



An  
Bord  
Pleanála

# Inspector's Report

## ABP-302450-18

## ABP-302452-18

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<b>Development</b>	South Kerry Greenway
<b>Location</b>	From the townland of Renard (SW of Caherciveen) to the townland of Faha West at Glenbeigh, County Kerry.
<b>Planning Authority</b>	Kerry County Council
<b>Applicant(s)</b>	Kerry County Council
<b>Type of Application</b>	Approval under Section 51 (2) of the Roads Act (as amended), and Section 216 of the Planning & Development Act, 2000 as amended
<b>Date of Site Inspection:</b>	28 <sup>th</sup> October to 2 <sup>nd</sup> November 2018 23 <sup>rd</sup> to 26 <sup>th</sup> April 2019 24 <sup>th</sup> to 27 <sup>th</sup> June 1019
<b>Date of Oral Hearing completion:</b>	22 <sup>nd</sup> November 2019

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**Submissions – The Greenway Project**

The Observers list is contained in Appendix 1 of this report.

**Submissions – The CPO**

The Objectors list is contained in Appendix 1 of this report.

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## **1.0 INTRODUCTION**

### **1.1 Introduction**

Kerry County Council proposes to construct a c.32km Greenway from Renard Point to Glenbeigh in South Kerry and to compulsorily acquire the necessary lands to implement the scheme.

### **1.2 Project Background**

Kerry County Council requested pre-application consultations with the Board under Section 51(1) (c) of the Roads Act, 1993 (as amended) for the development the South Kerry Greenway (ABP-301475-18). One pre-application meeting took place on 26<sup>th</sup> June 2018. The prospective applicant requested closure of the process by letter received on 20<sup>th</sup> July 2018 and the Board, in a letter dated 8<sup>th</sup> August 2018, determined that consultations were closed. The records of the pre-application meeting, copied to the applicants, also contained a list of Prescribed Bodies that copies of the application should be forwarded to. This application comprises the proposed development of the South Kerry Greenway (ABP-302450-18) and the Compulsory Purchase of the lands required for the Greenway under Section 216 of the Planning and Development Act 2000, as amended (ABP-302452-18).

### **1.3 Site Location and Description**

The Greenway site is located on the N side of the Iveragh Peninsula in South County Kerry and it extends from Renard Point to the SW of Caherciveen, to Faha to the W of Glenbeigh over a distance of c.32km.

The linear site mainly extends along the line of the disused railway track from Renard Point to Glenbeigh which closed in the early 1960s. A large section of the site shadows the N70 road which forms part of the Ring of Kerry route, and the Kerry Way walking route which is located at higher ground. The site goes off-line at several locations where houses have been built either on or

near the track, where the railway track lands have been incorporated into realigned sections of the N70, and also at Caherciveen Marina, the site of the former Mountain Stage Station and Faha where it extends along local roads.

The site traverses several landscape and habitat types including a coastal estuary, wetlands, an urban area, agricultural land, heathland, mountainous terrain and woodland, as well as several residential sites. Sections of the track have been incorporated in the surrounding farms to provide additional tillage or grazing land and some sections are overgrown or used for field access. The site levels vary from sea level to two locations where it rises to 100m OD in the vicinity of Gortiforia and Gleensk.

The route incorporates several pieces of railway infrastructure including the Caherciveen Railway Bridge, the O'Connell Viaduct and the Drung Hill Tunnels. A number of railway features remain along the route including station houses, signal boxes, platforms and the remnants of level crossings and bridges. Sections of the original track bed also remain in-situ in several locations.

There are several European and Natural Heritage sites, features of archaeological and architectural interest, and protected views and prospects in the vicinity of the c.32km long linear site.

**1. Renard Point to Caherciveen:** Renard Point is located on the S side of Valentia Estuary to the SW of Caherciveen. Valentia Harbour station marked the start of the railway track and the first transatlantic undersea cable made land here. It contains a small quay that facilitates a ferry service to Valentia Island, and it is occupied by a public house, a fish factory and several houses. The Greenway site mainly runs along the former railway track which is located parallel to the SW shore of Valentia Estuary, and there is evidence of coastal erosion in places. It also skirts around the landward side of several houses that have been built on or close to the track. It traverses the N section of the Valentia Observatory site, the S section of Mannix Point campsite and a wetland area. It goes

off-line to the N of the track for a short distance and runs parallel the estuary and an area covered by spring tides, until it re-joins the track in a field to the S of the Caherciveen water treatment plant.

- 2. Caherciveen:** The Greenway site continues close to the line of the former track adjacent to a road that runs parallel to a sports ground (S), a farm (N) and houses (N) towards the marina and harbour. It goes off-line and runs along Quay Street and Marina Road to the harbour entrance and the O'Connell Heritage Centre (Old Barracks) where it re-joins the track towards Caherciveen Railway Bridge which crosses over to the N side of Valentia Estuary. Caherciveen comprises a long main street with three roads that extend N towards Quay Street and Marina Road, which in turn provide local access to houses, schools, a public utility, a gas storage facility and the Legal Aid Board, as well as the marina and harbour. The road is narrow, winding and undulating, it has a narrow footpath on one side and the S section near the harbour is defined by a large rocky outcrop. It forms a junction with Bridge Street to the E at the Heritage Centre and a narrow road bridge links the N and S sides of the Valentia River at this point.
- 3. Caherciveen to Dooneen:** After crossing the railway bridge the Greenway site follows the former track for a short distance before diverging to run along the S section of agricultural fields (grazing and tillage) parallel to the NE shore of Valentia Estuary, where there is evidence of coastal erosion in places. (The track originally ran diagonally across these fields which contain remnants of railway infrastructure.) It then runs N along a field boundary with a laneway to a local road which it runs parallel to for a short distance before crossing the local road to re-join the former track. The Greenway site runs along the track and across country through grazing land to a small settlement at Dooneen, skirting a number of houses on the way that are located on or close to the track. It crosses another local road at Dooneen which it runs parallel to for a short distance before re-joining the track to the NE of the old signal house.



- 4. Dooneen to Kells Station:** The Greenway site remains on track and runs across country via grazing land to Lisbane and Gornagree, and it begins to shadow the N70 to the S from Lisbane onwards. The Greenway site and track cross a number of local access roads and farm entrances. Some sections of the track have been incorporated into the surrounding field network and some are used for linear field access. This section ends to the E of Gortnagree at a point where the railway track originally crossed the N70 via a level crossing. There is a house on either side of the main road at this point. The Greenway site runs parallel to the S side of the N70 over mainly agricultural land and a section of the original N70 for c.0.5km before crossing a local road to re-join the track at Kells Station. There are several houses in the vicinity and a local road provides access to Kells Bay, a small seaside settlement to the N.
- 5. Kells Station to Goldens at Kells:** The station and the associated railway structures including the platforms have been restored as heritage features for community use. The Greenway site goes off-line at this stage to traverse the gardens to the N of the station house close to the N70 so as to avoid a house that has been built on the track to the E. It then re-joins the track which shadows the N70 to the N until it reaches Goldens service station and a disused quarry. It goes off-line for a short distance to the SW of Goldens and along a local road close to the original level crossing and signal house. Some sections of the track have been incorporated into the surrounding field network and some are used for linear field access, and the surrounding lands are mainly used for grazing.
- 6. Goldens at Kells to Caitlin Beaters at Gortiforia:** The Greenway site continues mainly on track and parallel to the N70 for a further c.3km to Caitlin Beaters public house which overlooks Castlemaine Bay. This section of the track mainly runs through heathland and parallel to a linear woodland along the N70 on the approach to Caitlin Beaters. The lands to the S and E slope up steeply away from N70 and there is evidence of soil creep and slope instability in places. Part of the original track was previously incorporated into the N70 realignment. There are several

dwelling houses along the N70 on either side of Caitlin Beaters. The former track run to the rear (S) of the public house and neighbouring houses to the E and W, and part of the station platform remains to the rear of the pub. The Greenway site goes off-line to the immediate W of the pub where it deviates N over a steep gradient to join the N70, runs parallel to the front of Caitlin Beaters and traverses the front gardens of the neighbouring houses to the E, close to the N70.

- 7. Caitlin Beaters to the Drung Tunnels:** The Greenway site re-joins the track to the E of the houses at Caitlin Beaters and it shadows the N70 for c.0.5km where it crosses the O'Connell Viaduct over the Gleensk River and then on to the Drung Tunnels. The lands to the E of the viaduct and S of the N70, railway track and Greenway site are steeply sloping, mainly used for rough grazing and there is evidence of soil creep and minor slippages in the vicinity. The Greenway site follows the track through the Drung Tunnels. Part of the original track to the E and W of the tunnels no longer exists as the lands have been incorporated into the widening of the N70 to the N. This section skirts the Killarney Park, McGillycuddy Reeks and Carragh River Catchment SAC.
- 8. Drung Tunnels to Mountain Stage station:** The Greenway site continues along the track and through mainly rough grazing land until it goes off-line c.1km to the W of the site of the former Mountain Stage station close to several houses and the N70. The original track crossed the road at this point and ran parallel and to the N of the N70 to Drom West. The Greenway site runs off track along a local road which is parallel and to the S to the N70 and provides access to several houses before re-joining the N70 to the E in the vicinity of the former Mountain Stage station. This c.1km long road is currently used by HGVs that cannot pass under the bridge over the N70 at Mountain Stage. There is a Part 8 proposal to raise the height of this bridge so that large vehicles could remain on the N70.

**9. Mountain Stage station to Glenbeigh:** The Greenway site crosses the bridge to the N side of the N70 where it re-joins the railway track and runs E through Drom West and then N towards Drom East and Faha to the W of Glenbeigh. It shadows the N70 for c.2km, crosses some local roads and runs to the rear (N) of several houses that are either built on or close to the railway track. The final section of the Greenway site and track extend NE across agricultural land for c.2km before going off-line to run along a local road for c.0.5km at a point to the immediate N of a bend in the River Behy. It re-joins the track on the N side of the local road and the final section of the Greenway site runs along the track through Curra Wood before terminating near the original Glenbeigh signal house.

#### **1.4 Planning history**

**ABP-08. HD0039:** Board directed the Council to prepare an Environmental Impact Statement in respect of the proposed South Kerry Greenway project connecting Glenbeigh & Reenard via Caherciveen in Co. Kerry under Section 50(1)(c) of the Roads Act, 1993, as amended.

**Other cases:** There is an extensive planning history related to specific sites along the route for private houses and local authority road realignment works.

## **2.0 PROPOSED DEVELOPMENT**

### **2.1 Documentation**

The application documentation includes the following:

- Planning Drawings
- Environmental Impact Assessment Report (EIAR)
- Natura Impact Statement (NIS)

The EIAR was supported by Technical Appendices which included:

- Appendix 1: Schedule of Mitigation Measures
- Appendix 3: Design & Engineering Report & outline CEMP
- Appendix 5: Route Options & Project Appraisal
- Appendix 7: Residential Amenity & Agronomy Assessment
- Appendix 9: Traffic Impact Assessment
- Appendix 11: Ecological Surveys, Habitat Maps & Invasive Species
- Appendix 12: Ground Investigations
- Appendix 13: Flood Risk Assessment
- Appendix 14: Visual Impact Assessment & Photomontages
- Appendix 15: Archaeological Survey

The following documents were submitted as Further Information:

- Additional Information Report & Drawings
- Road Safety Audit Stage & Movement Management Plan
- Coastal Erosion Risk Assessment report
- Peat Stability Risk Assessment report
- Addendum to EIAR, NIS & outline CEMP

The following documents were submitted at the Oral Hearing:

- Errata document & Invasive Species Plan

## 2.2 Development Description

The proposed Greenway would be mainly constructed along a disused railway track and it would include car parks, and all associated site and access works.

### Proposed works:

- The proposed Greenway:
  - Would be c.32km x c.5m wide
  - Have a 3m wide paved surface with 2 x c.1m wide verges
  - Be defined by timber stock proof fencing
- Refurbishment of original railway infrastructure at:
  - Caherciveen Railway Bridge (PS)
  - O'Connell Viaduct (PS)
  - Drung Hill Tunnels
- New infrastructure at:
  - Renard Revetment Wall (c.170m)
  - Underpass under the N70 to SW of Kells Station
  - N70 realignment at Caitlin Beaters public house (c.200m)
  - Elevated stone gabion walls (x 2) at Drung Hill along N70
  - Replace Nimmo's Bridge to connect Drung Tunnels (c.30m)
  - Broadwalk at Coolnaharragill (c.100m)
- Provide/upgrade 5 x car parks at:
  - Renard Point Trail Head
  - Caherciveen Marina (existing)
  - Goldens at Kells
  - Glenbeigh Trail Head
  - Glenbeigh Quarry (existing)
- Associated works:
  - Toilet facilities at car parks & directional signage along route
  - Screening around dwelling houses (where required)

- New farm crossings & maintenance of existing crossings
  - Crossing of public & private roads
  - Maintenance & improvement of existing drainage
  - New culverts at c.19 locations
  - Maintenance of existing hedgerows & boundaries (if possible)
  - Temporary construction compounds (x 24) & access points (x 9)
- Maintenance:
    - KCC will be responsible for GW & drainage maintenance.
    - Landowners will be responsible for local maintenance (grant)

**Key statistics:**

- The c.32km GW would extend along the former track for c.18km.
- There are c.72 existing access points along the track (including farms).
- There would be c.18 road junctions & c.32 private road crossings.
- The track was incorporated into the N70 realignment at 3 locations.
- Sections of the track have been incorporated into farmland.
- Around 20 houses have been built on the footprint of the track.
- There are c.43 existing water crossings/culverts (drains & streams).
- It would interact with 1 x estuary (Valentia) 2 x rivers (Ferta & Behy).
- There are several protected sites in the vicinity (SPAs, SACs & NHAs).
- Most of the land is privately owned & there are c.197 landowners

**2.3 Environmental Impact Assessment Report (EIAR)**

The EIAR was prepared using the standard “grouped format structure”. It described the site and surrounding area and explained the background to the project, the benefits arising and the need for the development. It stated that the proposal would comply with national, regional and local environmental and planning policies, and cycleway standards. It provided a detailed description of the existing railway infrastructure and the proposed Greenway project, it described the route selection process and the alternatives considered, including the “do-nothing” scenario.

