservation by record, is considered reasonable and is acceptable.

The Landscape

- 5.22 Chapter 11 of the EIS describes the landscape through which the proposed roads development would run. The landscape around Westport is characterised by drumlins, with extensive, low density commercial and residential development on the periphery of the town where the new road would be. There is a prospect of high scenic amenity available from the existing N5 on its approaches to Westport from the east, where views of the town, Croagh Patrick and Clew Bay are available. It is protected as view V8 of the Westport Town Development Plan. There was considerable discussion of this prospect at the oral hearing, with the applicant arguing that it actually occurs some 500m to the east of the proposed Knockranny South Roundabout, and that the location shown on the Westport Town Development Plan of the protected view is an error. The evidence which the applicant submitted on this point was

persuasive, and the board is advised that the particular prospect to which view no. V8 listed at Appendix 2 of the Westport development plan refers is not available from the location of the proposed Knockranny South roundabout but from a point further to the west. The proposed development would not, therefore, have a significant impact on the protected view. Neither would it have a significant impact on view V6 towards Clew Bay from a point to the west of the proposed roundabout. Nevertheless, the approach road to Westport along the old N5 will remain an important approach route to the historic town from the east. The construction of a roundabout with a diameter of c80m there would be a significant feature on this road that would change the impression given to visitors entering the town. This element of the development could therefore have a significant impact on the landscape. This impact was not considered in the EIS, and is difficult to assess in the absence of a detailed design for the roundabout and all the ancillary structures and signage associated with a junction of this scale and form on a national primary road. The proposed road will also appear in the view south from Attireesh Road to the north of the town which is listed as protected view V4 in the Westport development plan. However it would be at a lower level than the existing road and it would not have such a negative impact on the view as to justify refusing to approve or significantly modifying the scheme.

- 5.23 The proposed roads development would not impinge upon any scenic views or routes set out under the Mayo County Development Plan 2008-2010. It runs through landscape policy area 4 described in that plan, which is the least sensitive area. It is characterised by inland drumlins, where roads developments have a low potential to give rise to adverse impacts on the landscape according to the sensitivity matrix in figure 3 of the plan. Neither would the roads development impinge on any views or landscapes protected by the Castlebar development Plan. Nevertheless it would have a significant impact on the landscape around Lough Lannagh, where the main line of the new N5 would itself be elevated and a bridge would be erected above it to accommodate a diversion of the existing Annagh Road. It would also have a significant visual impact at the adjacent Black Lough. The shores of these lakes are attractive parts of the rural landscape between Westport and Castlebar and so are worthy of some consideration, although they are not recognised as a vulnerable landscape features in the landscape appraisal. The development would introduce elevated functional structures beside these loughs whose visual impact would not be capable of mitigation. The submissions from the Annagh Residents in this regard have considerable merit. The board should consider this significant impact on the landscape. Although it would not in itself render unacceptable a scheme that was otherwise justified by

the common good, if the alternative proposal to omit the overbridge carrying the Annagh Road and instead link it to the Fore Annagh Road was deemed to be impracticable.

5.24 The proposed roads development would impinge on stands of mature trees, mainly beech, at Clogher that are associated with the former Windsor Estate and which are the subject of Tree Preservation Orders. The said trees stand in linear groups on both sides of the road to the east of Castlebar, and although they do not form an avenue as they are older than the existing road, they do make a positive contribution to the rural amenity of the area. The development at this part of the scheme would involve the widening of the existing single carriageway into a dual carriageway, which would encroach upon the trees. The applicant described this impact in some detail as it required amendments to three of the Tree Preservation Orders in force at this location. Copies of the orders were submitted at the hearing. The resulting negative impact on the landscape would be difficult to mitigate in the short to medium term, and should be considered by the board in the course of this application.

5.25 In addition to the impact of particular features of note in the landscape assessed in the paragraphs above, a roads development of this length will necessarily change the landscape characteristics of large parts of the countryside, including those close to the edge of settlements, simply by virtue of its scale and the volume of earthworks involved. This is reflected in several of the submissions received, including those from Linda Pryce, the residents at Balloor including Mary B. Rice, Kieran Horkan, Mick Kane and Eddie Grogan, Edward Browne, James Burke and Mary Amelia McNally, Thomas J Tuohy, the Deerpark Residents' Group, Marius and Amelia Greet, Caroline and Paul Ryder, John Ryder, Gerard and Sylvia Scott, and Noreen and William Coyne. This widespread impact of the proposed development on the landscape was acknowledged in the EIS and described in some detail. Section 11.5 of the EIS contains a comprehensive series of mitigation measures in this regard, which essentially comprise landscaping and planting along either side of the new road. These measures will reduce but not eliminate the impact of the road on the rural landscape generally. If the board forms the opinion that the roads development and the various part of it are justified and meet a public need, its general impact on the landscape would not require a refusal of the application or significant modifications to the proposed development.

Material assets

5.26 Chapters 16 and 17 of the EIS described the effects of the proposed roads development on material assets, in relation to agricultural and non-agricultural assets respectively. With respect to the latter, it was noted that 7 houses would be acquired under the CPO. The demolition of 3 of these was necessary to allow the development to proceed. The other 4 houses may be subsequently sold for residential use. The CPO would impinge on other residential properties, removing parts of the gardens at 33 of them. The impact on various residential properties is characterised on tables 17.1 to 17.4 of the EIS. The development would include the erection similar boundary treatments to those that were removed. The development would involve the removal of part of the Castlebar golf course, 0.944ha of 40.78ha. The EIS stated that this would have a severe impact as it would disrupt the course of play. The appropriate mitigation would be a pecuniary compensation that would allow the club to reconfigure the course. The imposition on the properties of the big house and the church at Turlough should be characterized as slight, according to the EIS.

Residential assets

5.27 Several of the submissions on the applications objected to the physical impact of the proposed roads development on material assets that comprise residential property. The proposed acquisition and development would have a significant impact on the garden and the setting of the house at Carrowclea P0670, as stated in the submission by Ms Linda Pryce. This impact is described in tables 11.1B and 17.7 of the EIS and was acknowledged by the applicant. It would be only partly mitigated by the proposed planting along the road. Nonetheless, it is not considered that this impact would justify refusing approval or requiring substantial modifications to the scheme. The raising of the level of the existing Belcarra Road to achieve the crossing of the main road will have considerable impact on the outlook from the house on holding P1690, as attested in the submission from Mr Michael Nolan and acknowledged by the applicant, and no further mitigation would be practicable in this regard. However the drainage measures proposed should properly mitigate the threat of flooding on the property that might otherwise arise from the proposed roads development. The development would have a significant effect on the setting of houses on holding P0320, as described in the submission from Mr Edward Brown and acknowledged on Table 11.1A. This impact could only be mitigated to a certain extent, although the argument that either house would be rendered uninhabitable is not accepted. The board is advised that this impact would not justify refusal or substantial modifications to the proposed development, but it

would still be a significant negative effect on a material asset that would arise from the proposed development, and it should be considered as such before consent is granted. A more moderate impact would also arise at the house on holding P0430, as outlined in the submission from Mr Joseph Hastings. The mitigation measures proposed in this respect by the applicant are considered a reasonable and adequate.

