



An  
Bord  
Pleanála

## Inspector's Supplementary Report PL.92.248132

### Development

Permission to amend a hydro-electric scheme on the Glasha River permitted by planning permission PD11/314 and PD 13/261. The amendments comprise rerouting the pipeline from the water abstraction weir for a distance of 550m and alterations to the turbine house to accommodate the generating equipment, an extension to the turbine house for a transformer and ESB substation and all associated site works. An EIS accompanied the original application PD 11/314.

### Location

Glasha River, Toor, Glen Upper and Glen Lower, Co Waterford.

### Planning Authority

Waterford City and County Council.

### Planning Authority Reg. Ref.

16/623

### Applicant(s)

Hydrocity Ltd.

### Type of Application

Permission.

### Planning Authority Decision

Grant Permission subject to conditions

<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Patrick and Maura Derivan, John Geraghty, Mrs Ann O Brien, Ms Gillian O Brien, Ms Mary Ann O Brien, Ms Yvonne O Brien, The Personal Representatives of the Estate of Alphonsus O Brien Deceased. <sup>1</sup>
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	6 <sup>th</sup> September 2017.
<b>Inspector</b>	Bríd Maxwell.

**Report to be read in conjunction with Inspector's report of 25<sup>th</sup> January 2018**

**1.0 Introduction**

- 1.1 I refer to my previous report and recommendation to the Board dated 6<sup>th</sup> November 2017 in respect of the proposed development which relates to amendments to a permitted hydro electrical power installation comprising a high head run of the river system which draws water through a pipeline at high vertical drop intake to a turbine further downstream. The current appeal relates to a rerouted pipeline, an additional river crossing and alterations to the turbine house in the context of extant permissions for hydro electrical power installation (PD 11/314 and PD 13.261). The site is located at the Glasha River within the townlands of Toor, Glen Upper and Glen Lower, Co Waterford.

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<sup>1</sup> I note correspondence from Paul Shanahan, Ashtown House Ballypatrick received by the Board on 20<sup>th</sup> September 2017 withdrawing himself as an appellant in the case.

- 1.2 I note that the Board decided to defer consideration of the case and issue a section 123 notice to the applicant with regard to further information to enable the Board to undertake an Appropriate Assessment consistent with the requirements of the Habitats Directive and to ensure that protected species and habitats are not adversely affected by the proposed amendments. Specifically, the Board requested a revised Natura Stage 1 Screening Report and a Stage 2 Natura Impact Statement.
- 1.3 The request issued by Statutory Notice on 10<sup>th</sup> August 2018 and a response was received on 12<sup>th</sup> September 2018 in the form of an Appropriate Assessment Stage 1 screening report and a Stage 2 NIS by Dixon Brosnan Environmental Consultants.
- 1.4 The response was circulated to the other Parties and revised public notices were published and erected at the site.

## **2.0 Third Party Submissions further to circulation of further information.**

- 2.1 Submissions were received from Peter Thomson, on behalf of Patrick Derivan & Maura Derivan, Glen Kilsheelan Clonmel, Co. Waterford, John Geraghty, Geraghty Consulting, Glen, Kilsheelan Clonmel Co Waterford. The submissions include a number of attachments to elucidate the points raised including: Report by Flynn Furey Environmental Consultants on Ecological Surveys and Reporting, Report by AWN Consulting dealing with Environmental Aspects and technical note from Gridconnect in respect of predicted grid connection.
- 2.2 The issues raised within the submissions are summarised as follows:
- Grid Connection offer should have been included to avoid project splitting by reference to O Grianna, NIS refers to grid connection works as being minor however it is predicted that this may involve significant underground cabling, upgrade of 700m existing single-phase overhead line, works within floodplain giving rise to significant impact and pollution risk arising from transformer insulation oil.