The main body of the EIAR outlined the study methodologies and assessed the potential impacts on the receiving environment under the required range of headings, and it proposed mitigation measures. It identified residual and cumulative impacts and assessed interactions. It also included a curricula vita of the main contributors to the report and identified the difficulties encountered which mainly related to prohibited access to lands along the route. It does not appear to have had regard to the risk of major accidents or natural disasters.

The EIAR was informed by several technical appendices including photomontages, which are contained in Volumes 1 to 3 of the report, and a Non-Technical Summary was provided.

The EIAR concluded that the positive environmental impacts relate to human beings through rural regeneration, job creation, health benefits and traffic safety. It concluded that that adverse environmental impacts will be minimal and mainly relate to visual in the vicinity of the stone gabion wall at Gleensk and Kilkeehagh. All other identified impacts which relate to residential amenity, traffic safety, biodiversity, water quality, soils and slope stability will be managed by mitigation measures. It further concludes that the proposed development would comply with all relevant environmental and planning policy; it would not adversely affect amenities (residential, agricultural, visual or heritage), interfere with biodiversity or give rise to a traffic hazard. It finally concluded that the project would be in accordance with the proper planning and sustainable development of the area.

### **The Addendum EIAR Report**

The EIAR Addendum report was submitted in response to a request for Further Information in relation to several issues (including coastal erosion, peat stability, drainage, design & traffic safety). It assessed the likelihood of any further adverse impacts on the environment because of any changes proposed in the FI response. It concluded that there would be no additional impacts over and above those already identified and mitigated for in the EIAR.

## **2.4 Natura Impact Statement**

A Stage 1 AA screening exercise was carried out for the proposed Greenway and a Stage 2 Natural Impact Statement was prepared.

### **Stage 1 AA Screening Report**

The AA Screening exercise described the site and the characteristics of the proposed development, it summarised the legislative requirements and described the AA screening methodology. It identified the European sites within a 15km radius of the Greenway route and assessed the likely effects on 11 European Sites. The report described the individual elements of the project with potential to give rise to effects on these European Sites, it described any likely direct, indirect or secondary effects on the Sites along with in-combination effects, and it assessed the significance of any effects.

The AA screening exercise concluded that the Greenway could have likely significant effects on the Conservation Objectives of 5 of the 11 European Sites, and that further assessment was required to determine whether the project would be likely to adversely affect the integrity of these Sites.

### **The Natura Impact Statement Report**

The NIS summarised the background to the report, it summarised the legislative requirements and described the survey and assessment methodologies. It described the proposed development and the baseline ecology of the site and it assessed the likely significant effects on the Conservation Objectives for 5 European sites which were screened in after the Stage 1 AA screening exercise.

The NIS identified the potential for direct and indirect effects on the European sites and their Conservation Objectives during the construction and operational phases. It concluded that the proposed development had the potential to adversely affect several of the Qualifying Interest species



(including Kerry slug, Lesser Horseshoe bat & Otter), Conservation Interest species (including breeding, migratory & non-breeding resident birds), QI terrestrial habitats (including North Atlantic & European heaths) and QI coastal habitats (including Mudflats, Reefs, Inlets, Estuaries & Salt meadows).

The NIS outlined a range of mitigation measures and assessed the likelihood of residual impacts following mitigation. It also assessed the potential for cumulative effects in-combination with other plans and projects.

The NIS was informed by the Stage 1 AA Screening exercise, Ecological Survey reports (including Bat, Kerry Slug, mammal, butterfly & bird surveys), Habitat Maps, a Construction Methodology report, an outline Construction & Environmental Management Plan and the relevant EIAR Chapters.

The NIS objectively concluded, beyond reasonable scientific doubt, and subject to the full implementation of the mitigation measures, that the impacts identified in the NIS will not result in any adverse impacts on the Conservation Objectives of the Natura 2000 sites and the integrity of these sites will not be adversely affected.

### **The Addendum Natura Impact Statement Report**

The NIS Addendum report was submitted in response to a request for Further Information in relation to several issues (including coastal erosion, peat stability, drainage, design & traffic safety). It assessed the likelihood of any further adverse effects on the European sites because of any changes proposed in the FI response. It concluded that there would be no additional adverse effects over and above those already identified and mitigated for in the NIS.

## **3.0 LEGISLATIVE AND POLICY CONTEXT**

### **3.1 National Policy**

#### **National Planning Framework Plan, 2018-2040**

This Plan supports the enhancement of local amenities and heritage activity-based tourism including greenways, blueways and peatways. It states that the development of such greenways offers a unique alternative means for tourists and visitors to access and enjoy rural Ireland.

#### **Climate Action Plan, 2019**

This plan identifies several risks to Ireland as result of climate change including:- rising sea-levels that threaten habitable land and coastal infrastructure; extreme weather, including more intense storms and rainfall affecting our land, coastline and seas; further pressure on our water resources and food production systems with associated impacts on fluvial and coastal ecosystems; and increased chance and scale of river and coastal flooding.

#### **The National Cycle Policy Framework, 2009-2020**

This document seeks to promote a strong cycling culture in Ireland and to encourage recreational cycling, and Objective 3 seeks “to provide designated rural cycle networks especially for visitors and recreational cycling.”

#### **Strategy for the Development of National & Regional Greenways, 2018**

This Strategy seeks to assist in the strategic development of nationally and regionally significant Greenways in appropriate locations constructed to an appropriate standard in order to deliver a quality experience for all Greenways users. It also aims to increase the number and geographical spread of Greenways of scale and quality around the country over the next 10 years with a consequent significant increase in the number of people using

Greenways as a visitor experience and as a recreational amenity. It states that the TII Standard for off-road cycleways will be used for Greenways and the NTA's Cycle Manual should be used for links on urban roads. Gradient should generally be 3% and Asphalt surfacing is popular because of its evenness & high skid resistance.

### **Rural Cycle Design (Offline) DN-GEO-03047, TII, 2017**

This document outlines the technical design standards and factors that need to be considered to achieve a minimum desirable level of performance in average conditions in terms of safety, operation, economic & environmental impact and sustainability. It refers to exceptions when a reduced standard may be acceptable due to high costs, low demand projection, and/or environmental damage. Any Relaxation or Departure from standards must be justified and be in accordance with DN-GEO-03031 Road Link Design.

The Design standards are based on the principles of coherence, convenience, directness, safety, comfort, attractiveness and access. It highlights the potential offered by disused railway lines and advises that cycleways should be shared by pedestrians. It includes standards for the width of cycle paths, 3m for low volume (less than 1,500 users/day) and 5m for high volume facilities (greater than 1,500 users/day) as well 1m wide buffers, boundary fencing and headroom. It also contains operational standards for speed, sightlines, stopping distances, gradients, crossings, junctions and access, and construction standards for the surface, drainage, lighting and signage.

### **National Cycle Manual, NTA, 2011**

This document incorporates the Principles of Sustainable Safety and it seeks to promote and facilitate a safe traffic environment for all road users including cyclists. It offers guidance on integrating bikes into the design of urban areas and identifies the main components of a cycling network. It deals with design issues (including junctions, left & right turns, crossings, roundabouts, and transitions), and providing a quality & useable service (including bus stops,

drainage, construction details, lighting, crossing entrances, parking surfaces & maintenance). The Manual concludes with a design and standard checklist.

**Other relevant national policy and guidance:**

- Rural Development Programme, 2014-2020
- Failte Ireland SW Tourism Development Plan, 2008-2010
- Get Ireland Walking Strategy & Action Plan, 2017-2020
- Smarter Travel: A Sustainable Transport Future, 2009-2020
- Get Ireland Active (National Physical Activity Plan for Ireland), 2016
- Guide to Planning & Developing Recreational Trails in Ireland, 2012.
- Classification & Grading of Recreational Trails, Sports Council, 2008
- Strategy for Development of Irish Cycle Tourism, Failte Ireland, 2007

### **3.2 Regional Policy**

#### **Regional Spatial & Economic Strategy for the Southern Region, 2022**

The RSES seeks to support the delivery of the programme for change set out in Project Ireland 2040, the National Planning Framework (NPF) and the National Development Plan 2018-27 (NDP), and to ensure coordination between the City & County Development Plans and Local Enterprise & Community Plans. It sets out a strategic vision and policy objectives for urban and rural areas, people (education & services) the economy (employment & training), the environment (decarbonisation, climate change, resource management & protection), connectivity (sustainable transport & mobility), amenities (heritage, culture & the arts) and utilities (energy, waste management & water quality). More specifically, it seeks to support the development of rural towns & villages, sustainable travel and the development of tourism (including cycling), and encourage rural development & farm diversification and it notes that Coastal erosion because of extreme storm events has become a prominent issue in recent years.

**RPO120:** seeks to support measures (including Integrated Coastal Zone Management) for the management and protection of coastal resources and communities against coastal erosion, flooding and other threats. Statutory land use plans shall take account of the risk of coastal erosion.

**RPO201:** seeks to support investment in the development of walking and cycling facilities, greenway and blueway corridors within the Region between our Region's settlements and potential for sustainable linkages to create interregional greenways.

### 3.3 Local Policy

#### County Kerry Development Plan 2015-2021

**Core Objective CS-6:** seeks to promote the integration of land use and transportation policy and to prioritise the provision of sustainable cycling and walking modes.

#### **Policies & objectives:**

The Development Plan comprises several sections which contain policies and objectives which seek to protect residential amenity, the natural environment & cultural heritage, and to promote population growth, employment, tourism & rural development, along with development management standards.

#### **Roads & transport:**

**Objective RD-14:** seeks to promote the sustainable development of walking, cycling, public transport & other sustainable forms of transport such as car-sharing/pooling, as an alternative to the private car, by facilitating & promoting the development of necessary infrastructure and by promoting initiatives contained within "Smarter Travel, A Sustainable Transport Future 2009-2020".

**Objective RD-28:** seeks to promote the sustainable development of walking, cycling, public transport and other sustainable forms of transport, as an alternative to the private car, by facilitating and promoting the sustainable development of necessary infrastructure at appropriate locations and by promoting initiatives contained within "Smarter Travel".

**Objective RD-29:** seeks to promote the sustainable development of the public footpath network, walking/cycling routes & associated infrastructure in the County, including where possible the retrofitting of cycle and pedestrian routes into the existing urban road network and in the design of new roads.

**Objective RD-30:** seeks to support the sustainable establishment of a network of “Greenways” as per Table 7.4 (including Farranfore to Caherciveen to Renard Point) within the County and the adjoining counties where it can be demonstrated that the development will not have significant adverse effects on the environment (including European sites).

**Objective RD-31:** seeks to support the sustainable establishment of a network of interlinked cycle ways & walk ways within the County and the adjoining Counties (including Glenbeigh-Renard) and linking them where appropriate and possible; where it can be demonstrated that they will not have significant adverse effects on the environment (including European sites).

**Objective RD-32:** seeks to protect all existing or historic rail lines and associated facilities from redevelopment for non-transport purposes in order to protect their future use as a network for green cycle/walking routes.

#### **Tourism:**

**Objectives T-11, 20, 21, 23 & 26:** seek to promote & facilitate the sustainable development of outdoor activities (including walking & cycling) and the sustainable provision of a network of car free walking & cycling tracks.

**Objective T-27:** seeks to promote & facilitate the sustainable reuse of existing former railway lines for amenity purpose, such as cycleways & walkways to develop a network of green routes throughout the County.

#### **Landscape & scenic amenity:**

**Objective VL-1:** seeks to protect the landscape of the county as a major economic asset and invaluable amenity.

**Objective VL-3:** seeks to determine the zoning of lands in rural areas having regard to the sensitivity of the landscape.