- 5.28 The submissions from Mr Dónal Ó Gallachóir objected to the potential impact on his residential property due to drainage and the impact of blasting during construction, as well as the injury to the setting of his house from the raising of the N60 and the new access road in front of it, and the new mainline of the N5 to its west. The proposed roads development will undoubtedly change the setting of this house considerably, altering its context from one of a series of houses in a linear pattern extending out from the edge of the town of Castlebar, to one dominated by a roads junction. This impact can only be mitigated to a certain extent. Nevertheless, if the principle of the development is accepted and a by-pass road is deemed necessary for Castlebar, then such a road would inevitably effect the character of land on the edge of the town. Given the extensive pattern of low density housing along the roads radiating from Castlebar, this impact would inevitably effect residential properties. The applicant has outlined reasonable measures to mitigate the impact of the development with respect to drainage, noise and visual impact during the operation of the road, and the impact of vibration during construction. Similarly proposed roads development would also have a very significant impact on the setting of the house on Plot 1980, on the other side of the same junction, as outlined in the submission made on behalf of Mr Thomas J Tuohy. The volume and speed of the traffic along the N60 at Kilkenny already have a significant impact on the character of this rural area on the periphery of Castlebar. However the visual and physical impact of the proposed road and its junction would further establish a peripheral urban rather than rural character for the area. This impact could not be mitigated to any great extent and should be considered by the board before it decides whether to grant approval for the project. However, I would reiterate my advice above, which is that such an impact would be an inevitable consequence of any by-pass road for the town, and if such a by-pass is considered necessary that this impact would not justify a refusal or substantial modifications to the development.

Commercial Assets including Development Land

5.29 Several of the submissions on the applications objected to the impact of the proposed works on the material assets that comprise land that which the owners regard as having the potential for development. Mr Padraig MacLoughlin referred to the impact of the proposed acquisition and works in this regard on his holding at P450 and P510 at Druminadoo. The said land are at a remove from the centre of Westport and there is no strong public interest that would favour their development in a form that would require refusal or amendments to the proposed acquisition or scheme. Providing recompense for a private loss on the part of a landowner is not a matter for the board to consider in the course of these applications. The submission from Michael McCormack and others in relation to holding P520 at Carrowbeg, Westport argued that the proposed extent of acquisition and the specifications of the proposed roads scheme would not properly facilitate development in this area. This argument is not accepted. The land is at some remove from the centre of Westport, and there is no reason based on the public good why it should be developed in a form that would correspond with the objectors' submission. The zoning of the land in the previous and current development plan was done in accordance with the procedures set down in Part II of the planning act which properly involve the elected members of the council and the minister, but not the board. Ms Maeve Kelly of holding P0579 was concerned that a proposed access road would encourage development. However the question of what development might be appropriate along that road would be a matter to be addressed under normal development control procedures and there is no need to anticipate such consideration in the course of these applications. The applicant's response to Mr Dudley Filan of holding P1870 which stated that it was not policy to provide direct access to the national road from private land is accepted.

5.30 The submissions of Mr John Jordan and Ms Helen Sarsfield regarding the inhibition on development on their land at holding P2060 are noted. The restrictions on the development of houses in this area arise from policies set down in ministerial guidelines and in the county development plan, neither of which are subject to review by the board in the course of these applications or otherwise. If the board deems that the proposed road development and the acquisition of land to facilitate it are justified by reference to the common good, then it is advised there are no particular circumstances of the said property that would render it unfair or an undue attack on property rights for part of it to be acquired as proposed in the order submitted by the application. Mr Cyril Moran stated that a revised access road across his landholding at P2376 would retain

its potential as a site for an individual house. However the applicant provided a cogent explanation as to its proposal for the access road across this land, and indicated that the limited size of the site would restrict its development for housing in any event. The board is therefore advised that the protection of any putative development potential on that land would not warrant refusal or substantial amendments to the proposed development.

- 5.31 The submissions from Mr Thomas Horkan and others at the hearing centred on the impact of the development on access to the garden centre and restaurant at Turlough, and how this might be mitigated by signage indicating the access to the centre when approaching from Castlebar. The applicant's response that the existing sign would be replaced, but that the general prohibition on advertising signage along national road would otherwise be upheld is considered acceptable. The development would maintain reasonable and access and notice of the business operated by the Horkans, the nature and location of which would not justify the disapplication of the general approach to advertising on national roads.

Agricultural Assets

- 5.32 In relation to agricultural assets, it is noted that the development would require the acquisition of 242ha of land from 167 holdings. Chapter 16 of the EIS describes the nature of agriculture in the area where beef production predominates, although the proposed road would cross two dairy farms. The topography is gently undulating to drumlin slope. The soils have a limited range of use and are best suited to grassland, with the slopes and field sizes constraining the use of machinery. The potential impact of the development is not described as severe for any farmholding. For 29 of the land parcels the potential impact would be major, in that there would be no access to a severed portion that was larger than a third of the entire parcel. The potential impact in 73 cases should be classed as moderate, that in 38 cases would be minor and no significant potential impact would arise in 23 cases. Farmyard facilities would be effected on 33 of the parcels. The proposed mitigation measures would involve 7 farm underpasses and various other farm access road. A major residual impact would occur to 7 land parcels, a moderate impact to 88, a minor impact to 42 and no significant residual impact would arise for 30 parcels. Various mitigation measures to mitigate disturbance during construction are described, which are similar to those stated in other sections of the EIS.
- 5.33 The account given in this section of the EIS is considered to be a comprehensive and reasonable description of the likely impact of the proposed

roads development on material assets comprising agricultural property. A linear project of the type proposed would necessarily have a large impact in this regard. The nature and scale of this impact also depends on the pattern of landholding and the type of agriculture practiced in the area, both of which are clearly described in the EIS. In these circumstances, the potential impact of the proposed development on agricultural assets is as limited as it could reasonably be expected to be. The EIS and the information submitted by the applicant at the oral hearing described the measures designed to mitigate the impact from severance, being access roads and farm underpasses. The proposed measures are considered proportional to the impacts they are designed and likely to be effective.

- 5.34 Several objections were made to the proposed development due to the impact that it would have on agricultural holdings. The applicant's responses to them were cogent and persuasive. In this regard the rationale provided in response to Mr Thomas Bourke and the representatives of Nora O'Connor regarding the absence of a proposal for an underpass at P1560 is accepted; as is the response regarding the constraint on providing access to the severed part of the landholding P1880 of Thomas Heneghan at the location of the proposed railway bridge. The likely residual impact of the roads development on certain agricultural landholdings would remain considerable, and in this regard to board's particular attention is drawn to the submissions from Mr Enda McHale of holding P1770; Mr Thomas J Tuohy of holding P1980; and of Mr Pdraig McLoughlin of holding P450; and from Mr Vincent Irwin of holding P0980. The information submitted in writing and at the hearing describes these impacts adequately, and account should be taken of them in the environmental impact assessment of the project. However it is not considered that they would require or justify refusing approval or substantial modifications to the proposed project, if such project is regarded as being justified by the common good. The extent of the proposed acquisition from holding P1340 to which Mr Henry Brogan objected is considered reasonable, having regard to the need to provide a revised junction for a local road with a suitable alignment and at the requisite distance from the Castlebar West roundabout.