- 17/784 Application particulars for anaerobic digester <sup>2</sup> indicated that due to the low water levels in the Glasha River, the hydro scheme is unable to generate electricity for six months of the year.
- As 17/784 has been withdrawn the overall plan to feed the national grid is undermined by the incomplete and limited nature of the hydro scheme.
- Potential cherry picking of applications inappropriate.
- EIS submitted with application PD11/314 is inadequate in that it fails to examine the alternative pipeline route now proposed.
- EIA Regulations should have been followed in respect of public notices.
- Natura Impact Statement and AA Screening report based largely on same reference material as before.
- Failure to address crucial policies within the development plan. Policy NH 16 *“the preservation of riparian corridors is a requirement for the protection of aquatic habitats and facilitation of public access to waterways. No development shall take place within a buffer zone of 15m measured from the top of the riverbank.”*
- Cumulative Assessment inadequate.
- Glasha River is not identified within the development plan as suitable for hydro scheme.
- Numerous inaccuracies within the NIS and AA screening document.
- Turbine house and substation located within the SAC and in riparian zone.
- No assessment of loss of trees and impact on riparian zone.
- Conflicting mitigation measures. Silt curtain.
- No updated survey on otter or otter holts. Mammal survey inadequate.
- Survey methodology is not detailed.
- Surveys for appropriate assessment screening inadequate as they do not extend to the adjoining townland of Landscape and Coolishal.
- Impact of archaeological monitoring not accounted for.
- Failure to address works involved in creating pipeline route on or close to the riverbank.

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<sup>2</sup> 17/784 Application to construct an underground anaerobic digester using crops grown on the existing farm, Glen Upper & Glen Lower. Electricity generated by the digester to be used to back up hydro electric plant. Deemed withdrawn. 1/11/2018.

- Flood Risk Assessment should have been included in the appropriate assessment screening report and natura impact statement.
- Rights to access lands disputed.
- Impact of climate change not addressed. (altered flow regimes, water surges erosion)
- Public notices Site notices do not comply with the requirements of the Planning and Development Regulations.
- Site notice erected in Coolishal – southern site notice was wrapped around a narrow 3 inch diameter stake which rendered it illegible to road users. Stake was set off the carriageway and not readily visible to road users.
- Conclusion of Dixon Brosnan report indicates that there is no potential for significant effects affecting the Natura 2000 network. Legal requirements require a demonstration of no adverse effects on the integrity of the Natura 2000 network. Clearly there are effects less significant than others, which have the potential to effect the Natura 2000 network and the development must therefore be refused.

### **3.0 Appropriate Assessment**

3.1 Having considered the submitted Appropriate Assessment Screening document and Natura Impact Statement by Dixon Brosnan, Environmental Consultants, in detail, I am satisfied that the level of information provided is sufficient to enable the Board to undertake a n Appropriate Assessment consistent with the requirements of the Habitats Directive.

#### **3.1 Identification of the Conservation Objectives of the Lower River Suir SAC (Site Code 002137)**

3.1.1 The River Suir, 184km in length is Ireland's third largest river rising on the eastern flanks of Benduff in the Devils Bit Mountain near Moneygall northwest of Templemore. It flows through Thurles, Clonmel and Carrick-on-Suir where it becomes tidal, before continuing to Waterford and the sea. The Suir Main

channel and its tributaries flow primarily through the counties of Tipperary, Kilkenny and Waterford with some small parts in the catchment of Counties Limerick and Cork. The river lies largely in County Tipperary and forms part of its border with County Waterford. The main urban areas are Templemore and Thurles in the northern part of the Catchment, Clonmel and Carrick on Suir in the southern part with the city of Waterford at the head of the estuary. The tidal influence on the River Suir is considered to extend to the weir just upstream of Old Bridge in Carrick on Suir. The Lower River Suir SAC consists of the freshwater stretches of the River Suir immediately south of Thurles, the tidal stretches as far as the confluence with the Barrow / Nore immediately east of Cheekpoint in Co Waterford and many tributaries. The Lower River Suir SAC consists of the freshwater stretches of the River Suir immediately south of Thurles, the tidal stretches as far as the confluence with the Barrow / Nore immediately east of Cheekpoint in Co Waterford and many tributaries including the Clodiagh in Co Waterford. The Lingaun, Anner, Nier, Tar, Aherlow, Multeen and Clodiagh in Co Tipperary. The Lower River Suir contains excellent examples of a number of Annex I habitats, including the priority habitat alluvial forest and Yew woodland. The site is of particular conservation interest for the presence of a number of Annex II animal species including Freshwater Pearl Mussel (both *Margaritifera margaritifera* and *M margaritifera* subsp. *durrovensis* occur), White-clawed crayfish, salmon, twaite shad (*Alosa fallax fallax*), three species of Lampreys – Sea Lamprey, Brook and River Lamprey and Otter. This is one of only three known spawning grounds in the country for Twaite Shad.