**Prime Special Amenity:** Coastal section from Kells Bay to Mountain Stage

**Secondary Special Amenity:** Valencia Estuary (W & E of Caherciveen) & Kells Station to Mountain Stage

**Views & Prospects:** Several along N70 from Caherciveen (E) to Glenbeigh.

**Scenic routes:** Ring of Kerry & Wild Atlantic Way along N70

**Walking routes:** Kerry Way, Caherciveen to Benteen & to Laharan

**Cycling routes:** Ring of Kerry & Glenbeigh Spin

### **Archaeology & Built Heritage:**

**Heritage Objectives H-25, 26 & 28:** seek to secure the protection and or preservation of archaeological monuments and features.

**Heritage Objectives H-34 & 45:** seek to protect architectural heritage.

#### **Specific features:**

- Several archaeological sites (including holy wells, rock art, burial grounds, standing stones, cashels, enclosures & souterrains).
- Several Protected Structures & NIAH in Caherciveen (including the Old Barracks, the Metrological Observatory and the Railway Bridge)
- Two Protected Structures & NIAH in Gleensk (Gleensk Viaduct & O'Connell Bridge) & Caherciveen town is an ACA.

### **Biodiversity:**

**Objective NE-1:** seeks to conserve, manage & where possible enhance the County's natural heritage including all habitats, species, landscapes & geological heritage of conservation interest.

**Objective NE-2:** seeks to ensure that the requirements of relevant national and EU legislation are met by the Council in undertaking its functions.

**Objective NE-5:** seeks to ensure that the cumulative impacts are taken into account when evaluating the impacts of a particular proposal on biodiversity, particularly in relation to habitat loss and wildlife disturbance.

**Objective NE-11 & 12:** deals with European sites will meeting the requirements of the Habitats Directive.

**Objective NE-13:** seeks to maintain the nature conservation value and integrity of all NHAs, pNHAs, Nature Reserves & Killarney National Park.

### **Coastal protection:**

**Objective NE-51:** seeks to ensure that flood and coastal protection works are designed, implemented and managed in a manner which takes into account biodiversity ..... cognisance shall be given to potential impacts of coastal squeeze on vulnerable habitats (saltmarsh, mud flats & beaches).

**Objective NE-53:** seeks to take an ecosystems-based approach to the assessment of potential impacts of development proposals on coastal areas.

**Objective NE-57:** seeks to prohibit development in those parts of the Coastal Development Zone where such development could not be adequately safeguarded over the lifetime of the development without the construction of coastal defences.

**Objective NE-58:** seeks to prohibit development in areas of the Coastal Development Zone where the natural erosion process is likely to threaten the viability of such development.

**Objective NE-59:** seeks to prohibit development in areas of the Coastal Development Zone where the impact on protected / designated landscapes, species populations, habitats or amenity areas would be significantly adverse.

**Objective NE-62:** seeks to prohibit any coastal protection works which have not been the subject of a recognised design process and have not been assessed in terms of their likely impact on the marine and coastal environments.

**Objective NE-69:** seeks to ensure that coastal squeeze is taken into account when formulating and assessing coastal development proposals.

**West Iveragh LAP, 2019-2025:** (Adopted on 24/07 & effective from 04/09/19)

**General provisions:**

Several objectives seek to protect residential amenity, the natural environment & heritage, and to promote tourism & rural development.

**Section 2:** seeks to provide amenities in rural areas (including greenways).

**Section 2.3.6:** refers to future major local authority infrastructural projects including the recreational greenway between Caherciveen and Glenbeigh.

**Section 2.6.5:** notes that there is significant potential to further develop tourism potential through the provision of amenity greenways.....the development of the S Kerry Greenway is an objective of this LAP and the Development Plan (Obj.RD-28).

**Obj. AI-01 (a):** seeks to facilitate the interconnection of existing & proposed greenways throughout the county.



**South Kerry Greenway (Section 2.6.5.1):**

**Obj. GY-01:** seeks to construct a greenway along the route of the former railway line between Renard to Glenbeigh, to facilitate recreational and tourist activities such as walking, cycling and nature observation.

**Obj. GY-02:** seeks to protect all existing or historical rail lines and associated facilities from redevelopment for non-transport related purposes in order to protect their future use as greenways/cycle or walking routes.

**Obj. GY-03:** seeks to establish a network of interlinked greenways within the Iveragh Peninsula.

**Obj. GY-04:** seeks to support the provision of farm-tourism enterprises associated with the South Kerry Greenway, such as the renovation of farm buildings for tourism purposes, subject to compliance with normal planning and environmental criteria and development management standards.

**Obj. GY-05:** seeks to support and facilitate the maintenance, enhancement and promotion of all existing & future greenways within the Iveragh Peninsula.

**Cahersiveen Town Centre (Section 3.2.6)**

**Zone C6:** site to the W of the sports ground zoned for C6 mixed/general commercial/industrial/enterprise.... the overall development of the lands & proposed S Kerry Greenway should be considered in any future proposals.

**Cahersiveen Marina Waterfront:** aims to sustainably develop this large waterfront site as a new mixed use urban streetscape providing new tourist facilities near the waterfront & town centre while also facilitating the Greenway

**Quay Street/Bridge Street Junction:** aims to sustainably develop this brownfield site as a mixed-use tourist site while also facilitating the Greenway.

**Tourism (Section 3.2.7)**

**Obj. CH-T-05:** seeks to facilitate the creation of the S Kerry Greenway along the old Renard/Cahersiveen-Killorglin railway line as a recreational greenway.

**Obj. CH-TM-05:** seeks to promote the development of Cycleways and Greenways in and around Cahersiveen where appropriate.

## Other plans & documents

### ***Caherciveen, Waterville & Sneem Functional Area LAP, 2013-2019:***

supports the development of a greenway on the former railway line between Farranfore and Renard (Objectives Ru-AT-1, 4, 5 & 7 and Ru-EE-1).

***The Killorglin Functional Area LAP, 2013-2019:*** support the development of a greenway on the former railway line between Farranfore and Renard (Objectives OO-1, 3, 4 & 27 and Ru-12, 13 & 18).

***The Kerry Local Economic & Community Plan 2016-2022:*** seeks to support the development of greenways in the county, including South Kerry.

***County Kerry Tourism Strategy & Action Plan, 2016-2021:*** supports the development of a greenway from Renard to Glenbeigh.

***Skellig Coast Visitor Experience Development Plan:*** seeks to examine the potential of completing the greenway from Glenbeigh to Renard.

## 3.4 Natural Heritage Designations

### European sites:

- Killarney National Park, Macgillycuddy's Reeks & Caragh River Catchment SAC (Site code: 000365)
- Valencia Harbour/Portmagee Channel SAC (Site code: 002262)
- Lough Yganavan & Nambrackdarrig SAC (Site code: 000370)
- Ballinskelligs Bay & Inny Estuary SAC (Site code: 000335)
- Castlemaine Harbour SAC (Site code: 000343)
- Castlemaine Harbour SPA (Site code: 004029)
- Iveragh Peninsula SPA (Site code: 004154)
- Dingle Bay SPA (Site code: 004153)

**Natural Heritage Areas:**

- Knockroe Bog NHA (Site code: 000366)
- Valentia River Estuary pNHA (Site code: 001383)
- Valentia Island Cliffs pNHA (Site code: 001382)
- Castlemaine Harbour pNHA (Site code: 000343)
- Doulus Head to Cooncrome Harbour pNHA (Site code: 001350)
- Lough Yganavan & Nambrackdarrig pNHA (Site code: 000370)
- Glanleam Wood pNHA (Site code: 001353)

**Ramsar sites**

- Castlemaine Harbour (Site code: 3IE16)

## 4.0 SUBMISSIONS

### 4.1 Observers - The Greenway Project

The Board received c.122 submissions from Prescribed Bodies, elected representatives, interest groups, local businesses, community groups, landowners and members of the public (along with petitions). Most of the Observers expressed support for the Greenway, whilst several raised concerns about the project. The observations of the Prescribed Bodies are summarised below. The Observers are listed in Appendix 1 and any concerns raised about the project in their submissions are summarised in Appendix 2.

#### **Prescribed Bodies**

**Traffic Infrastructure Ireland:** No objections or concerns raised, request adherence to national, regional & local policy and guidance in relation to:- the access points off the N70: the Kells underpass and roadside safety barriers, road crossings greater than 2.0m; standards in relation to road improvements.

**Faite Ireland:** No objections and support the project.

**Geological Survey of Ireland:** No objections.

**An Taisce:** No objections but concerns raised about compliance with national policy and guidance in respect to Greenways and user safety.

#### **Public submissions:**

The main areas of concern relate to:

- Residential amenity (overlooking, overshadowing & disturbance)
- Farming practices (severance, disruption & access to lands)
- Traffic safety (including quality of survey data)
- Lack of consideration of alternatives (including local roads)
- Inadequate drainage arrangements & flood risk
- Inappropriate procedures & Precedent
- Ecology & biodiversity
- Inaccuracies in the EIAR

## 5.0 FURTHER INFORMATION

### 5.1 Further information request

The Board requested Kerry County Council to provide the following items of additional information.

1. ***Coastal Erosion Risk Assessment Report***: in relation to the SW section of the proposed Greenway that runs close to the Valencia River Estuary. Several sections appear to have been affected by coastal erosion and may be at risk of collapse. The report should contain measures to mitigate any erosion impacts in order to protect the proposed infrastructure, any resultant impacts of the measures on coastal processes within the estuary and a visual impact assessment of the works. It should take account of the proximity of the SW section to the Valentia Harbour/ Portmagee Channel SAC and the presence of Reefs near the shore which are a Qualifying Interest for this SAC. The EIAR and NIS should be amended accordingly.
2. ***Peat Stability Risk Assessment Report***: in relation to the N section of the Greenway where it traverses' peatland areas where the surrounding gradients are steep and where there is a history of peat slippages in the vicinity. The report should contain measures to mitigate the risk of peat slippage along the route and surrounding area and it should take account of any European sites in the vicinity. The EIAR and NIS should be amended accordingly.
3. ***Stage 1 & 2 Road Safety Audits***: in relation to several locations where the route interfaces with the road network at Renard Point, Caherciveen, Kells station, Goldens at Kells, Caitlin Beaters Public House at Gortaforia and at Glenbeigh.
4. ***Movement Management Plan***: in relation to Caherciveen town which should identify and address any potential points of conflict between pedestrians, cyclists and motorists within the town in general, and along the on-road section at Quay Street and Marina Road in particular. The

Council was also requested to comment on the potential to extend the Greenway along the lands to the N of Quay Street between the junction with Bridge Street and the Caherciveen Marina access road and car park.

5. ***Greenway design and layout.*** in relation to addressing specific concerns raised by the Observers with regard to compliance with cycleway standards and the timing of the EIAR traffic surveys, and to comment on a variety of general concerns raised by the Observers.
  
6. ***Miscellaneous items:*** in relation to addressing several concerns raised by the Observers with regard to: - drainage arrangements and the location and/or capacity of existing drains and culverts; potential for flooding; editorial inaccuracies; and the under-representation of invasive species.

The applicant was advised that the EIAR and NIS should be amended accordingly and that any significant changes or amendments to the project may require the publication of new public notices.

## 5.2 Response to FI Request

The Council submitted the following documents in response to the FI request:

- Additional Information Report
- Coastal Erosion Risk Assessment & Photomontages
- Peat Stability Risk Assessment
- Road Safety Audit Stage 1 & 2
- Movement Management Plan
- Revised planning drawings
- Addendum to EIAR
- Addendum to NIS
- Addendum to Outline CEMP

The proposed development was amended as a result of the FI response, the main changes are summarised below, and the development boundary was amended accordingly in several locations.

***Coastal erosion:***

Several segments of the proposed infrastructure along the Valencia Estuary section were identified as being at risk of coastal erosion because of storm events, climate change and rising sea levels. The risks vary from Low at Cloghanelinaghan (NE) to Significant at Renard Point (SW). The erosion rate at Renard B was calculated as 5m over 60 years (c.0.083m/year). The following protection measures were proposed for the various segments, with no impacts on coastal processes or European sites predicted.