Infrastructure

- 5.35 The impact of the proposed roads development on various pieces of infrastructure was discussed at section 3.3 of the EIS. The road would cross over the railway, twice, on bridges SC301 and SC307. 15 conflicts between the route and high voltage ESB lines were identified. The crossing near the 110kV station at Castlebar would require the erection of higher pole sets. Other

conflicts will require the relocation of poles or minor diversions. 66 conflicts with medium and low voltage lines were identified. These would be ducted under the road. The proposed road would cross a gas transmission main that operates at 85 bar at Ch41+640 in the townland of Clogher. Protection slabs will be required above the pipe across the extent of the road. A gas distribution main runs along the existing N5, which will have to be diverted at the proposed Castlebar West roundabout. The gas main along the N84 will have to be diverted through the junction with the new road. Fibre optic telecommunication lines will be ducted under the proposed road. Minor water mains in the line of the proposed road will be diverted along bridges and access roads. A 300mm main at Knockranny will be diverted around the proposed southern roundabout there, while a 600mm arterial main at Ch32+180 that is part of the Lough Mask Regional Water Supply Scheme will need to be diverted along the toe of an embankment and then under the new road. Diversions of foul sewers would be required at Ch03+600, Ch34+800 (a rising main) and Ch37+700. The pipeline from the Castlebar Sewage Treatment Works to the outfall on the Toormore River at Drumdaff runs along the verge of the existing N5 at the eastern end of the proposed scheme. Its existing crossing over the Castlebar River at Ch43+800 would be retained. To the east of the crossing the pipeline will be encased in concrete, with a small diversion to avoid the manholes being in the median of the proposed dual carriageway, or the sewer crossing the road at a skew. The information contained in the EIS, as supplemented by the engineering evidence submitted at the hearing, adequately describes the likely impact of the development on material assets comprising infrastructure. It demonstrates that the carrying out of the development would not be likely to have significant adverse impacts in this regard, subject to the application of proper design standards and construction methods as have been described.

Interaction of the foregoing

- 5.36 The interaction of impacts described under the above headings would be extensive. Impacts on soil and water would have significant implications for flora and fauna, as would the potential impacts on air quality. Impacts on the landscape and cultural heritage would have a profound impact on the appreciation of the environment by human beings. The impacts of the scheme on material assets would have particular implications for human beings who depend upon the use of such assets. Effects upon soil and especially water would have effect material assets, and thus the human beings who use them. These various effects have been described in the EIS and assessed in the foregoing paragraphs.

Adequacy of Environmental Impact Statement

5.37 The submitted Environmental Impact Statement provided sufficient information on the proposed project, a description of the measures designed to mitigate significant adverse effects and adequate data to identify and assess the main effects that the project is likely to have on the environment. The statement included an outline of the main alternatives considered by the developer at chapter 4, which provides an overview of the route selection process. Elsewhere in the EIS and in the information submitted at the hearing the applicant outlined the main reasons for its proposed choice. It stated that road improvements were necessary to cater for existing and projected traffic in the area to avoid congestion and traffic hazard; that the use of other modes of transport was unlikely to be significant in a county with such a dispersed population; and that upgrading along the existing line of the N5 is constrained by the amount of development upon it. The EIS also included a non-technical summary. The statement therefore complies with the requirements of section 50(2) of the Roads Act 1993, as amended, and with article 5(3) of the EIA directive and is considered adequate for the purposes of the present application.

Summary of conclusions

5.38 The following conclusions of the foregoing EIA are brought to the board's particular attention –

- The operation of the proposed roads development would not give rise to significant negative effects in terms of noise and vibration. The limits on emissions specified in the EIS with regard to noise and vibration during construction should be monitored and enforced to avoid significant negative effects on human beings.
- The carrying out of the proposed roads development would not be likely to have significant negative effects on flora or fauna.
- Adequate measures are described in the EIS to mitigate the potential for negative impacts from the proposed development on water quality and flood risk.

- The operation of the proposed development would not have a significant negative impact on air quality. During construction the limits on dust emissions specified in the EIS should be monitored and enforced to avoid significant negative impacts on air quality.
- The proposed development would be likely to cause a marginal increase in the emission of greenhouse gases. The increase would not be significant in itself but might be so when considered in cumulation with other projects to increase the capacity of the road network. The board should consider whether this effect would be justified by the overall benefits of the proposed roads development.
- Adequate measure are described in the EIS to mitigate any potential impact on archaeological heritage.
- The proposed development would have a significant negative impact on the setting of the protected structure at Turlough Park and the proposed protected structure. The board should consider whether this negative impact on cultural heritage would be justified by the benefits that would accrue from section D of the proposed roads development.
- The general impact of the proposed roads development on the landscape would not cause significant negative environmental effects. However there would be particular negative visual impacts arising from the proposed bridge over Lough Lannagh and the loss of trees at Clogher. A poor design for the proposed roundabout at Knockranny South could also diminish the setting and approaches for the town of Westport to an appreciable degree.
- The proposed roads development would have some negative impact on the setting of several residential properties, although reasonable mitigation measures have been proposed by the applicant in this regard and none of the houses would be deprived of their residential amenity.
- Notwithstanding the comprehensive mitigation measures proposed by the applicant, the proposed roads development would give rise to significant residual impacts on a number of agricultural holdings. The development would not have a significant negative impact on other commercial assets or infrastructural assets.

6.0 APPROPRIATE ASSESSMENT

Assessment of the individual project

- 6.1 The proposed roads development does not involve works within any Natura 2000 site. The western end of the road would be within 2km of the Clew Bay Complex SAC, sitecode 001142. However the proposed construction of a road in the urban fringe of Westport on inland drumlins is not likely to have any effect on the that site, whose qualifying interests relate to saltwater habitats and species. The eastern end of the development is effectively on the boundary of the River Moy SAC, site code 002298. The conservation objectives for that site include the maintenance or restoration of the favourable conservation status of Atlantic salmon, otters, Sea and Brook Lamprey and White-clawed Crayfish, as well as various wetland habitats. The project involves significant works close to and upstream from the SAC, including the widening a bridge over the Castlebar River less than 1 km above its confluence with the Manulla River, which is within the SAC. Therefore the construction and the operation of the proposed roads development has the potential to have significant impacts on the SAC in relation the quality of its waters and its drainage characteristics. This could occur through the release of sediments or chemical pollutants, and by large scale changes to the drainage regime on part of the lands which drain to the River Moy system. The likelihood of these effects cannot be excluded *a priori* without consideration of the proposed measures to mitigate their impact. The proposed development therefore requires an appropriate assessment of its implications for the River Moy SAC in light of that that site's conservation objectives.
- 6.2 The Natura Impact Statement submitted with the applications describes the proposed mitigation measures, which also appear in the relevant sections of the EIS. The construction of the crossing over the Castlebar River will not involve works within the stream. The span of the crossing will have the capacity to cater for 1-in-500 year flows in the river. The storm water drainage system for the road project as a whole will include attenuation measures to restrict the runoff to greenfield rates. The project will therefore maintain the hydrology of the area around the proposed roads development that drains to the Castlebar River, and thence to the River Moy system. The outfalls of the settlement ponds, whose scale and location and shown on the submitted plans, will include vegetated treatment systems that will allow for the breakdown of hydrocarbons in the runoff from the road, so avoiding threats to water quality in the SAC. Otters would be diverted to crossing facilities in the culverts beneath the road line, and fencing would be provided to a depth of 300mm underground

to prevent otters accessing the road in the vicinity of watercourses. These are standard mitigation measures for road schemes whose efficacy has been demonstrated. It can therefore be concluded, beyond reasonable scientific doubt, that the operational phase of the development would not adversely affect the integrity of the River Moy SAC, when assessed in light of the site's conservation objectives.