### 3.1.2 The following Qualifying Interests of the Lower River Suir SAC002137

(\* indicates a priority habitat under the Habitats Directive)

[1029] Freshwater Pearl Mussel *Margaritifera margaritifera*

[1092] White-clawed Crayfish *Austropotamobius pallipes*

[1095] Sea Lamprey *Petromyzon marinus*

[1096] Brook Lamprey *Lampetra planeri*

[1099] River Lamprey *Lampetra fluviatilis*

- [1103] Twaité Shad *Alosa fallax fallax*
- [1106] Atlantic Salmon *Salmo salar*
- [1330] Atlantic salt meadows (*Glaucopuccinellietalia maritimae*)
- [1355] Otter *Lutra lutra*
- [1410] Mediterranean salt meadows (*Juncetalia maritimi*)
- [3260] Floating River Vegetation
- [6430] Hydrophilous tall herb fringe communities
- [91A0] Old sessile oak woods
- [91E0] Alluvial forests \*
- [91J0] Yew Woodlands \*

3.1.3 The Conservation Objectives for the Lower River Suir SAC, Version 1, 28<sup>th</sup> March 2017, note the overall aim of the habitats directive is to maintain or restore the favourable conservation status of habitats and species of community interest. Favourable conservation status of a habitat is achieved when:

- its natural range, and area it covers within that range, are stable or increasing, and the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and
- the conservation status of its typical species is favourable.

The favourable conservation status of a species is achieved when:

- population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and
- the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and
- there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.

## 3.2 Prediction of Impacts

3.2.1 The NIS provides for an evaluation through scientific examination of evidence and data or whether or not qualifying features of the Lower River Suir SAC should be selected for further assessment based on the potential for significant impact arising from the proposal. A number of qualifying features are appropriately screened out based on distance, scale and nature of the works and lack of connection in terms of source pathway receptor. The likelihood of significant effects to the Natura 2000 site from the project in the absence of mitigation would arise from the following:

- Habitat loss or alteration
- Water Quality and resource impacts during construction and operation
- Disturbance and or displacement of species.
- Habitat or species fragmentation
- Spread of invasive species
- Cumulative impacts

3.2.2 Potential impacts could theoretically arise in relation to Atlantic Salmon (Suir and Glasha River), White Clawed Crayfish (Suir River) Otter (Suir and Glasha River), Brook, River and Sea Lamprey (River Suir) and water courses of plant to montane levels with the *Renunculum fluitans* and *Callitriche-Batrachion* vegetation (River Suir and Glasha). No potential risk to the remaining qualifying species and habitat have been identified.

### **3.3 Assessment of potential impacts**

3.3.1 All potential impacts would relate to direct and indirect impacts to relevant habitats and fauna. The qualifying features which are identified as relevant in terms of potential for significant impact are:

Atlantic salmon Which uses the Glasha River as spawning and nursery area.

Salmon are present at the proposed abstraction point and will have to migrate past the intake weir. It is noted that densities of salmon recorded in the Upper Glasha river were on the lower end of the scale but it is clear that this species could be negatively affected by the proposal. It is possible that Salmon have difficulty spawning in the stream due to embedded gravels etc. There are also a few rock



cascades and obstructions such as fallen trees and debris in the river which may limit their distribution upstream of the proposed abstraction point.

### **3.4 Screening conclusion**

3.4.1 Part of the pipeline route, part of the turbine house and electrical substation are within the Lower River Suir SAC. Instream works (pipeline crossing) will be required within the Lower River Suir Boundary. In the absence of mitigation there is a potential for instream works to impact on water quality via generation of silt and minor spills of hydrocarbons and increased noise and disturbance. In the absence of mitigation there is potential for impacts on qualifying aquatic species due to changes in hydrological regime, possible temperature change and impact on otter via increased noise and disturbance.

### **3.5 Mitigation Measures**

3.5.1 A suite of detailed mitigation measures is outlined in including:

- A construction Environmental and Waste Management Plan
- River Works to comply with the IFIs guidelines on protection of fisheries during construction works in and adjacent to waters.
- Pipe laying activities between August and September to prevent damage to spawning and early juvenile salmonids.
- Provision of silt curtain.
- Hydrocarbon mitigation
- Construction mitigation in respect of habitats,
- Construction mitigation otter,
- Construction mitigation biosecurity and invasive sections.
- Construction works noise
- Construction works air.

### **3.6 Potential Effects of the project on the conservation objectives taking account of mitigation**

3.6.1 Potential impacts would relate to direct and indirect impacts to relevant habitats and fauna of the Lower River SAC.