- Cloghanelinaghan: re-enforced linear road edge berm (c.650m)
- Renard A: re-instate embankment & new timber revetment (c.205m)
- Renard B: adequate setback (c.30m) & no works required
- Renard C: re-enforced linear road edge berm (c.450m)
- Renard D: repair & extend existing rock armour revetment (c.70m)
- Renard E: re-enforced linear road edge berm (c.320m)
- Renard F: extend existing rock armour revetment by c.10m

***Peat stability:***

Two areas adjacent to the infrastructure in the N section at Gortiforia and Gleensk/Kilkeehagh were identified as being highly susceptible to minor landslides, with shallow soil cover and steep gradients. The Risk Assessment concluded that there is a Negligible Level of Risk to the infrastructure and a Low Level of Risk of injury to users. No mitigation measures were proposed for the infrastructure which is considered robust. Catch fences with access gates were proposed to protect users along the following sections:

- Kilkeehagh: 1.4m high concrete post & chain-link fence (c.550m)
- East Gleensk: 1.4m high concrete post & chain-link fence (c.700m)

- West Gleensk: 1.8m high steel post & welded wire fence (c.100m) & 1.4m high concrete post & chain-link fence (c.670m)
- Gortiforia: 1.4m high chain-link fence parallel to stone wall (c.1,650m)

**Traffic safety:**

*Renard Point:*

- Car park exits: provide adequate visibility spays
- Greenway Chicane: reverse position of barriers to left lane-right lane
- Junction definition posts: provide in different colour to junction markers

*Caherciveen Marina:*

- Greenway Chicane: install to recommended layout
- Car park circulation: provide clear information for all users
- Access to Greenway: provide pedestrian only signage
- Car park access & Quay Street: provide adequate signs & road markings to alert drivers that the road is shared with cyclists
- Car park junction with Quay Street: provide adequate signs & road markings to alert drivers that the road is shared with cyclists

*Intersection of Bridge Street & Quay Street:*

- Orientation of pedestrian crossing: re-orientate to right angle to road
- Public lighting: install appropriate lighting at crossings
- Greenway Chicane: install to recommended layout
- Junction definition posts: provide in different colour to junction markers
- Incorrect warning signs: provide appropriate signs
- Approach to zebra crossing: provide appropriate road markings

*Local road intersection with N70 (Kells Station)*

- Junction definition posts: provide in different colour to junction markers
- Greenway Chicane: install to recommended layout
- Sight distance at junction: provide visibility envelope



*Kells car park & access road:*

- Sight distance at access road junction: line of vision should be tangential to the edge of pavement to the N of junction
- Rock embankment at road edge: construction should be passively safe
- Junction warning signs: provide adequate signs on N-bound approach

*Caitin Beater's Public House at Gortiforia:*

- Steep gradient (10%) towards N70: provide additional measures to prevent excessive cycling speeds
- Cycleway crosses entrances: provide adequate warning & visibility signs for drivers exiting the houses & public house, with priority to the Greenway at this location – KCC did not agree with Greenway priority & cyclists should dismount in interest of safety – Audit team did not agree with KCC – however Exception Report accepted by Audit Team
- Eastern tie-in: introduce measures to reduce traffic speeds below 100km/hr on the W approach to take account of curvature restrictions/ pinch point resulting from proposed road realignment at public house
- Vulnerable road users crossing N70: provide warning signs on both approaches to public house

*Glenbeigh car parks:*

- Vulnerable road users: introduce measures to reduce traffic speeds between the 2 car parks and provide adequate signs to alert drivers that the road is shared with cyclists
- Visibility at quarry car park: move car park entrance E to maximise visibility, & provide warning signs for E-bound traffic on regional road
- Cars reversing onto regional road: implement measures to prevent reversing

***Caherciveen Movement Plan:***

The MMP defined the study area, it identified potential conflicts and it proposed several measures to facilitate all existing and proposed user movements, and the main elements are summarised below:

*Quay Street/Marina Road:*

- Mixed/shared road with segregated footpaths
- Widen section of road close to Marina by removing part of the rock face
- Provide appropriate pedestrian facilities at access points
- Provide defined priority for pedestrians/cyclists & raised junction tables

*Bridge Street Route:*

- Provide defined crossing locations on 4 arms of junction
- Provide defined courtesy crossing for pedestrians
- Extend existing E side footpath to the Greenway
- Increase W side footpath width
- Provide raised entry to Bridge Street/Quay Street shared junction

*O'Connell Street route:*

- Provide raised table at the off-street car park access & defined courtesy crossing for pedestrians
- Extend the raised junction tables along the N section of street

*Old Market Street/Marian Place Route:*

- Currently operates as a shared surface
- Provide a raised shared table at car park access road
- Remove undefined perpendicular parking on E side
- Extend Marian Park mixed/shared street to Marian Place & provide raised entry

*Cycling parking:*

- Provide parking for existing & proposed cyclists

***Greenway design & layout:***

- Revised layout along Quay Street/Marina Road.
- Layout of crossings & chicanes altered in line with TII recommendations by:

- Changing the location of the chicane from 2m to 10m from the junction/crossing.
- Reversing their sequence so that the left-hand chicane will be encountered first.
- Stop signs on approach to public roads, Yield sign at private crossings.
- GW users will be required to stop at junctions with public roads.
- The 3m width is adequate for the projected low volume usage.
- Vertical alignment of all crossings will respect the existing private roadway & any adjustments will take place between chicanes.
- Constraints along an off-track section will require cyclists to dismount because of the gradient & land ownership constraints.
- GW will not impact on rights of way.
- Slight change to GW position at some locations.

***Drainage & flood risk:***

- Existing drainage networks along the railway corridor will be maintained & rehabilitated as required.
- The track mainly runs along a contour and the GW has been designed with a continuous cross fall from the high to low sides along the route.
- New drainage will tie-in existing services along the off-track locations.
- Drainage network is within the development envelope & will be maintained by the council.
- Crossings & culverts will have c.900mm pipes as per OPW standards.
- Pipe crossings are set below stream beds in line with IFI guidance.
- Negligible risk of increased flooding & hydrology.
- Section 50 consent will be sought from the OPW for the stream crossing close to the football pitch in Caherciveen with no additional flood risk & no works at existing bridge (which is not a PS).
- Slight change to drainage arrangements at some locations.

**Other:**

- EIAR undertaken in line with requirements & alternatives considered.
- GW designed & constructed in accordance with all guidance relevant legislation, guidance & recommendations.
- Constructed as an enabler of rural re-generation and will satisfy the technical requirements of EuroVelo.
- Seek to enhance biodiversity along route & support the Pollinator Plan.
- Limited severance, most of route is along existing field boundaries.
- Extensive consultations with landowners.
- CPO process required as it is not feasible to use the permissive access approach given the large number of landowners affected.
- Traffic surveys & extrapolations and design comply with appropriate standards (some Relaxations but no Departures).
- Access gates & pens can be provided as required for farm animals and/or altered as required for animal & vehicular traffic.
- The CPO only applies to necessary lands.
- Pre-works surveys will be undertaken for invasive species.

**Changes to EIAR:**

The Addendum to the EIAR described the additional works proposed in response to the Further Information request in relation to coastal erosion, peat stability, road safety and movement (coastal protection measures, catch fence works and movement management works). It assessed the potential for additional impacts on the main environmental receptors as a result of the proposed works and concluded that there would be no significant impacts subject to the implementation of some minor mitigation measures. There was no change to the overall conclusions of the EIAR.

**Changes to NIS:**

The Addendum to the NIS described the additional works proposed in response to the Further Information request in relation to coastal erosion, peat stability, road safety and movement (coastal protection measures, catch fence works and movement management works). It assessed the potential for

additional effects on the European sites (including their Conservation Objectives, Conservation Interests and Qualifying Interests) as a result of the proposed works. It concluded that there would be no adverse effects subject to the implementation of some minor mitigation measures. There was no change to the overall conclusions of the NIS.

***Changes to CEMP:***

The Addendum to the outline CEMP described the additional works proposed in response to the Further Information request in relation to coastal erosion, peat stability, road safety and movement. It provided a method statement for the proposed coastal protection measures, catch fence works and movement management works, and it continued to have regard to the EIAR and NIS mitigation measures.

**Conclusion:**

The additional information was considered to be significant, it was advertised accordingly, and submissions were sought by 24<sup>th</sup> June 2019.

### **5.3 Further Submissions**

The Board received c.13 response submissions under ABP-302450 (Greenway Project) and c.3 response submissions under ABP-3024452 (CPO) from the following Prescribed Bodies and Observers:

**Prescribed bodies**

- Transport Infrastructure Ireland –
  - New accesses off N70 should accord with s.7.2.1.2 of the CDP & standard road safety considerations.
  - Temporary access arrangements should be for the duration of construction works only & roadside boundaries should be reinstated on completion of works.
  - Technical Acceptance for Structures should be obtained from TII
  - TII consultations should be undertaken in advance of works.

### **Observers (Support)**

- Barry & Mary O'Shea
- Grainne Lane & Stephen Kendrick
- June O'Connell
- Lorcan Murphy
- Michael & Barbara Lane
- Renard GAA Club
- The Asana School of English
- Newmarket Street East End Business Owners Group (propose new bus & car park in E Caherciveen).

### **Observers (Object)**

- Ciaran Quinlan (CPO Plots 165a-g) - traffic hazard & safety, blind turn on road, realign GW with public road & provide gates at driveway; and overlooking & loss of privacy.
- Mary O'Neill Mc Donnell & Christy Mc Donnell (CPO Plots 520a-f) - CPO & GW; farm severance; health & safety; inadequate consultation & consideration of alternatives.
- Mary Mahoney (CPO Plots 620a-n) –CPO; steep hill & traffic safety; junction located on access path & culvert, increased flood risk; farm severance & inadequate fencing; drain not noted on maps; security; disturbance from machinery, landslides & road safety; biodiversity; no consideration of alternatives.
- James & Patricia Walsh - farm severance; safety & liability; traffic hazard & delays at Bridge St/Quay St in Caherciveen.
- Galway Cycling Campaign – non-compliance with relevant guidance & inadequate consideration of alternatives along minor rural roads.

- Greenway Information Group - Object on behalf of c.30 landowners:
  - Inadequate time to consider FI response (new data, revised EIAR & NIS), non-compliance with 2014/52/EU & no allowance for public participation in the preparation of revised EIAR.
  - Similar legal infirmity arises for the revised NIS (Art. 6(3) of Habitats Directive & Art.6(1)(b) of the Aarhus Convention).
  - KCC brought unsuccessful District Court proceedings against 4 landowners seeking warrants to enter lands to carry out survey works under S.78(2) of the Roads Act (soil & drainage details).
  - This occurred after the FI request was received, the required information was not obtained & the FI response is incomplete; KCC did not refer to the FI request during Court proceedings.
  - Inadequate Peat Stability Risk Assessment (limited surveys, no specialist input & no time to seek an independent report); PSRA only dealt the risk to GW users & infrastructure; and query conclusion that past landslides had no apparent impact.
  - Inadequate Coastal Erosion Assessment (mainly desktop with limited surveys), inadequate time for clients to engage an independent specialist, and query coastal processes conclusion.
  - Lack of clarity in relation to purpose & meaning of Stage 1 & 2 Road Safety Audits.
  - KCC should have made a Local Authority Project application under S.175/177AE of the P&D Act & ABP has no jurisdiction.
  - FI response contains drawings & documents dated April 2019 which could not have formed part of the original EIAR & NIS application, in contravention of EU directives (EIA & Habitats).
  - KCC has not adequately dealt with landowner's concerns in the FI response.
  - Request that application be dismissed or allow a sufficient time period before the OH to facilitate the engagement of specialists to deal with the deficiencies & inadequacies in the FI response.

## **6.0 COMPULSORY PURCHASE ORDER**

### **6.1 Documentation submitted**

The local authority is seeking confirmation of the Kerry County Council Compulsory Purchase (South Kerry Greenway) Order No.1, 2018, which was signed and sealed on 27<sup>th</sup> day of August 2019.

The following documentation was submitted to the Board:

- Compulsory Purchase Order No.1 of 2018 (signed & sealed) x 3
- CPO Schedule and Deposit Maps (sealed & dated) x 3
- Sample of CPO notification letter served on affected property owners/ occupiers & lessees
- Registered verification of post
- CPO Newspaper Notice
- Report of the Senior Planner
- Report of Senior Engineer, Capital Infrastructure Unit
- Report of Director of Service, Operations & Infrastructure
- Chief Executive's Order authorising the making of the CPO

Part 2 of the CPO Schedule lists approximately 730 individual plots (including subplots) that will be permanently and temporarily affected during construction works and Deposit maps A to U illustrate lands to be permanently and temporarily acquired. The lands described in the schedule are lands other than land consisting of a house or houses unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense. Part 3 does not list any Public Rights of Way proposed to be extinguished.

### **6.2 Case for CPO**

- Facilitates the realisation of the South Kerry Greenway.
- Community benefits (employment, tourism & recreation)



- Halt population decline & counter rural isolation.
- Complies with European, national, regional & local policy.
- Accords with proper planning and sustainable development of the area.
- Gives effect and facilitates the implementation of the above plans.

### **6.3 Objections to CPO**

The affected plots are owned by c.197 landowners. Approximately 70 submissions were received by the Board in relation to the Compulsory Purchase Order, c.40 of which were withdrawn. The remaining submissions include 27 landowners who object to the CPO and 2 landowners who support the CPO. A submission was also received from the Greenway Information Group which is an umbrella organisation for many of the objecting landowners. The Objectors are listed in Appendix 1 and their objections are summarised in Appendix 3 and their main concern relate to:

- Inappropriate use of the CPO process.
- Inappropriate legal procedures
- Policy conflicts & inconsistencies.
- Farming practices (severance, disruption, disturbance & access).
- Traffic safety (junctions & crossovers).
- Lack of consideration of alternatives.
- Inadequate drainage arrangements.
- Ecology & biodiversity.
- Trespass, liability & insurance costs.

### **6.4 Response to CPO submissions**

The Council made minor changes to the proposed development in response to the concerns raised, but no significant changes to the CPO. Several submissions were received in response to the Board's request for further information in relation to the Greenway Project which are summarised in section 5.0, and none of these submissions raised any new issues.