- 6.3 The construction phase of the development, however, would give rise to a greater threat to the water quality in the SAC due to the risk of the sediment entering the river systems that drain there, which would pose a particular threat to the Atlantic Salmon. The applicant submitted a comprehensive document outlining the approach to sediment and erosion control during construction (OH Doc. No. 11) that includes a general approach as well as specific measures to protect the Castlebar River that are set out at section 7.4 of the document. These specify that the sequence of construction works including the provision of fencing and berms around the working area, the installation of temporary and permanent drainage systems, including the stormwater attenuation ponds at Ch 40+200, Ch 43+650 and Ch43+900. Drainage shall be diverted to those ponds as soon as practicable during construction. Works that give rise to a risk of siltation or which give rise to vibration that could affect salmon ova in gravel will be carried out from June to October. Procedures to monitor water quality and ensure such remedial action as may be necessary are described. Again, these are well established practices to control sediment runoff and pollution of surface waters during construction. It can therefore be concluded, beyond reasonable scientific doubt, that the construction of the development would not adversely affect the integrity of the River Moy SAC, when assessed in light of the site's conservation objectives.
- 6.4 The board is therefore advised that the construction and operation of the proposed roads development will not adversely affect the integrity of any Natura 2000, and that this conclusion is established beyond scientific doubt. This conclusion is consistent with the applicant's Natura Impact Statement, although this assessment includes consideration of the mitigation measures proposed with respect to hydrology, water quality after construction and the impact on otters, while the statement discounted the likelihood of any such effects under those headings before addressing the substantive assessment of the project. The Department of the Arts, Heritage and Gaeltacht did not express an opinion as the proper conclusions of an appropriate assessment of the project. The applicant's revised description of its proposed measures to control and monitor the impact of the development on the River Moy SAC were consistent with the submissions from the department, in that they did not

require the active participation of the department in their implementation. The correspondence with the department which the applicant submitted during the hearing elaborated on various topics that were set out in the EIS and Natura Impact Statement that were relevant to natural heritage and appropriate assessment. However it is not considered that it contained new information of such volume or significance that would require further consideration of the current applications to be halted to allow it to be circulated to the prescribed bodies or others for comment. Given that the impact of the development on salmon in the River Moy is the pertinent issue in the appropriate assessment, the comments from Inland Fisheries Ireland are particularly relevant. Its report did not object to the concept or form of roads project, but rather recommended detailed measures similar to the mitigation measures proposed by the applicant. The conclusions of this assessment are therefore considered to be consistent with the advice proffered by both prescribed bodies.

- 6.5 Mr Sweetman's submission at the hearing argued that, unless any impact on a species protected under the Habitats Directive from the project can be excluded, then a lacuna exists in the information before the board so that the appropriate assessment cannot conclude that the project will not have an adverse impact following the decision of the European Court of Justice in C258/11, and so consent can only be given under the procedures at article 6(4) of the directive. In this case, Mr Sweetman argued, the applicant is relying on pre-construction surveys to identify the location of otters along the route and may have to apply to the department for a derogation from the protection afforded them under Annex IV of the directive to carry out construction. Therefore the article 6(4) procedures regarding imperative reasons of overriding public interest apply to this case. This argument is not accepted. The state and therefore the board have a general duty to protect the habitats and species identified in the Habitats Directive, including those specified under Annex IV. However this duty should not be simply conflated with the more specific requirement regarding the conservation objectives of designated sites set out in article 6. The decision of the ECJ in case C258/11 would not support that approach. The information submitted in connection with this application is sufficient to demonstrate, beyond reasonable scientific doubt, that the proposed development would not adversely affect the objective of the River Moy SAC to maintain or enhance the conservation status of the otter population, even allowing for the normal movement of otters across the boundaries of the SAC into the area of the proposed development. This does not require a conclusion that no part of the carrying out of the development could conceivably disturb an otter in a manner that would require a derogation from the protection afforded that otter under Annex IV. Such a disturbance might arise from the proposed

development, but it would not adversely affect the conservation objectives of the SAC, and would not require the procedures at article 6(4) to be invoked prior to the granting of a consent for the project.

- 6.6 Following the advice set out in the paragraphs above, the board could reasonably conclude after an appropriate assessment of the implications of the proposed roads development for the River Moy SAC carried out in light of the conservation objections of that SAC that it had ascertained beyond reasonable scientific doubt that the proposed roads development would not adversely affect the integrity of that SAC.

Assessment in combination with other projects

- 6.7 Article 6(3) of the Habitats Directive makes it clear that a consideration as to whether a project should be subject to appropriate assessment must take account of its effects in combination with other projects. It would therefore be rather absurd if the actual assessment of a project's implications for Natura 2000 sites did not similarly take account of its impact in combination with other projects.
- 6.8 The conclusion stated at section 6.6 above relates only to the proposed roads development when considered in isolation. But the proposed roads development would be part of a roads network and a national primary route. So its form and location would determine the context within which proposals to improve adjoining parts of the road network were drawn up. The current proposal involves building a dual carriageway to the boundary of the River Moy SAC. If it is built, the fact that a dual carriageway runs up to a particular point on the boundary of the SAC would have a significant bearing on the design of any proposals to upgrade the national route within and crossing the SAC immediately to the east of the current project. The scale and location of such proposals within the SAC would certainly be likely to have significant effects on that SAC and its conservation objectives. This is demonstrated by the board's decision on application 16.HA0003 which referred specifically to the impact of the construction of a dual carriageway within the SAC. The actual implications of any such project on the conservation objectives of the SAC may or may not adversely affect the integrity of the SAC. But that matter must be determined by an appropriate assessment when all the necessary information is available. If the current proposal to build a dual carriageway up to the boundary of the SAC is carried out, then it would be difficult to justify any proposal to upgrade the adjoining part of the N5 national route within the SAC whose route and size

did not match the currently proposed dual carriageway to the boundary of the SAC. Any roads authority that proposed improvement to the adjoining part of the N5 route that did not match the current proposals would be subject to criticism for a lack of foresight, efficiency and effectiveness. So the current proposals would have a significant effect on the location and scale of possible works, which themselves would have a significant effect on the SAC.

- 6.9 Would it be likely that such an indirect effect would occur in combination with other projects? The various local, regional and national policies to upgrade national road cited by the applicant to justify the current proposals would equally apply to the N5 within the SAC. In fact, the policies which refer to the connectivity of the linked hub of Castlebar and Ballina would give stronger support to road improvements across the SAC than the current proposals to the west of Castlebar. There are no major junctions between the eastern end of the proposed roads development and the boundary of the SAC that would support a supposition that the traffic levels on the former were markedly higher than those within the SAC. Section 4.2.2 of the EIS refers specifically to an emerging proposal for an upgrade of the N5 national primary road between Bohola and Ballyvary to the east of the current scheme. In these circumstances, the indirect effect which the current proposal would have on the SAC through its constraint of the design of other road projects within that Natura 2000 site is likely to occur. In fact it probably will occur.
- 6.10 So this indirect effect of the proposed project on the SAC is both likely and significant. If a project is likely to have a significant effect on an SAC, then this effect must be considered in the course of an appropriate assessment, and the absence of an adverse effect on the integrity of the SAC must be ascertained beyond reasonable scientific doubt. Adequate information is not available for the board to ascertain that the likely and significant, albeit indirect effect which the proposed roads development would have on the SAC through its constrain of future likely roads proposals within the SAC would not have an adverse effect on the integrity of the River Moy SAC, nor could it be provided in the course of the current application.
- 6.11 The board is therefore advised that a grant of approval for a roads development that included section D of the current proposal would contravene the requirements of the Habitats Directive. This advice is based on a purposive interpretation of the directive which the board may decide to follow or not to follow. However I would emphasise that the board is the consent authority charged with compliance with the requirements of the Habitats Directive. It may not delegate this duty to the roads authority in whole or in part. It is more

than likely that the board will have to convene at some future date to carry out an appropriate assessment of the implications for the River Moy SAC of a project or projects to improve the national roads which impinge on that SAC and which are connected to the eastern end of the road development currently proposed. The board must therefore satisfy itself that its determination of this current application would not prejudice the discharge of its duties in a likely future case. In the circumstances of this application, the board should therefore decide for itself whether the boundary of the River Moy SAC is the appropriate location to commence proposals for significant works to the N5, without undue deference to the proposals of the roads authority. My advice is that it is not, and that the proposed Castlebar East junction would be the proper boundary between one scheme and another, for the reasons set out above.