3.6.2 As regards potential for loss of habitat No Annex 1 terrestrial habits or terrestrial habitats listed as qualifying interests for the Lower River Suir SAC will be directly or indirectly affected. Although some aquatic floating vegetation occurs within the Glasha River no valuable subtypes of the Lower River Suir SAC qualifying habitat water courses of plain to montane levels with the *Ranunculus fluitans* and *Callitriche-Batrachion* vegetation was recorded. Qualifying aquatic species ie Freshwater Pearl Mussel, White Clawed Crayfish, River Lamprey, Brook Lamprey and Sea Lamprey were not detected in the river during survey and no historical records for these species within the Glasha River have been located. There will be a minor short-term impact on aquatic habitats within the Lower River Suir SAC during instream works and the primary concern is that this could impact directly on nursery or spawning habitat for Atlantic Salmon. In stream works will not take place between August and September inclusive to prevent damage to spawning and early juvenile salmonids. In addition a salvage operation will be implemented during instream. Works. It is asserted that given the short-term nature of the works and proposed mitigation, long term impact on aquatic habitats and habitat for Atlantic salmon and other aquatic species within the Lower River Sui SAC boundary will be negligible.

3.6.3 Impacts from noise and disturbance during construction and operation is considered in terms of impact on Otter. Otter known to occur along the Glasha River and although signs of otter were recorded, (during survey Dixon Brosnan, July 2016) no holts were detected. Whilst works could theoretically disrupt feeding patterns, it is noted that otters are largely nocturnal particularly in areas subject to high levels of disturbance. Otters are known to adapt to increased noise and activity levels. The impact is considered that the impact is limited given the temporary nature of works.

3.6.4 As regards impacts on Water Quality during construction the potential impacts on aquatic habitats could arise due to silt levels in surface water run-off and inadvertent spillages of hydrocarbons from fuel and hydraulic fluid. Precautionary

measures incorporated into the project design and mitigation measures proposed provide effective mitigation to ensure no long-term impact on qualifying interests.

3.6.5As regards impact on water quality and aquatic ecology during operation this is considered in detail. No significant potential impact on Atlantic Salmon or other aquatic species via entrainment of juveniles, impact on migration and impacts on spawning/nursery habitat has been identified within the Glasha River or downstream within the main channel of the River Suir. No significant potential impact on White Clawed Crayfish, Brook River and Sea Lamprey have been identified. No significant impact on prey availability for otter has been identified. In the absence of significant hydrological impacts associated with the scheme and maintenance of high levels of compensation flow, no impact on the qualifying habitat, water courses of plain to montane levels with the Ranunculus fluitans and Callitriche Batrachion vegetation has been identified. It is concluded that the impact on aquatic qualifying interests and conservation objectives for the Lower River Suir SAC within the Glasha River and main Channel of the River Suir will be negligible.

3.6.6As regards spread of Invasive Species, no invasive species recorded within the area and subject to standard best practice no impact will occur.

### **3.7 Cumulative Impacts.**

3.7.1Cumulative impacts are considered including ESB connection, water services planning, forestry, Waterford county development plan, river basin management plan, fisheries plans and other water services strategic plans, IPPC Programme NPWS management plans. In the absence of any significant potential impacts on the qualifying interests and conservation interests of the lower river Suir SAC and in the absence of significant impacts on its overall integrity, no potential cumulative impacts are identified.

### **3.8 Residual Impact**

3.8.1 The submitted NIS predicts that provided the mitigation measures are implemented in full it is not anticipated that significant impact will result to the qualifying features identified and therefore the development will not have an adverse effect on the Natura 2000 site. I consider that the conclusion of the NIS is reasonable and I conclude that on the basis of the information on the file that the proposed development individually and in combination with other plans and projects will not result in an adverse impact on the Natura 2000 Lower River Suir SAC 002137 or any other European site in view of the sites' conservation objectives.

3.8.2 I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the Lower River Suir SAC 002137, or any other site in view of the sites conservation objectives.

### **3.9 Other Matters**

3.9.1 I note the third-party observations with regard to the adequacy of public site notice erected on the site including photographs. (Submission by Peter Thomson dated 14<sup>th</sup> November 2018 The and received by the Board 15<sup>th</sup> November 2018). Direct evidence with respect to the site notices is inconclusive however it is evident that the third-party appellants were not disadvantaged in this regard.

### **3.10 Conclusions**

I have read and considered all written submissions received by the Board in respect of this appeal and I hereby advise that I do not consider it necessary to amend my recommendation to grant permission subject to conditions as outlined in my original report dated 25<sup>th</sup> January 2018.

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Bríd Maxwell  
Planning Inspector  
9<sup>th</sup> January 2019