## **7.0 ORAL HEARING**

### **7.1 Introduction**

The oral hearing opened on Tuesday 8<sup>th</sup> October 2019 and it closed on Friday 22<sup>nd</sup> November 2019. The hearing lasted for 14 days and it took place in the Manor West Hotel, Tralee, County Kerry. The oral hearing was split into 2 Modules. Module 1 dealt with the Greenway planning application (ABP-302450-18) and Module 2 dealt with the CPO application (ABP-302452-18). There was some overlap between the Modules.

A digital recording of the proceedings, copies of written submissions (where provided) and the attendance lists are attached to the file.

Dr Maeve Flynn, the Board's Ecologist, advised on matters relating to Appropriate Assessment.

### **7.2 Oral Hearing Proceedings**

The following sections provide a brief summary of the oral hearing and any information received over and above that contained in the application documentation, further information response and written submissions already received and summarised in the foregoing sections of this report.

## **Module 1 – Greenway planning application (ABP-302450-18)**

### **7.3 Kerry County Council's Submissions**

Kerry County Council was requested to make a brief opening submission to the hearing to describe the nature and extent of the proposed development. The applicant's Technical Team was requested to address the following specific issues and to then focus on the matters raised by the Observers in their written submissions to the Board.

- Compliance with national policy, guidelines & the development plan.
- Need and justification for the proposal.

- Consideration of alternatives and appropriateness of cycleway design.
- Relationship to dwelling houses along the route & residential amenity.
- Relationship to agricultural land, farming practices & farm severance.
- Traffic safety along the road network and within Caherciveen.
- Proximity to estuary and coastal erosion.
- Ecology and biodiversity.

### 7.3.1 Kerry County Council & Expert Witnesses

Kerry County Council provided a brief summary of the main findings and conclusions of the EIAR in relation to the following matters. The applicant responded to the written observations received by the Board by way of reading the individual response letters into the record of the hearing.

***Esmond Keane*** (Senior Counsel) set the legislative context for the proposal.

***Conor Culloo*** (Senior Executive Engineer, KCC): described the scale and extent of the proposed development and the varied nature of the receiving environment; identified the need and justification for the project (which seeks to address population loss and economic & social decline); set the policy context; highlighted the benefits (farm diversification, local amenity, economic & social, improved connectivity and sustainable tourism); and explained the route selection process and public consultations.

***Tom Sheehy*** (Senior Engineer KCC): provided backup information in relation to the consideration of alternative route options at specific locations and the public consultation exercise.

***Dr Elaine Bennett*** (EIAR co-ordinator, Fehily Timoney & Co.): provided a summary of the EIAR process including the consideration & assessment of alternatives (on road, abandoned railway, greenfield & do-nothing); the main findings in relation to the various EIAR categories; and concluded that the potential impacts would be substantial and positive.

**Damian Ginty** (Senior Planner, KCC): described the planning policy context for the proposed development (national, regional & local) including the recently adopted West Iveragh LAP 2019-2025, and other relevant local policy documents (related to community development & tourism); and concluded that the proposal would comply with all relevant policies.

**Anna-Meria Costello** (Assistant Planner, KCC): described the nature of the public consultations and responded to issues raised; explained the methodology and matters considered in the residential amenity impact assessment; identified mitigation measures at specific properties during the construction & operation phases (screening & landscaping); and concluded that the proposal would not adversely affect residential amenity.

**Diarmuid O'Sullivan** (Agricultural Consultant, DOSagri Ltd); described the extent of the survey (c.86 agricultural landholdings but with access to c.29); provided a summary of the main findings in relation to the agronomy assessment; explained the nature of maintenance payments relative to farm incomes; and concluded that the proposal would not have a significant adverse impact on farming practices during the construction & operational phases (post mitigation).

**Trevor Byrne** (Malachy Walsh & Partners): described the road network & relationship with the Greenway (c.18 public roads & c.32 private crossings, and c.24 temporary construction compounds with several direct access points) and the duration of the works (c.54 weeks); clarified that junctions & crossings are designed in accordance with DN-GEO-03047 & will show clear user priority (vehicular traffic has right of way); described the design safety features; summarised the main findings in relation to traffic & movement; and concluded that the proposal would not have an adverse cumulative impact on traffic movement or road capacity.

**Seamus Quigley** (Malachy Walsh & Partners): described the nature & extent of the Traffic Impact Assessment & Movement Management Plan; and concluded that roads, junctions and car parks would continue to operate

within capacity, and that the traffic impact would be slight to moderate (post mitigation) (Delivered by Trevor Byrne).

**James Dunne & Cormac Murphy** (Fehily Timoney & Co. and Malachy Walsh & Partners): described the geological & hydrogeological environment & identified potential impacts (soil compaction, excavations & groundwater pollution and accidental spillages); provided a summary of the surveys & assessments undertaken (including peat stability); and concluded that the proposal would not have any adverse impacts during the construction & operational phase (post mitigation).

**David McHugh** (Fehily Timoney & Co.): described the hydrological environment & water quality; listed the main infrastructure elements (Kells underpass, Nimmo's Bridge, gabion walls, boardwalk and coastal revetments); identified the potential impacts during construction (increased run-off & accidental spillages); provided a summary of the surveys & assessments undertaken (including flood risk & coastal erosion); and concluded that the proposal would not have any significant adverse impacts during the construction & operational phase (post mitigation).

**Richard Barker** (Macroworks): described the receiving environment and identified sensitive landscapes & protected views; provided a summary of surveys & assessments undertaken (including the coastal revetment works); identified the main potential impacts (Drung Hill gabion walls) and concluded that the proposal would not have any significant impacts on visual amenity.

**Tony Cummins** (John Cronin & Associates): described the receiving environment; provided a summary of the main findings and conclusions in relation to archaeology, architecture and cultural heritage; and concluded that the proposal would have a positive impact on heritage.

**Muiread Kelly & Patrick Ryan** (Malachy Walsh & Partners): described the varied receiving environment (European sites, NHAs, habitats & species); summarised the nature & extent of the surveys undertaken for habitats &

species (including Bats, Kerry slug, Marsh fritillary, mammals, birds & aquatics); referenced other surveys undertaken (invasive species, movement management, coastal protection & peat stability); provided details of Derogation Licences (Kerry slug & Lesser Horseshoe bats); summarised the main findings in relation to biodiversity and the NIS (including a slight incursion of the coastal revetments works into the Valentia Estuary SAC); and concluded that the proposal would not have any significant adverse effects on any European sites, protected habitats & species or any general impacts on biodiversity (post mitigation).

**Ray Butler** (Roadplan Consulting) answered questions in relation to the Stage 1 & 2 Road Safety Audits with respect to the car parks, several junctions along the route and Caherciveen town centre; and concluded that the proposal would not give rise to a traffic hazard.

### **7.3.2 Response to Observers concerns**

The Council's individual letters of response to the Observers were read into the record. Although several matters were clarified or amended at this stage, no significant new planning issues arose, and any salient points of interest will be referred to in the relevant parts of the assessment under sections 8.0 and 9.0 below (Planning Assessment & Environmental Impact Assessment).

### **7.3.3 Errata and Addendum reports**

The Council submitted an Errata document and an updated Invasive Alien Plan Species Management Plan to the hearing which were read into the record. The Errata document referenced a series of corrections to various sections of the of the EIAR and NIS which addressed the following:

- Corrections and elaborations to the text (cross-referencing, chainage details & habitat protection).
- Survey details (farm assessment & sub-division, hydrology & water quality, ecology, duration & timing of works, additional houses, invasive species & public consultations).

- Amendments to the applicant's assessment of the sensitivity of the receiving environment (agronomy & hydrology) and impact significance (alternatives, agronomy & hydrology).
- Minor changes to the project (number of construction compounds & culverts, length of board walk & gabion baskets, Kells underpass structural components, reduced width of Greenway pavement at a small number of locations, and construction methodologies).
- Incursion of coastal revetment works into Valentia Harbour/Portmagee Channel SAC (c.8.2sq.m. & 103sq.m. - above the HWM).
- Correspondence from DTTS in relation to the assessment of the economic appraisal in the business case for the project.

Although several matters were clarified or amended at this stage, no significant new planning issues arose, and any salient points of interest will be referred to in the relevant parts of the assessment under sections 8.0 and 9.0 below.

#### **7.4 Observers submissions**

The Observers were requested to provide a brief summary of their main concerns. The main issues raised in the Observer's written submissions are already detailed in section 4.0 and Appendix 2 of this report.

##### **7.4.1 Prescribed Bodies**

***Failte Ireland:*** Hillary Creedon / Deirdre Garvey expressed support for the Greenway Project, described the potential benefits to tourism in the surrounding area and referenced the success of other Greenways.

##### **7.4.2 Elected Representatives**

***Cllr. Norma Moriarty:*** described the ongoing population decline in Caherciveen and environs and the effect this was having the wider community (including the population profile, school enrolment, sports club attendance, community facilities, vacancy rates in the town & lack of employment opportunities). The Councillor expressed support for the Greenway Project

and described the potential benefits to Caherciveen and the surrounding area in terms of attracting more people to the area, enhancing tourism and providing opportunities for young people to remain and for others to return.

**Cllr. Patrick O'Connor-Scarteen:** expressed similar concerns.

**Cllr. Michael Cahill:** expressed similar concerns.

**Others:** Several other elected representatives who were not registered Observers made short submissions in favour of the proposed development.

### 7.4.3 Interest groups

**Heritage Iveragh:** Aoibheann Lambe expressed support for the Greenway Project, described the cultural heritage and landscape character of the area, and identified the potential benefits to the surrounding area.

**Newmarket Street East End Business Owners Group:** Jack Fitzpatrick expressed support for the Greenway Project, raised concerns about population decline, and described the potential environmental, safe transport, social, economic and tourism benefits to the local community and wider area.

**South Kerry Development Partnership:** Noel Spillane expressed support for the Greenway Project, described the feasibility study commissioned by the SKDP in 2011 into the creation of a Greenway. He raised concerns about population decline, and highlighted the social, community, tourism & employment benefits to the surrounding area including farm diversification.

**Galway Cycling Solutions:** Michael Burke raised concerns about the Greenway project on behalf of GCS and several other Greenway concern groups in relation to the CPO process (should have sought consensus), inappropriate use of the Roads Act, farm severance, landscape impacts, inadequate public consultation, non-compliance with national cycling strategy and lack of consideration of alternatives (local rural roads).

**Galway Cycling Campaign:** Shane Foran supports the development of long distance rural cycling networks but raised concerns in relation to the CPO process, farm severance, poor engineering design and lack of consideration



of alternatives. The presentation described alternative options along rural roads in the area with examples of initiatives that make use of local roads in other parts of the country.

***Irish Farmers Association:*** Thomas Conney and Pat O’Driscoll raised concerns in relation to the CPO process, inappropriate consideration of the project as a public road under the Roads Act, non-compliance with government cycling policy, inadequate consultation, lack of consideration of viable alternatives, adverse impact on farm landholdings and farm severance, and incomplete EIAR.

#### **7.4.4 Greenway Information Group**

Harrington & Co. Solicitors (with Michael O’Donnell BL) raised the following key areas of concern on behalf of the Greenway Information Group.

- Incorrect consideration of application under Roads Act instead of Planning & Development Act, and precedent for future similar cases.
- KCC entry to client’s lands to carry out survey works was prohibited by District Court, and copies of AA Screening documents required.
- Unsatisfactory submission of Errata & Addendum documents, redesign of scheme without carrying Screening for AA and submission of NIS in respect of amendments (indicates a lacunae & scientific doubt)
- Noncompliance with EU Directives and Irish constitutional & domestic law, more works (including drainage) required that are not covered in submitted documents (EIAR & NIS).
- Incorrect EIAR procedures followed & substantive deficiencies in EIAR.
- Non-compliance with Development Plan and conflict with West Iveragh LAP (which was only recently adopted & SEA required).
- Inadequacies in the EIAR & NIS (surveys, drawings, design details, structural details), insufficient information on the characteristics of the receiving environment and assessment of potential impacts & effects.

- Inadequate consultation with affected landowners and consideration of alternatives, mitigation post construction provides no clarity for the landowners or regulatory processes to protect their interests.
- Adverse impact on visual amenity, landscape character (integral to farming practices), tourism, archaeology & cultural heritage.
- Adverse impact on residential amenity, disturbance during construction works and pollution.
- Impractical & unworkable project with adverse impact on farming practices (c.30 agricultural crossings affected) with gates closed to Greenway users during farm works. Consensus needed.

#### **7.4.5 Individual observers**

**Edward Fahy:** raised concerns in relation to the KCC response letters, the design of the Greenway junction in terms of traffic, cyclist & pedestrian safety, the reliability of the traffic volume & speeds data, non-compliance with TII standards, and lack of consideration of alternatives.

**Karen Mc Donnell:** raised concerns in relation to the CPO process, farm severance, adverse impact on farm activities and lack of consideration of viable alternatives. The presentation indicated an alternative option on family owned lands to the S of the N70 with examples of other Greenways around the country that make use of the local road network.