Conclusions on appropriate assessment

- 6.12 It can be ascertained beyond reasonable scientific doubt that the proposed roads development would not, in itself, adversely affect the integrity of the River Moy SAC or any other Natura 2000. However the eastern end of the proposed roads development when considered in combination with other projects would have a likely and significant indirect effect of the River Moy SAC. An appropriate assessment of the implications of the proposed project cannot be completed in the course of this application unless modifications were made to omit the eastern part of the proposed road.

7.0 ASSESSMENT OF OTHER ISSUES

Impact on the future pattern of physical development in the vicinity of the road

- 7.1 Concerns were raised by several persons, in particular by An Taisce and by Mr James Burke and Ms Mary Amelia McNally, that the proposed roads development would be likely to alter the location of other development in the future in undesirable ways, giving rise to a pattern of 'rural sprawl' with more sporadic housing in the countryside and a consequent greater dependence on transport by private car and individual wastewater treatment systems which would increase emissions of greenhouse gases and threaten groundwater quality. This aspect of the consideration of the project could reasonably be regarded as an assessment of an indirect effect on the environment that should be considered under the environmental impact assessment, but I address it in this section because it relates largely to matters of policy, administration and economics. However if the board wishes to address the matter as one pertaining to EIA, then my advice on the topic would be the same as that set out here.
- 7.2 The proposed national primary road would not provide any direct access for new development, as such would be contrary to a long established planning policy most recently set forth in the *Guidelines for Planning Authorities on Spatial Planning and National Roads* issued in January 2012. However the proposed development would be likely to lead to a corresponding relaxation in the policy regarding accesses to the existing N5 in the rural area. The proposed development would increase the capacity of the road network in the area generally, both on the new road and on the existing roads whose route it replicates. The new road would create nodes of high accessibility at its junctions with the rest of the road network, particularly those junctions in the vicinity of Westport and Castlebar. In the absence of any countervailing factors, the likely outcome of the proposed development would therefore be to increase the demand for residential development in the open countryside, and to draw commercial and other development to peripheral urban locations beside the junctions on the new road to take advantage of the relative improvement in the accessibility of those locations compared to suburban residential areas and town centres that the proposed roads development would cause. This would contribute to a pattern of development that would tend to increase dependence on travel by private car, create more emissions that would threaten the quality of ground and surface waters, and which would militate against the maintenance of the economic and social role of town centres of Westport and Castlebar as well as their historic fabric. These

outcomes would generally be regarded as undesirable, and the concerns raised in various submissions are therefore reasonable and should be considered.

- 7.3 Nevertheless means are available to counteract the potential impact of the development in this regard through the planning system, as was pointed out by the applicant at the hearing. Both the national sustainable rural housing guidelines and the relevant county development plan have explicit policies restricting construction of houses in the rural area around the proposed road, which is already identified as being under strong urban influence. The national retail planning guidelines and the county and town development plans also set policies to protect the commercial role of town centres. The proper implementation of those policies by the planning authority could successfully mitigate the negative impacts that may arise from the role of the proposed roads development in increasing the relative accessibility of rural and peripheral urban locations. It may also be the case that certain extensive types of development that generate a large amount of goods traffic but do not attract a concentration of persons could be appropriately located in the vicinity of the improved roads infrastructure. These are questions for determination by the county council when exercising its functions as a planning authority. It would be unduly cynical to consider the present applications on an assumption that the planning authority would not carry out these functions in a satisfactory manner. It would also be outside the proper scope of the board's power to determine the present applications under the Roads and Housing Acts to attempt to pre-empt or assess the council's exercise of its reserved or executive planning functions. The exercise of those functions can be supervised in other ways, either by the relevant minister or the board in accordance by the explicit procedures set out in the planning acts.
- 7.4 The physical location and extent of the road could also have a direct influence of the future development of the towns of Castlebar and Westport. With respect to Castlebar, it is noted that the line of the by-pass is some distance to the south of the main part of the built-up area of the town, although it does intersect with ribbon development. It is therefore considered unlikely that the physical fact of the road would interfere with the development of the town. At Westport the line of the road would be closer to the town, but it would again intersect with peripheral and extensive development at some distance from the core of the town. Therefore it would not be likely to impede the orderly and coherent growth of the settlement.
- 7.5 The board is therefore advised that the likely impact of the proposed roads development on other future development in its vicinity would neither justify nor

require refusal or substantial modifications to a project which was otherwise deemed to be in the public interest.

Impact on residential amenity not considered under the EIA

- 7.6 The measures outlined by the applicant to reduce the likelihood of illegal parking or dumping on the severed road in the vicinity of the holding P2484, in response to the submission from Mr Marc Lawless, are considered reasonable. They reflect the council's responsibility for such matters in the county generally. The proposals to replace the front boundary on the property P2135 are considered a proportional and adequate response to the potential injury to the amenities of the house of Ronan and Marie Ó Cathasaigh described in their written submission. The applicant clarified its proposals with regard to the plot P0135.201 at the Attireesh Road to provide a storm attenuation pond and it is considered that the proposed roads development would not give rise to an undue injury to the houses in the vicinity, including that occupied by Mr Dominic Di Lucia. The development would alter the character of the setting of the houses at Carrownaclea, Westport occupied by Marius and Ameila Greef, by Caroline and Paul Ryder, and by Mr John Ryder; that at Derrylea, Castlebar occupied by Gerard and Sylvia Scott; and that at Cloggernagh, Islandeady occupied by Noreen and William Coyne. Its impact in this regard will be appreciable and should be borne in mind by the board when it considers whether to grant approval for the proposed roads development. Nevertheless it is not considered that such impacts would undermine the residential utility of those houses, and they would not justify a refusal or substantial modifications to a development that was justified by reference to the common good.
- 7.7 With regard to the impact of the development on the houses at Balloor described in the submissions from Ms Mary B Rice, Mr Kieran Horkan, Mr Eddie Grogan and the Balloor Residents, it is considered that the applicant provided a persuasive account as to the rationale for the design of the road at this point, including its line and elevation and the design of the noise barriers and landscaping along its edge. The measures would not obviate the impact of the road on the adjacent houses with regard to noise and visual intrusion. However the residual impacts are considered relatively minor and are an acceptable consequence of a piece of infrastructural development that meets a definite public need. The residual impact of the development on the houses at Deerpark with regard to noise and light emissions would be acceptable, after the implementation of the mitigation measures proposed by the applicant.

Impact on Islandeady National School

- 7.8 The submission from the Islandeady Community Council raised concerns about the impact on the operation of the primary school there during construction. The applicant's response in this regard was acceptable, in that it indicated that the management of construction will take proper account of the operation of the school and that the impact of the scheme when completed will be positive as traffic volume and hence hazards and severance along the old N5 will be reduced.

Procedural issues

- 7.9 The notices of the compulsory purchase order sent to the persons whose interest in land would be effected complied with the relevant statutory provisions in the Housing Act 1966 and did not refer to any fee for making an objection to the confirmation of the order. The imposition of a fee of €50 for submissions regarding the environmental impact assessment of the project is in keeping with schedule of fees made by the board and is similar to other cases requiring EIA. It is not considered to be an undue impediment on public participation in the decision making on environmental matters. The inconsistent approach by the board as to whether persons effected by the compulsory purchase order were required to pay that fee before commenting upon the EIA was unfortunate, given that the justification for the project and its impact on particular properties are relevant to the consideration of both applications. However I would tend to agree with the position on the matter advanced by the applicant, rather than by Mr John Jordan, that the inconsistency would not vitiate the present applications or preclude their further consideration given that there was no specific breach of a statutory requirement, there was no hindrance on persons making objections in support of their own property rights, and the fee that may or may not have been required was not so large as to preclude participation in environmental decision making in contravention of the Aarhus directive or laws giving effect to that convention.