**Morgan Lyne:** raised concerns in relation to the CPO process, Council procedures, inadequate consultation impact on farming practices, lack of consideration of other options, inconvenience and general disturbance.

**Peter Sweetman:** raised concerns in relation to non-compliance with EU environmental legislation and recent ECJ judgements.

**Muiris Walsh:** expressed support for the Greenway Project, described the socio-economic decline of the area and highlighted the potential benefits to the surrounding area.

**Frank Curran:** raised concerns in relation to the impact on farming practices.

**June O'Connell:** raised concerns in relation to the population decline in Caherciveen and environs, the effect this was having the wider community, expressed support for the Greenway Project and highlighted the potential benefits to the surrounding area in terms of reversing this decline.

**Others:** a number of other Observers made short submissions in support of the Greenway Project and some raised concerns in relation to the impact on farmers along the route (refer to digital recording for further details).

#### **7.4.6 Request for adjournment:**

The **Greenway Information Group** requested an adjournment of the oral hearing. The reasons related to the Council's submission of the Observer's response letters and the Errata & Addendum documents to the oral hearing (which amended several sections of the EIAR and NIS with respect to a small incursion of the FI coastal protection works into an SAC). It was considered that the hearing should be conducted in a manner that would allow the parties to consider the information in a timely manner and not in a way that could be prejudicial to them. It was considered that the adjournment was necessary to ensure compliance with EU environmental, habitats and public participation legislation with respect to (amongst other things) access to environmental information and decision making, and Irish domestic & constitutional law. A minimum consultation timeframe of at least 30 days was requested.

**Peter Sweetman** supported the request for an adjournment and cited several ECJ judgements in respect of environmental decision making, along with a request for the full integration of the amendments into EIAR and NIS.

In response **Kerry County Council** stated that it was standard practice to make corrections to an EIAR and NIS at an oral hearing and to also provide up to date information. It stated that the amendments mainly addressed a small number of errors in the documents (except for the incursion by the coastal revetment works into a section of SAC that does not contain any Qualifying Interest habitats or species), and that the submission of an errata document to the hearing was an entirely appropriate procedure.

None of the other (remaining) **Observers** supported the request for an adjournment.

**Shane Foran of the Galway Cycling Campaign** requested that the remaining Observers be allowed to continue with their submissions if the request for an adjournment was granted.

**The Inspector** considered the request by the Greenway Information Group and decided not to grant an adjournment as the oral hearing comprises part of an ongoing information gathering exercise for the Board, the Board will carry out its own planning, environmental and appropriate ecological assessments, and that the Board has discretion to accept or not accept any documents submitted to the hearing.

## **7.5 Inspector's questions**

The Inspector & Dr Flynn asked the Council to clarify the following matters which will be referred to in more detail in the relevant parts of the assessment under sections 8.0 and 9.0 below:

### ***Renard Point to Caherciveen:***

- Additional coastal protection works at Renard Point: Foreshore licence, shoreline protection during works & potential effects on SAC.
- Cause of waterlogging at Renard: tidal or poor field drainage and impact on durability & usability of the Greenway.
- Revetment works at Valentia Observatory: need for Foreshore licence & shoreline protection during works.
- Reed Bed & Large Sedge Swamp at Mannix Point: temporary boundary fencing, drainage & habitat protection; impact of tides on durability and usability of the Greenway.
- Salt Marsh habitats at Mannix Point: relationship to field boundary, proximity to salt marsh habitats, spring tides, shoreline protection during works; and tidal impacts on the durability & usability of the Greenway.
- Archaeology: location of souterrain in Caherciveen (RM Ke079-036).

***Caherciveen to Cloghane:***

- Additional coastal protection measures at Cloghanelinaghan: relationship to field boundary, proximity to shoreline & eroded areas; erosion impacts on the durability and longevity of the Greenway; and shoreline protection during works.
- Query route through wooded area instead of degraded bog area or along local road at Cloghane.

***Kells area:***

- Golden Mile: plant species protection
- Caitlin Beaters public house: nature of slope & road safety measures.

***Gortiforia to Drung Hill:***

- Revetment works: extent of rock excavation & gabion walls, final destination of material & spoil management plan; visual impacts; impacts on SAC, Kerry slug & St. Patrick's Cabbage & effectiveness of mitigation measures.
- Slope stability works: potential for landslides, extent of chain link fencing & impact on animal mobility.

***Mountain Stage station & Drom West:***

- Bat House: Ownership, educational facility, bat occupation & effectiveness of mitigation measures.
- Woodland area parallel to the N70: query alternative route along the local road rural network to the N (Chainage 26,900-27,150).
- N70 bridge at Mountain Stage: Status of Part 8 & phasing of works.

***Glenbeigh section:***

- Gabion baskets parallel to local road: proximity of works to River Behy, purpose of 900mm diameter pipe and Freshwater pearl mussel.
- Entrance details at Curra woods & land nature of slope & query use of alternative existing pedestrian access to the W.
- Car park at Glenbeigh: Query extent of tree & shrub removal, proximity to River Behy, Freshwater pearl mussel & salmon, and riverbank protection during works.

***Consideration of Alternative Options:***

- Remain on the former track between Mannix Point & Caherciveen water treatment plant.
- Setting the route further back from the coast at Cloghanelinaghan.
- Use local road network at from Mountain Stage station to Curra Woods.

**7.6 Cross questioning**

Each of the Observers was afforded the opportunity to question the Applicant at the end of their submissions and the ensuing debate is available on the digital record of the proceedings. The representative for the Greenway Information Group mainly focused on testing the veracity of the EIAR and NIS and the competency of the Technical Team. Although several points were discussed and/or clarified at this stage, no significant new planning issues arose, and any salient points of interest will be referred to in the relevant parts of the assessment under sections 8.0 and 9.0 below.

**7.7 Closing submissions**

Kerry County Council and two of the Observers (Greenway Information Group and Peter Sweetman) availed of the opportunity to make closing submissions to Module 1 of the hearing which summarised their main concerns and no new issues were raised. Module 1 was formally closed on Friday 15<sup>th</sup> November 2019.

## **Module 2 – Compulsory Purchase Order (ABP-302452-18)**

### **7.8 Kerry County Council's Submissions**

The applicant was requested to make a brief opening submission to the hearing to describe the nature and extent of the CPO. Members of the Technical Team were present to answer questions by the CPO objectors.

#### **7.8.1 Kerry County Council & Technical Team**

*Esmond Keane* (Senior Counsel) - legislative context

*Tom Sheehy* (Kerry County Council) - route options

*Conor Culloo* (Kerry County Council) - greenway design

*Owen Kelleher* (Kerry County Council) - residential amenity

*Dr John Mahon* (Noise Consultant) - noise assessment

*Diarmuid O'Sullivan* (Agricultural Consultant) - agronomy assessment

#### **7.8.2 Response to Objectors concerns**

The Council's individual letters of response to the CPO Objectors were read into the record. Although several matters were clarified or amended at this stage, no significant new issues arose, and any salient points of interest will be referred to in the relevant parts of the assessment under section 11.0 below.

### **7.9 Objectors submissions**

The Objectors were requested to provide a brief summary of their main concerns. The main issues raised in the Objector's written submissions are already detailed in section 4.0 and Appendix 3 of this report.

### **7.9.1 Individual CPO Supporters**

The following plot owners made submissions in support of the CPO. Their concerns are summarised in Section 11 of this report which deals with the Compulsory Purchase Order.

- Mortimer Moriarty (Plot 220a)
- John Joseph O'Connor - IRD Kells & Foilmore Co. (Plot 580 a-d) represented by Pat Kavanagh (Mr. O'Connor is recently deceased).

### **7.9.2 Individual CPO objectors**

The following plot owners made submissions in objection to the CPO. Their concerns are summarised in Section 11 of this report which deals with the Compulsory Purchase Order.

- Ciaran Quinlan (Plot 165 a-g)
- James Clifford (Plots 335a, 357 a-b & 360 a, c & d) represented by Peter Sweetman and Margaret Heavy BL.
- Morgan Lyne (Plot 570 a, c & e)
- Patrick O'Shea (Plot 730 a-h) represented by Dermot O'Brien (Agricultural Consultant)

### **7.9.3 Collective CPO objectors**

Harrington & Co. Solicitors (with Michael O'Donnell BL) represented the remaining CPO plot owners who object to the CPO (mainly farmers along the route). The general submission by the legal representatives and the individual concerns of the Objectors are summarised in Section 11 of this report which deals with the Compulsory Purchase Order.

- Michael & Kim Sheehy (Plot no.150a-c)
- James and Patricia Walsh (Plot 245a, 247a & 510a-h)
- Jeremiah Coffey (Plot 375a-c & 365 a-d)
- Denis O'Connor & Carmel Ni Mhorain (Plot 410 a-c)
- Michael Patrick Clifford (Plot 423a & 426b)
- Mike Garvey & Mr Garvey Senior (Plot 465 a-e)



- Jack Quirke (Plot 470)
- Michael Quirke (Plot 475 a-d & 485 a-c)
- Mary O'Neill & Christy McDonnell (Plot 520 a-f)
- Breda O'Neill-Collins (Plot 522a) represented by Mary O'Neill
- Pat Murphy (Plot 530 & 545) represented by Denis O'Connor
- Paul O'Shea (Plot 550 b, c, d, f, g, j, k)
- Mary Mahoney (Plot 620)
- James Dominic Moriarty (Plot 895):
- Thomas Moriarty (Plot 915 a-b & 919
- John Anthony Moriarty (Plot 960 a & f)
- James Sheahan (plot 980 a & l)

**Other CPO objectors:** Several CPO objectors did not make an oral submission to the hearing, however Harrington & Co Solicitors stated that the same concerns apply [Kathleen Clifford (Plot 390), Sean Sullivan (Plot 395), Pat Lyne (Plot 490), Sean Murphy (Plot 495) & Timothy Sheahan (Plot 955)].

#### 7.9.4 Expert & other witnesses:

The following witnesses made submissions to the hearing:

**Mr Pdraig Murphy** (Civil Engineer) raised safety concerns in relation to the design of several of the junctions on the Objectors lands in relation to steep gradients and bends combined with the movement of large agricultural vehicles crossing the Greenway.

**Ms Maria Cullen** (B.Sc. Natural Sciences) submitted a list of habitats and species surveyed along the greenway route, photographs of recent flooding close to Behy Bridge in Glenbeigh, and information about historic landslides at Mountain Stage.

**Ms Philomena Mahoney** (local farmer) submitted a photograph of a Kerry slug found on her family lands close to the Greenway route (CPO plot 620).

### **7.9.5 Planning concerns**

Several of the concerns raised by the CPO Objectors and the expert witnesses have also been addressed in sections 8.0 and 9.0 of this report (Planning Assessment & Environmental Impact Assessment).

### **7.10 Cross questioning**

Each of the Objectors was afforded the opportunity to question the County Council at the end of their submissions and the ensuing debate is available on the digital record of the proceedings. Harrington & Co. Solicitors (with Michael O'Donnell BL) who represented many of the CPO objectors mainly focused on testing the veracity of the EIAR and the competency of the Technical Team. Although several points were discussed and/or clarified at this stage, no significant new issues arose, and any salient points of interest will be referred to in the relevant parts of the CPO assessment under section 11.0 below.

### **7.11 Closing submissions**

Kerry County Council and Harrington & Co. Solicitors (on behalf of their clients) availed of the opportunity to make closing submissions to Module 2 of the hearing which summarised their main concerns and no new issues were raised. Module 2 was formally closed on Friday 22<sup>nd</sup> November 2019.

### **7.12 Closure of oral hearing**

The Inspector formally closed the oral hearing on Friday 22<sup>nd</sup> November 2019.

## 8.0 PLANNING ASSESSMENT

***This section should be read in conjunction with Section 9.0 (EIA) and Section 10.0 (AA) of this report.***

The main issues arising in this case are:

1. Principle of development
  2. Visual amenity
  3. Residential amenity
  4. Farming practices
  5. Traffic movement & safety
  6. Infrastructure - slope stability
  7. Infrastructure - coastal processes
  8. Ecology & biodiversity
  9. Other issues
- Section 9 deals with Environmental Impact Assessment
  - Section 10 deals with Appropriate Assessment
  - Sections 11 deals with the Compulsory Purchase Order

### 8.1 Principle of development

***Legislative framework:***

Several of the Observers (including the Greenway Information Group and the Irish Farmers Association) raised concerns in relation to the application being made under Section 51 (2) of the Roads Act, as amended, given that there is no specific mention of Greenways in this legislation.

Kerry County Council previously sought an EIS Direction from the Board in respect of the proposed South Kerry Greenway under Section 50 (1) (c) of the Roads Act, 1993, as amended. The Boards decision in March 2017 under Ref. no. 08. HD0039 is summarised in section 1.4 above. Section 4.3 of the

Inspector's report to the Board referred to Section 68(1) of the Roads Act which states "In this section "cycleway" means a public road or proposed public road reserved for the exclusive use of pedal cyclists and pedestrians. I would consider that "cycleway" and "Greenway" are one and the same thing." This judgement is reflected in the Board decision that the preparation of an EIAR was required.

The Observers also submitted that the application should have been made under the various provisions of the Planning and Development Act, 2000, as amended (including Section 177AE) or the Foreshore Act. These concerns are noted. However, as previously stated the Board already decided that an EIAR was required under Section 50 (1) (c) of the Roads Act, 1993, as amended, and the application was made on foot of this determination.

***Policy compliance:***

The proposed development would be compatible in principle with national and regional policy in relation to climate change as set out in Project Ireland -The National Planning Framework, the Climate Action Plan 2019 and the Regional Economic & Spatial Strategy for the Southern Region, along with the policies and objectives contained in the Kerry County Development Plan 2015 to 2021. However, the extent to which the practical elements of the proposed development would comply with these documents, relative to their geographic location, will be addressed in the following sections of this report.

The proposed Greenway would be compatible with national and regional planning and transportation policy (pertaining to cycleways and Greenways) as set out in section 3.0 above. It would be compatible with the policies and objectives of the current Kerry County Development Plan 2015 to 2021 and the recently adopted West Iveragh LAP 2019-2025 which seek to provide for cycleways and Greenways and to utilise the former railway into a cycle route or Greenway from Glenbeigh to Caherciveen.

The concerns raised by the Greenway Information Group and Mr Sweetman in relation to the adoption of the West Iveragh LAP after the Greenway application was submitted to the Board are noted as are several anomalies between the two documents. However, I am satisfied that this LAP sets the most up to date policy context for the proposed development under consideration by the Board, and that the anomalies do not give rise to a serious cause for concern, particularly given the 4 year interval between their respective adoption by the Council.

The Greenway Information Group and Mr Sweetman also raised a concern in relation to Section 2.6.5 of the West Iveragh LAP which refers to the development of the South Kerry Greenway which is a stated objective of the West Iveragh LAP and the County Development Plan (Obj.RD-28). They submit that Objective RD-28 has been incorrectly cross-referenced and that the Greenway would not be entirely located on the former railway track and its diversion off-line is not a stated planning objective. They concluded that the proposal would constitute a material contravention as the County Development Plan and West Iveragh LAP contain conflicting objectives.

It is noted that Development Plan Objective RD-28 of the Development Plan seeks to promote the sustainable development of walking and cycling as an alternative to the private car by facilitating and promoting the sustainable development of necessary infrastructure at appropriate locations, whilst Objectives RD-30 and RD-31 specifically seek to support the sustainable establishment of a network of "Greenways" (including Farranfore to Caherciveen to Renard Point) and interlinked cycle ways and walk ways (including Glenbeigh-Renard).

Notwithstanding the general nature of Objective RD-28, Objectives RD28 to RD31 all deal with the future provision of infrastructure to promote the sustainable development of walking and cycling. I am satisfied that the cross reference in the West Iveragh LAP to Objective RD-28 as opposed to Objectives RD-30 and RD-31 of the Development Plan does not give rise to a

conflict between the two documents, or any other form of confusion in relation to the Council's intention to provide for, or facilitate the provision of a Greenway, cycleway or walkway along the Iveragh peninsula. The proposed development would therefore not constitute a material contravention of the Development Plan.

The proposed development would also contribute to the achievement of national, regional and local objectives for sustainable transport, economic development, adventure tourism and healthier lifestyles, with respect to the policy documents summarised in section 3.0 above.

The proposed development would broadly comply with the various guidelines and standards for Greenways and Cycleways which are also summarised in section 3.0 above with respect to the anticipated level of usage. Although there would be some site specific deviations from the standards to take account of local environmental conditions (including site gradients, permanent obstacles along the route, residential crossings and traffic conditions), I am satisfied that these deviations are necessary and justified in principle.

***Motorised vehicles:***

The Greenway Information Group raised concerns in relation to the status of the Greenway as a public road under the Roads Act and the potential use of the facility by motorised vehicles including motorised wheelchairs, which it submits would not be in accordance with the provisions of Section 50 of the Roads Act and could have adverse impacts on the amenity of the facility and safety of Greenway users. As previously noted, Section 4.3 of the Inspector's report to the Board under 08. HD0039 referred to Section 68(1) of the Roads Act which states "In this section "cycleway" means a public road or proposed public road reserved for the exclusive use of pedal cyclists and pedestrians. I would consider that "cycleway" and "Greenway" are one and the same thing."

According to S.I. No. 332/2012 - Road Traffic (Traffic and Parking) (Amendment) (No. 2) Regulations 2012, a mechanically propelled wheelchair can be driven along or across a shared route for pedal cycles and

pedestrians, driven along or across a cycle track on the right hand edge of which a continuous white line has been provided and, in relation to cycle tracks, pedestrians includes any person using a wheelchair, mechanically propelled, or otherwise. The Road Safety Authority states that powered wheelchairs are regarded for all intents and purposes as having pedestrian status (their motorised wheelchair being an extension of the person). No distinction is made between self-propelled and powered wheelchairs. A motorised wheelchair is not classified as a mechanically propelled vehicle, users do not require a driver licence, registration, motor tax or insurance if used on the public road, and they can use public footpaths, pedestrianised streets, cycle tracks and buildings in the same manner as pedestrians. Having regard to the foregoing, I consider the concerns raised by the Greenway Information Group in relation to the use of motorised wheelchairs along the Greenway to be without foundation.

It is noted that maintenance and emergency vehicles would access sections of the Greenway on a “needs only basis”, agricultural vehicles would cross the pavement on a seasonal basis and there are several residential crossings, however none of these vehicles would have access to the linear route.

***Other policy issues:***

The concerns raised by several of the Observers (including the Greenway Information Group, the Irish Farmers Association, Galway Cycling Solutions, Galway Cycling Campaign & Mr Sweetman) in relation to several other Development Plan policies and objectives with respect to the environment, biodiversity, rural development, residential amenity, visual intrusion, built heritage, tourism and traffic will be addressed in the following sections.

***Need and justification:***

The Council states that the need and justification for the Greenway project is based on its analysis of the long term and ongoing population, employment and socio-economic decline in the N section of the Iveragh Peninsula. It states that this decline has had an adverse impact on the all aspects of life in the area, including the ability to attract investment and create employment.

The Council and several of the Observers (including Failte Ireland, elected representatives, several interest groups and the many local supporters of the project) submit that the Greenway project will bring prosperity to the area as has occurred in other regions of the country where Greenways have been provided. It states that the project will attract more visitors to the area, extend the tourism season, reverse population decline by acting as a catalyst for employment generating opportunities, and that it will counteract rural isolation.

Several of the Observers (including the Greenway Information Group & Mr Sweetman) raised concerns in relation to the need and justification for the Greenway project based on their interpretation and analysis of the population and socio-economic data contained in the EIAR, planning policy documents and the Council's submissions. They submit that the population has recently increased in several of the DEDs along the route, and they query the anticipated socio-economic benefits of the project, particularly given the age of some of the farmers who would find it difficult to embrace diversification.

I am satisfied that the population data submitted by the Council and its subsequent analysis is robust. It clearly demonstrates a long term and sustained population decline over a prolonged period within the N section of the Iveragh Peninsula, notwithstanding an occasional small increase in some of the rural DEDs along the route. A more detailed review of long term Census data for the area confirms that the population of Caherciveen has declined almost steadily since the early 1900s, albeit with occasional increases, including the period between the mid-1990s and mid-2000s. This would broadly correspond with the submission by Mr Coffey for the Greenway Information Group in respect of employment opportunities in the Caherciveen Industrial Estate during that time period.

Having regard to the foregoing, I am satisfied that the Council's interpretation of the population data for the N section of the Iveragh peninsula and its analysis of the socio-economic characteristics of the surrounding area are robust. The concerns raised by the Greenway Information Group and Mr Sweetman in relation to short term DED specific population data do not



provide an adequate basis for challenging the Council's conclusions. The concerns raised in relation to farm diversification are noted however the decision to diversify is influenced by many factors (including EU policy, climate change, dietary habits, marketing and the retirement age).

***Conclusion:***

Having regard to the foregoing, I am satisfied that the proposed development has been submitted within the appropriate legislative framework, that it would comply with all relevant planning and transportation policies and objectives for the area, that it would broadly comply with the various technical guidance documents for greenways and cycleways, and that the need and justification for the project has been clearly demonstrated by the applicant. The proposed development would therefore be acceptable in principle.

## **8.2 Visual amenity (EIA - Landscape)**

### **8.2.1 Project description**

The proposed c.32km long and c.5m wide linear Greenway project would mainly occupy the former railway track that runs from Renard Point through Caherciveen to Curra Wood at Glenbeigh. The Greenway would also traverse agricultural land, utilise existing roads, restore existing railway infrastructure at Caherciveen Bridge and the O'Connell Viaduct, and replace Nimmo's Bridge. It would mainly comprise a 3m wide pavement bound by two 1m wide grass verges with timber fencing or panels, along with gates and livestock pens in agricultural areas to enable farm connectivity, and chicanes to control speed at the approach to road junctions and crossings.

The project would provide 5 x car parks along the route including the trail heads at Renard Point and Glenbeigh, several sections would run parallel to the N70 and the route would cross a significant number of local roads and private driveways. The project would include all associated works at road crossings, junctions and the car park entrances, an underpass of the N70 at Gortnagree to the W of Kells station, a small section of road widening in Caherciveen along with traffic calming measures in the town, and Greenway signage and road markings along the route.

The project would comprise several pieces of coastal protection works in the SW section on both sides of Valentia Estuary, large scale revetment works in the N section parallel to the N70 where the original railway track lands were incorporated into the widened road, and the replacement of Nimmo's Bridge between two of the railway tunnels at Drung Mountain, also in the N section. The Greenway would also skirt around several dwelling houses that have been built along the railway track since the closure of the service.

### **8.2.2 Locational context**

The proposed Greenway would occupy an attractive scenic location along the N section of the Iveragh Peninsula close to the Wild Atlantic Way, the Ring of Kerry and the Kerry Way. The c.32km long linear route would traverse a variety of landscape types including a coastal estuary, an urban area, agricultural land, heathland, mountainous terrain and woodlands. The gradients vary between c.1m OD at Renard Point in the SW section to c.100m OD at Gortiforia in the N section and c.50mOD at Glenbeigh in the NE section. There are several dispersed houses and farmsteads located along the route and a number of houses have been built along the dismantled railway track.

### **8.2.3 Applicant's submission**

Section 14 and Appendix 14 of the EIAR dealt with landscape and potential visual impacts, it was accompanied by a Photomontages booklet and a Landscape Impact Assessment (LIA) & Visual Impact Assessment (VIA) were carried out along the route. Baseline conditions were described along the route, a Zone of Theoretical Visibility (ZTV) within a 5km radius of the route was established and 18 Viewshed Reference Points (VRPs) were assessed.

The Landscape Impact Assessment (LIA) described the 5 sections (Coastal Farmland, Estuaries Farmland, Upland Transition, Coastal Heathland and Farmed Valley), it classified the Landscape Sensitivity of each section (Medium High to Very High), and it assessed the magnitude of landscape effects (all Low negligible) and the significance of the landscape impacts (all Slight-imperceptible to Slight).

The Visual Impact Assessment (VIA) assessed the impacts on the 18 Viewshed Reference Points (protected views, scenic routes, community views, centres of population, major routes and amenity & heritage features). It classified the sensitivity of each viewpoint (Medium to High), it assessed the

magnitude of visual impact (all Negligible to Low) and the significance of visual impact (all Imperceptible to Slight).

The EIAR did not contain any specific mitigation measures other than boundary treatment close to residential dwellings and it concluded that no significant adverse visual impacts would occur.

#### **8.2.4 Policy context**

In relation to the current County Kerry Development Plan, Objective ZL-1 seeks to protect the landscape, ZL-3 seeks to have regard to the sensitivity of the landscape and its capacity to absorb further development, and Objective VL-1 seeks to protect the landscape as a major economic asset and invaluable amenity. There are several protected Views and Prospects along the Greenway Route and N70 and a number of designated Scenic Routes (Ring of Kerry & Wild Atlantic Way), Walking routes (Kerry Way, Caherciveen to Benteen & to Laharan) and Cycling routes (Ring of Kerry & Glenbeigh Spin).

#### **8.2.5 Planning assessment**

I surveyed the Greenway route and the surrounding area over three 4-day periods in late 2018 and early to mid-2019. I had regard to the EIAR visual impact studies which are summarised in section 8.2.3 above and the written and oral concerns raised by the Observers which are summarised in sections 4.0 and 7.0 above and Appendix 2. This included landowners, cycling groups and members of the public who raised concerns in relation to the overall design of the proposed Greenway. I also had regard to national, regional and local planning policies.