Summary of conclusions

7.10 The board is advised as follows -

- The proposed roads development would have a potential impact on the relative demand for other forms of development at particular locations. By improving the relative accessibility of rural and peripheral locations, it would tend to encourage unsustainable patterns of development. Nevertheless it is the responsibility of the planning system to control such pressures for development, and the planning authority has the means and policies to do so. The board should not attempt to pre-empt such planning control by refusing approval under the Roads Acts for a proposed roads development that meets it justified by the common good.
- The proposed roads development would affect the setting of several dwellings. However its impact on their residential amenities would not justify refusing to approve the proposed roads development or requiring substantial modifications to it. The potential negative impact on the national school at Islandeady can be properly managed in the manner set out by the applicant, and the opening of the proposed road will have a positive impact on road safety at the school.
- The manner in which notice was given of the current applications would not preclude their further consideration at this time in the normal manner laid down by the relevant statutes.

8.0 COMPULSORY PURCHASE ORDER

- 8.1 Under the procedure set out at section 76 of the Housing Act 1966, Mayo County Council, acting on its own behalf and on behalf of Castlebar Town Council and Westport Town Council pursuant to an agreement under section 85 of the Local Government Act 2003, made an order with respect to the compulsory acquisition of land and submitted it to the board for confirmation. The title of the order is –

THE COUNTY COUNCIL OF THE COUNTY OF MAYO COMPULSORY PURCHASE [Acquisition of lands for Road Construction and Improvement at Westport Demesne (ED Westport Urban), Creggaunnahorna, Deerpark East, Attireesh, Westport Demesne (ED Kilmeena), Gortaroe, Carrowbeg, Knockranny, Monamore, Sheeroe, Drummindoo, Carrownaclea, Sheean, Cogaula, Doon, Knockbrack, Bullaunmeneen, Kilbree Lower, Drumneen, Cloonan, Dooleague, Claggarnagh West, Claggarnagh East, Annagh, Cloonkeen, Pheasanthill, Derrylea, Derrycoosh (ED Cloonkeen), Derrynashask, Derrinlevaun, Cloondeash, Aghadrinagh, Lisnageeha or Antigua, Lisnakirka or Milebush, Balloor, Hawthornlodge, Shanvally, Cottage, Drumaleheen, Kilkenny, Doogary (ED Breaghwy), Carheens, Liscromwell, Aghalusky, Ballynew, Ballyneggin, Breandrum or Windsor, Clogher (ED Turlough) Gortnafolla, Knockanour, Turlough, Drumdaff, Capparanny Townlands in the County of Mayo] ORDER 2013 (NO. 1)

- 8.2 Three schedules were appended to the order. The first described the land that would be acquired in various plots with details of their size, location, use, owner or reputed owner, lessee or reputed lessee, and its occupier. The second schedule described the land to be acquired temporarily in a similar manner, which the third referred to private and public rights of way that would be extinguished. All said plots and rights of way are illustrated on set of 15 maps deposited with the order. The applicant gave evidence that notice of the order was served on the owners, lessees and occupiers of the said lands. Several objections to the confirmation by the were received from persons on whom notice had been served, and the board directed me to conduct an oral hearing before proceeding to consider whether to confirm the order. There are twenty-five objections to the order which have not been formally withdrawn by this date. There were no objections which referred solely to the rights of way that would be extinguished under the order. The content of the objections are summarised at section 3.2 of this report above.

8.3 Confirmation of the order would allow interference with the property rights of the affected persons. Therefore the board should not decide whether to confirm the order until it has considered the said objections and determined whether the interference with property rights is justified by the exigencies of the common good. The issue of fair compensation for such interference is not a matter for determination in the course of the current application before the board. The stated purpose of the order is to enable the construction of the roads development proposed in the concurrent application for approval under section 51 of the Roads Act, 1993, as amended. Therefore the determination as to whether the order should be confirmed depends upon the justification for the development and its likely impact on the environment, particularly material assets, and its impact in other respects. These matters are assessed in sections 4, 5 and 6 of this report above. The matters that inform the consideration of the application for approval under the Roads Act cannot be readily divorced from those matters that are material to a decision whether to confirm the order. Of course, this why the legislation provides that the hearing for the latter shall also be the public local inquiry for the former. The content of the objections from those upon whom notice of the order was served is therefore assessed in the same context above as the content of the other submissions on the application for approval. Nevertheless there are particular matters that relate to the confirmation or otherwise of the order which are addressed explicitly in this section of the report, being –

- Whether there is a common good that would be achieved by the acquisition of the property in the question;
- Whether alternative methods of achieving the common good have been considered but are not available.
- Whether the works to be carried out accord with the development plan.
- Whether the particular property is suitable to achieve that common good and the acquisition is proportionate to that good;

Whether there is a common good that would be met by the acquisition of the property in the question

8.4 The stated objectives of the scheme, as outlined in the report dated 15th July 2013 from the project manager to the county manager who made the order, are—

- To support the connectivity of the linked hubs of Castlebar and Ballina
- To provide a safer road that would reduce fatalities on both the N5 and the existing road network
- To improve a deficient section of road that has deficiencies in terms of traffic capacity, overtaking opportunities, journey reliability and safety
- To provide infrastructure that would encourage and support investment and employment in Castlebar, Westport and elsewhere
- To support plans and policies regarding transport and spatial development in the west of Ireland. General provisions of the National Development Plan 2007-2013, the National Spatial Strategy, the Regional Planning Guidelines for the West Region 2012-2022, the National Roads Needs Study of 1998 and the development plans for Mayo, Westport and Castlebar are cited in this regard.

8.5 The report states that 27% of the existing road is within the 50kph speed limit zones of Westport and Castlebar. The surface of 5km of road between Westport and Castlebar is showing signs of fatigue. Only 38% of the road meets the minimum requirements for carriageway width and the provision of hard shoulders, and significant portions between Westport and Castlebar do not meet the minimum lane width of 3.65m. The alignment of the road between Westport and Castlebar and within the towns do not meet the standard requirements for a design speed of 100kph. There are an average of 23 junctions per km of the existing road outside the urban area, very few of which have adequate visibility. None of the junctions with local roads which warrant ghost islands at the junctions have them. The existing road is approaching capacity with recorded traffic above its capacity over 43% of its length at its eastern end. The theoretical capacities of the existing road are reduced by significant roadside development, junctions and non-standard cross section. 4 fatalities, 11 serious and 85 minor injuries were recorded on the existing road. The existing road is no longer capable of catering safely for the existing traffic demands.

- 8.6 The report predicts travel time benefits of 385 hours in the morning peak hour and 731 in the evening one by 2033, and a reduction of 39 in the number of fatalities over 30 years. It would remove heavy traffic from the towns of Castlebar and Westport and improve air quality there.
- 8.7 The report concludes that the existing N5 and N59 are providing a poor level of service, have a poor safety record and will experience increasing traffic congestion. These problems will be exacerbated by the poor alignment and cross section of the road, and the frequent junctions and roadside development. The most appropriate configuration for the proposed scheme is to provide by-passes for Castlebar and Westport, with an on-line upgrade of the N5 east of Castlebar. The report states that the proposed development is supported by policy, will reduce journey times, will alleviate traffic congestion in Castlebar and reduce traffic in Westport and enhance the environment in those towns, remove a potential restriction on business investment, improve accessibility to other parts of Mayo, and will address a notable road safety deficiency. The cost-benefit ratio is robust.
- 8.8 I refer the board to the report from Inspector Ryan and section 4 of this report above. Having considered the submissions from the applicant, the other submissions and the objections to the confirmation of the order made in writing and at the hearing, I would advise the board that the sections A, B and C of the proposed roads development would meet the requirements of the common good to provide a safe and adequate road from north of Westport to east of Castlebar, as the proposed road would remedy the deficient capacity and alignment of the existing roads along that part of the N5 and N59. The board is advised that the common good does not require the improvement the existing single carriageway along the N5 at section D from Castlebar to Turlough which does not demonstrate the same deficiency in terms of capacity and alignment.

Whether alternative methods of providing the common good have been considered but are not available

- 8.9 I refer to the consideration of alternatives set out in chapter 4 of the EIS. The applicant has demonstrated that there is no realistic prospect of a modal shift in travel in a county with a dispersed settlement pattern such as Mayo that would relieve the need to address the deficiencies in the N5 route between Westport and Castlebar. I refer also to the conclusion at section 7.9 of Inspector Ryan's report that the route selection process in which the applicant engaged was robust and the route selected was appropriate. The board is therefore advised that alternative methods of providing the common good that would justify the

compulsory acquisition of property have been considered, but that no better means to achieve it are available.

Whether the works to be carried out accord with the development plan

- 8.10 The land to which the compulsory purchase order refers lies within the area covered by three statutory development plans, the Mayo county development plan and the town development plans for Castlebar and Westport. The relevant extracts of the plans were submitted at the hearing and can be summarised as follows -

Mayo County Development Plan 2008-2014

Objective O/TR-R2 of the plan is to support improvements in the national road network including the schemes and by-passes outlined in appendix 1 of the plan. That appendix referred to improvements to the Westport-Castlebar section of the N5 and the Westport Northern Relief Road.

Castlebar and Environs Development Plan 2008-2014

Section 7.3 of the plan refers to a ring road project with a regional road by-passing the town to the north, and a southern by-pass that would be built as part of the national primary road N5. The text of the plan states that a review of the preferred route for the by-pass is under consideration. The map adopted with the plan indicates a route to the south of the town. A variation to the plan was adopted in February 2013 which set out a revised route for the southern by-pass that corresponds to the one proposed in the current applications. The variation also amended the landuse zoning for various pieces of land along the current route to *Proposed Road Route from Rural Character; Enterprise and Employment; and Residential Low Density*.

Westport Town and Environs Development Plan 2010-2016

This plan includes an objective IO-02 to reserve lands for a northern and southern relief road around the town. The map of the plan as amended by variation no. 3 adopted by the council in July 2012 indicates a proposed road

corridor for the northern relief road that corresponds to that proposed in the current applications.

8.11 There is, therefore, a specific objective in each of the applicable statutory development plans to carry out the proposed roads development which it is the purpose of the compulsory purchase order. There was some discussion at the oral hearing as to the time at which the variations of the town plans to reflect the proposed route of the road. However the power to make and vary development plans rests with the elected members of the various planning authorities. The exercise of this power may be reviewed by the minister or the courts in certain circumstances, but not by the board in the course of the confirmation of a CPO. The development plans must be taken as they are. Similarly, the arguments made by Mr McCormack et al. and by Mr Jordan and Ms Sarsfield that prior variations to the development plans which affected their land were in some way tainted with unreasonableness would not justify a decision to modify or refuse to confirm the order. The board is therefore advised that the compulsory purchase order submitted for confirmation complies with the relevant development plans. The certificate to that effect from the Senior Planner employed by the planning authorities is acceptable.

Whether the particular property is suitable to meet that common good and the acquisition is proportionate to that good

8.12 I refer to section 4 of this report above and the conclusion that the specifications of the proposed road and the junctions thereon are generally appropriate. The extent of the land that would be acquired under the order is determined by those specifications, and the extent of the acquisition is therefore proportionate to the common good which the proposed road would meet. Certain of the submitted objections complained that particular parts of the proposed acquisition were excessive with respect to the proposed scheme. This are considered below.

8.13 Mr Henry Brogan, owner of plot P1340, stated that the amount of land that would be acquired to realign a local road south of the proposed Castlebar West roundabout would be excessive. In this instance the board is advised that the re-aligned road proposed by the applicant is appropriate given the need to maintain an adequate separation distance between the proposed roundabout and the junction of the local road with the old N5, and to provide a suitable

angle of approach for the local road to that junction. The amount of land to be acquired is commensurate with the proposed alignment of the local road and so is justified.

8.14 Mr Enda McHale, owner of plot P1770, objected to the amount of land that would be acquired from his plot. The applicant's justification of the extent of the acquisition is acceptable. The issue of flooding in Balloor has been documented in the EIS and other submissions, and the need for flood storage there has been established. It would be unreasonable to impose on the county council the cost of providing access to the isolated part of the landholding on the southern of the proposed road, and to do so would also require further interference with the property rights of other private persons. The extent of the proposed acquisition would therefore be justified without reference to the expansion of the golf course to the east. It is, of course, entirely possible that the members of the county council might decide to sell land to the south of the line of the road that was not required for the operation of the road to an adjoining landowner, such as the golf club. The particular impact of the proposed acquisition on a farmer attempting to establish a viable business has been acknowledged. However the impediments to such an enterprise relate to wider issues of landholding in the area that are not within the scope of the current applications.

8.15 Mr Michael Nolan, owner of plot P1690, stated that the proposed acquisition from his residential property was excessive. Mr Nolan's concerns regarding flood risk and residential amenity of his property are considered in the context of the environmental impact assessment above. It is considered that the applicant has justified the extent of the acquisition at this property by reference to the constraints on the alignment of the Milebush Road as it crosses over the proposed N5, and has proposed reasonable mitigation measures to address the effects that are likely to arise.

Modification of the compulsory purchase order proposed by the applicant

8.16 During the course of the oral hearing the applicant requested the board to modify the order in accordance with a document that set out amendments to the first and second schedule of the order that the applicant had initially submitted. The document is attached to this report (Doc OH2). The applicant stated that the amendments were to the names and addresses of those

persons which the applicant believes have an interest in the land that would be effected by the order. The amendments reflect information that the applicant obtained after the submission of the order to the board. The applicant stated that notices had been sent issued that conformed with the revised names and addressed which would have allowed objections to be made to the confirmation of the order within the applicable statutory period. The extent of lands to which the order would apply would not be modified. After consideration of the submission from the applicant, I advise the board that the proposed modification appears reasonable and its making would not be likely to prejudice the position of any person.

Conclusions on the compulsory purchase order submitted for confirmation

- 8.17 The submitted order is for a purpose that accords with the common good, which is to alleviate the traffic hazard and congestion that occur due to the deficiencies in the N5 national road from north of Westport to east of Castlebar. The board is advised that this purpose would be achieved by sections A, B and C of this road, but not section D from Castlebar to Turlough. The proposed works that would be enabled by the compulsory purchase order comply with the applicable development plans. The extent of the lands that would be acquired under the order is commensurate with that required to carry out the proposed works to specifications and is acceptable. Alternative methods to achieve the purpose of the order have been considered, but no better methods are available. Therefore, the confirmation of compulsory purchase order would be justified if the board decided to grant approval for the proposed roads development. If the board decided to grant approval for the proposed roads subject to modifications, then the confirmation of the compulsory purchase order should be subject to similar modifications.

9.0 CONCLUSIONS AND RECOMMENDATION

Justification

- 9.1 The proposed road development does not have clear or strong support in strategic or national policy. It is consistent with the provisions of the applicable regional planning guidelines and development plans.
- 9.2 An empirical analysis indicates that there is a strong justification for section A of the proposed road to remove national and through traffic from the town centre of Westport; for section B to remedy the sub-standard alignment of the existing N5 between Westport and Castlebar; and for section C to remedy congestion on the existing inner relief road in Castlebar which gives rise to severance within the town. Section D of the proposed roads development is not justified, having regard to the quality and capacity of the existing single carriageway road along the N5 from Castlebar to Westport, notwithstanding the traffic levels that have been recorded along this part of the road and the future growth forecast by the NRA's traffic model.
- 9.3 The cross section of the proposed dual and single carriageways and the scale and form of the junctions proposed by the applicant are generally appropriate when considered with regard to the needs of motorised vehicles.
- 9.4 Adequate regard has not been had for pedestrians and cyclists in the design of the proposed roads development. Section A of the scheme would not provide safe or convenient facilities for them to cross the road and negotiate the junctions along it. The proposed development would therefore sever the existing Great Western Greenway and seriously impair its value as an amenity and tourist facility. It would be profoundly ill-advised to approve the proposed road development until these defects in the proposal have been remedied.

Environmental Impact Assessment

- 9.5 The proposed development would have a limited but significant negative impact on the setting of the protected structure at Turlough Park and the proposed protected structure at Turlough Church. The board should consider whether this negative impact on cultural heritage would be justified by the benefits that would accrue from section D of the proposed roads development.

- 9.6 The proposed development would be likely to cause a marginal increase in the emission of greenhouse gases. The increase would not be significant in itself, but might be so when considered in combination with other projects to augment the capacity of the national road network. The board should consider whether this effect would be justified by the overall benefits of the proposed roads development.
- 9.7 The general impact of the proposed roads development on the landscape would not give rise significant negative environmental effects. However there would be particular negative visual impacts arising from the proposed bridge over Lough Lannagh and the loss of trees at Clogher. A poor design for the proposed roundabout at Knockranny South could also diminish the setting of the town of Westport on a main approach road to an appreciable degree.
- 9.8 The proposed roads development would not be likely to have other significant negative effects on the environment.

Appropriate Assessment

- 9.9 It can be ascertained beyond reasonable scientific doubt that the proposed roads development would not, in itself, adversely affect the integrity of the River Moy SAC or any other Natura 2000 site. However, when considered in combination with other projects, the eastern end of the proposed roads development would have a likely and significant indirect effect of the River Moy SAC. An appropriate assessment of the implications of the proposed project cannot be completed in the course of this application unless modifications were made to omit the eastern part of the proposed road.

Other issues

- 9.10 Notwithstanding the comprehensive mitigation measures proposed by the applicant, the proposed roads development would give rise to significant residual impacts on a number of agricultural holdings. The development would not have a significant negative impact on other commercial assets or infrastructural assets. The proposed roads development would affect the setting of several dwellings. However its impact on their residential amenities would not justify refusing to approve the proposed roads development or requiring substantial modifications to it.

- 9.11 The manner in which notice was given of the current applications would not preclude their further consideration at this stage in the normal manner laid down by the relevant statutes.

Compulsory Purchase Order

- 9.12 The compulsory purchase order submitted to the board is for a purpose that accords with the common good, which is to alleviate the traffic hazard and congestion that occur due to the deficiencies in the N5 national road from north of Westport to east of Castlebar. The board is advised that this purpose would be achieved by sections A, B and C of this road, but not section D from Castlebar to Turlough. The proposed works that would be enabled by the compulsory purchase order comply with the applicable development plans. The extent of the lands that would be acquired under the order is commensurate with that required to carry out the proposed works to specifications and is acceptable. Alternative methods to achieve the purpose of the order have been considered, but no better methods are available. Therefore, the confirmation of compulsory purchase order would be justified if the board decided to grant approval for the proposed roads development. If the board decided to grant approval for the proposed roads subject to modifications, then the confirmation of the compulsory purchase order should be subject to similar modifications.

Recommendation

- 9.13 I recommend that the board make a request under section 217B(4)(b) of the Planning and Development Act 2000-2011 that the applicant alter the proposed roads development to provide adequate facilities for pedestrians and cyclists at section A and the Knockranny Link Road and to omit section D, as set out below.

The board is provisionally of the view that it would be appropriate to approve the proposed road development subject to certain alterations.

However the development as proposed in the initial application fails to make adequate provision for the needs of pedestrians and cyclists. In particular, the proposed N5/N59 link road and the Knockranny link road would not provide safe and convenient facilities for those road users to cross the line of the proposed road or to negotiate the junctions along it. This would introduce a significant degree of severance across the Great Western Greenway and substantially injure the amenity value of that facility.

Furthermore the justification for the proposed upgrading of the existing single carriageway road along the N5 route to the east of Castlebar has not been established, having regard to:

- the compliance of the existing road there with current standards for type 2 single carriageways and its performance in relation to traffic safety and carrying capacity;
- the constraints that the proposed online upgrading would place on the design and appropriate assessment of proposals to improve the national road network immediately to the east that would impinge upon the River Moy SAC; and
- to the injury that the proposed online upgrading would cause to the setting of Turlough Park and Turlough Church, and thus to the cultural and architectural heritage of the area.

The applicant is therefore invited under section 217B(4)(b) to make the following alterations to the proposed road development -

- Provide a continuous grade-separated route for the Great Western Greenway from a point north of the scheme's corridor to a point south of the scheme's corridor, linking suitably with the existing alignment of the greenway on both approaches. A full grade-separated crossing or signal controlled crossing should be provided for the Western way, which may or may not be combined with the crossing for the Great Western Greenway.

- Provide safe and convenient facilities for pedestrians and cyclists to negotiate the junctions along the N5/N59 link road and the Knockranny Link Road without undue diversion or delay. If the applicant proposes uncontrolled, at-grade crossings then significant revisions shall be required to those junctions to constrain the speed and flow of traffic to render the crossings safe for non-motorised road users.
- Provide appropriate kerbs and verges between the vehicular carriageway and footpath/cycleway along the N5/N59 link road and the Knockranny Link Road.
- Provide a cycleway or cycle track along the Carrowbeg Road that would allow the continued use of this road as part of the Great Western Greenway. The facility should adequate priority and continuity across any junctions, and be separate from the vehicular carriageway.
- Provide dedicated facilities for cyclists and pedestrians along the Lodge Road immediately beneath the N5/N59 Link Road, with a pedestrian connection between Lodge Road and the N5/N59 Link Road at this point, and on the Islandeady Road over-bridge.
- Omit Section D from the proposed roads development, which is that part of the proposed roads development to the east of the proposed Castlebar East roundabout, except for such works as are required to ensure an adequate transition from the junction to the single carriageway road along the N5.

The applicant is advised that, in the preparation of its response to this notice, it should utilise appropriate expertise in the design of facilities for cyclists and pedestrians and the roads that serve them. It should have regard to the advice on the matter set out in the National Cycle Manual issued by the National Transport Authority in 2011, the Interim Advice Note 3/12 issued by the NRA in 2012 and, inasmuch as the alteration affect roads whose existing speed limit or design speed is 60kph or less, the Design Manual for Urban Roads and Streets issued by the Department of Transport in 2013.

The applicant's response should be accompanied by drawings at an appropriate scale that show the altered road development and highlight where the alterations have been made. The applicant's attention is drawn to subsection (6), (7) and (8) of

section 217B of the Planning and Development Act 2000 as amended which set out the procedures that will apply to any altered proposed that may be submitted in response to this notice and, in this regard, a revised EIS (including non-technical summary) and NIS should be submitted with its response. The Compulsory Purchase Order submitted in conjunction with the application for approval under the Roads Act 1993 as amended (case no. KA0028) will also require amendment.

Stephen J. O'Sullivan
Senior Planning Inspector
30th April 2014