- 1. Renard Point to Caherciveen:** This section of the Greenway, which runs parallel to Valencia Estuary to the SW of Caherciveen, is designated as a Rural Secondary Special Amenity Zone where development should be designed to minimise the effect on the landscape and take account of

topography, vegetation and existing boundaries. There are no Protected Views and Prospects along this section. This section also includes a series of coastal protection works along the estuary from Renard Point to the Mannix Point campsite. These works are mainly small scale and low lying and they would not interfere with the visual amenities of this coastal section to any significant extent. The overall scale of the low-lying linear project is such that it would not affect any of any views across the estuary from the lands to the N. Although the Greenway infrastructure and coastal protection works would be visible from along the shoreline and from Renard Point to the W and Mannix Point to the E, the impact would not be significant, and the protection works would eventually bed-in over time. The Greenway Information Group raised concerns in relation to the visual impact of the toilet facilities at proposed trail end car park at Renard Point which could be addressed by way of a condition requiring a high standard of design that would blend in with the surrounding rural/coastal setting.

2. **Caherciveen:** This section of the Greenway runs through an urban area, some small areas along the coast to the N of the route are designated as a Rural Secondary Special Amenity Zone and there are no Protected Views and Prospects along this section. This section of the project includes road widening works along Marina Road in the vicinity of the harbour where a rocky outcrop would be partly excavated. These works are small scale and they would not interfere with the visual amenities of this urban section to any significant extent. The refurbishment and reuse of the Caherciveen Railway Bridge would have a positive impact on visual amenity.
  
3. **Caherciveen to Dooneen:** The section of the Greenway, which runs parallel and to the N of Valencia Estuary to the NE of Caherciveen is designated as a Rural Secondary Special Amenity Zone. There are Protected Views and Prospects to the N and S from along a section of the N70 which runs close to Valentia Estuary. There is a key view N towards the Greenway route across the estuary and towards the mountains beyond. The W section of the route which commences at the N end of the

Caherciveen Railway Bridge runs parallel to the estuary for c. 2.5km also includes coastal protection works. The coastal protection works are mainly below ground and therefore would not interfere with the visual amenities of this coastal section. Although the Greenway infrastructure would be visible from along the N70 to the S and the local road to the N, the impact would not be significant, and the scale of the linear project is such that it would not affect any of the Protected Views from the N70 to the S. Although the Greenway Information Group raised concerns in relation to the visual impact of this section of the Greenway, I am satisfied that the route would blend in with the surrounding rural/coastal setting.

- 4. Dooneen to Kells Station:** This section of the Greenway mainly runs through agricultural land, however the upland mountainous area to the N of the route is designated as a Rural Secondary Special Amenity Zone. There are Protected Views from along N70 across the low-lying rural landscape to the SE but not N towards the Greenway route, and Kells Station is a Protected Structure. The W section of the Greenway infrastructure would be visible from the local rural roads to the N and S of the route around Dooneen as it traverses agricultural fields and crosses a local road, and from along the N70 in the E section between Lisbane and Kells Station. However, the visual impact would not be significant having regard to the low-lying and linear layout and it would be well set back from the road network and station building. The Greenway Information Group raised concerns in relation to the visual impact of this section on the rural landscape. This could be addressed by way of a planning condition to enable the recolonization of the Greenway verges with vegetation indigenous to the locality, in the interests of assimilation and biodiversity.
- 5. Kells Station to Goldens at Kells:** This section of the Greenway mainly occupies an elevated position relative to the N70 along the former railway track which shadows the lower slopes of an upland area which is designated as a Rural Secondary Special Amenity Zone. There are Protected Views from along this section to the N, S, E and W towards the

coast, mountains and low-lying landscapes. Although the Greenway infrastructure would be visible from along the N70, the impact would not be significant, and the scale of the linear project is such that it would not affect any of the Protected Views from along the N70 in any direction.

**6. Goldens at Kells to Caitlin Beaters at Gortiforia:** As for Kells Station to Goldens at Kells above, except for the northernmost section that bounds a coastal area to the N which is designated as a Rural Prime Special Amenity Zone where development is normally prohibited, and there are further Protected Views to the N towards the Dingle Peninsula. Although the Greenway infrastructure would be visible from along parts of the N70 and a small section would run along the N70 in the vicinity of Caitlin Beaters public house, the impact would not be significant. It would not encroach into the Rural Prime Special Amenity Zone, and the scale of the linear project is such that it would not affect any of the Protected Views in any direction. The proposed toilet facilities at the car park at Goldens could affect visual amenity however this could be addressed by way of a condition requiring a high standard of design that would blend in with the surrounding landscape.

**7. Caitlin Beaters at Gortiforia to the Drung Tunnels:** This section of the Greenway bounds a coastal area to the N which is designated as a Rural Prime Special Amenity Zone where development is normally prohibited. There are several Protected Views and Prospects to the N and S of the route towards the coast and mountains. This section includes the O'Connell Viaduct, Nimmo's Bridge and revetment works along the N70. Although the Greenway infrastructure would be visible from along parts of the N70, the impact would not be significant, it would not encroach into the Rural Prime Special Amenity Zone, and the scale of the linear project is such that it would not affect any of the Protected Views in any direction. The refurbishment and reuse of the O'Connell Viaduct and Drung Tunnels and the proposed replacement of Nimmo's Bridge would have a positive impact on visual amenity. Although the Greenway Information Group

raised concerns in relation to the design and scale of Nimmo's Bridge, I am satisfied that the new structure would sit well against the mountainous background. It is noted that the principle views from along the N70 at this location are towards the coast and not towards the railway embankment. The proposed revetment works, which would replace a section of railway embankment previously removed to realign the N70, would eventually bed-in to the landscape and the impact on visual amenity from along the N70 would gradually diminish over time.

**8. Drung Tunnels to Mountain Stage station:** This section of the Greenway bounds a coastal area to the N which is designated as a Rural Prime Special Amenity Zone where development is normally prohibited. There are several Protected Views and Prospects to the N and S of the route towards the coast and mountains. This section would also include significant revetment works parallel to the N70 to replace a section of railway embankment previously removed to widen the N70, over which Greenway would run. Although the Greenway infrastructure would be visible from along parts of the N70, the impact would not be significant, it would not encroach into the Rural Prime Special Amenity Zone, and the scale of the linear project is such that it would not affect any of the Protected Views in any direction. The visual impact of the proposed revetment works would eventually bed-in to the landscape and the impact on visual amenity from along the N70 would gradually diminish over time. The final part of this section would run along a local road to a point where it would cross to the N side of the N70 via a replacement bridge in the vicinity of the former Mountain Stage station which has been designed and approved by the Council under a Part 8 procedure.

**9. Mountain Stage station to Glenbeigh:** This section of the Greenway mainly traverses agricultural fields and a woodland, the upland areas to the far S of the route are designated as a Rural Secondary Special Amenity Zone and the coastal area to the far N is a Rural Prime Special Amenity Zone. There are no Protected Views or Prospects in this final section. This section of the Greenway infrastructure would be visible from



the local rural roads to the N and S of the route as it traverses agricultural fields and crosses a local road. However, the visual impact would not be significant having regard to the low-lying and linear layout and it would be well set back from the Rural Secondary Special Amenity Zones the N and S. The Greenway Information Group raised concerns in relation to the visual impact of the toilet facilities at the proposed trail end car park at Glenbeigh beside the River Behy. This could be addressed by way of a condition requiring a high standard of design that would blend in with the surrounding wooded and riparian setting.

**10. Construction phase:** The Greenway Information Group raised concerns in relation to the visual impact of the construction works on the amenities of nearby houses with particular regard to the height of the boundary fences along the route for the duration of the works. Having regard to the temporary nature of the construction works I am satisfied that any adverse visual impacts would be short term and temporary.

### **8.2.6 Conclusion**

Having regard to the foregoing, I am satisfied that the most significant visual impact would be from within the linear site itself, then from along the N70 to the N at Gortiforia and in the vicinity of the Drung Tunnels where the stone revetment works will take some time to bed-in, and from sections of the local road network where the boundary fences and gates would be slightly visible. Minor visual impacts from the dispersed houses along the route would be screened by boundary planting. The refurbishment works at Caherciveen Railway Bridge and the O'Connell Viaduct and the new Nimmo's Bridge would have a positive impact on visual amenity. Having regard to the mainly linear layout of the Greenway, the proposed development would not adversely affect the visual amenities of the area or interfere with any protected views, prospects or scenic routes in the surrounding area, to any significant extent.

## **8.3 Residential amenity (*EIA Population & Human Health*)**

### **8.3.1 Project description:**

The project would comprise the construction of a c.32km and c.5m wide Greenway and associated infrastructure including 5 x car parks, road crossings, farm gates, timber fences and signage along with temporary construction compounds and access points along the route.

### **8.3.2 Locational context**

As previously stated, the c.32km long Greenway would occupy an attractive scenic location within the N section of the Iveragh Peninsula between Renard Point and Glenbeigh. The Greenway would extend along the site of the former railway track for a combined distance of c.18km. Although the surrounding rural area is sparsely populated, there are c.50 houses located within c.50m of the route. Several of these houses have been built on or close to the site of the former track and the Greenway would skirt around these properties.

### **8.3.3 Applicant's submission**

Section 7.7 of the EIAR dealt with residential amenity, Appendix 7.2 contained a Residential Amenity Assessment Report and Appendix 14 provided a Visual Impact Assessment and Photomontages. Sections 8, 9 and 10 of the EIAR also dealt with air, traffic and noise impacts during the construction and operational phases, and the resultant effects on residential amenity.

The Residential Amenity Assessment Report described the base line conditions at the properties and their relationship to the Greenway including the separation distance, site levels, orientation, slope direction and existing boundary conditions. It identified the main sources of residential impact as overshadowing, overlooking, noise, light spill and loss of private open space. It assessed the potential impacts at each of the sites which ranged from Nil

(11) to Slight (21) to Moderate (5) where the Greenway would either overlook or reduce private open space. The report contained a series of mitigation measures for each of the sites which mainly relate to additional screen planting and panel fences along the site boundaries. The Visual Impact Assessment described the relationship between the Greenway and several houses and concluded that the infrastructure would not be visually intrusive subject to additional screening. It is noted that not all of the houses along the route were included in the assessment and that the references to Chainage relate to the railway track as opposed to the proposed Greenway route.

Sections 7, 8, 9 and 10 of the EIAR did not predict any significant adverse impacts on residential amenity as a result of visual intrusion, dust emissions, traffic movements or noise and vibration. This would be subject to the implementation of mitigation measures related to screening and traffic management, and adherence to best practice during construction.

#### **8.3.4 Policy context**

In relation to the current County Kerry Development Plan, Chapter 13 contains standards for access onto public roads, air and noise pollution, external lighting and residential boundaries. It sets out criteria for the assessment of applications involving access onto public roads, states that the main threat to air quality is emissions from road traffic, and that applicants should reduce noise and/or vibration at site boundaries with residential areas. External illumination should be minimised and not be visible from any point more than 200m away from the light. All (new) residential development should include 2m high screen walls around private rear gardens which abut roads and pedestrian ways to protect privacy and residential amenity.

#### **8.3.5 Planning assessment**

As previously stated, I surveyed the Greenway route and the surrounding area over three 4-day periods in late 2018 and early to mid-2019. I had regard to the relevant EIAR studies pertaining to residential amenity which are

summarised in section 8.3.3 above and the written and oral concerns raised by the Observers which are summarised in section 4.0 and 7.0 above and Appendix 2. This included property owners (including Michael & Mary Griffin at Dooneen; Patrick O'Shea, William & Teresa Conway and John & Pauline Clifford at Gortiforia; and John Breen & Jessica O'Sullivan, James Dominic Moriarty, Paul Moriarty, and James & Anne Smith at Drom West) who raised concerns in relation to visual intrusion, overlooking, loss of privacy, loss of private open space, traffic hazard, general disturbance and property devaluation. I also had regard to national, regional and local planning policies.

The EIAR identified c.39 dwelling houses within c.50m of the former railway track, the Greenway route and associated car parks, however based on my site inspection, there are in the region of 50 houses within c.50m of the route. These houses are mainly located at Renard, Dooneen, Kells, Gortiforia and Drom West. Several houses have been built on or near the site of the dismantled track and the railway lands have mainly been incorporated into their private amenity space. The Greenway has been designed to skirt around these properties and the nearest dwellings are located between 5m and 10m away. Some small sections of private amenity space at several of the properties would be incorporated into the Greenway and the route would run parallel to several garden boundaries. The site levels also vary considerably and dramatically along sections of the route between the railway embankment, Greenway and nearby houses. However, most of the houses are located below the level of the Greenway and mainly between 0.5m and 5m below and 0.3m and 3.5m above the route. The houses located adjacent to the local road network, along which small sections of the Greenway would run, have been excluded from this part of the assessment as they already have an existing relationship with the road network.

***Visual intrusion & overshadowing:***

The concerns raised by the Greenway Information Group in relation to visual intrusion, overshadowing, overlooking and loss of privacy during the construction and operational phases of the Greenway are noted. The

Greenway route and associated car parks have the potential to affect around c.50 properties to varying extents along the route. The Greenway would not be visually obtrusive or give rise to excessive overshadowing given the linear nature of the project. Although the car park at Renard Point could affect the visual amenities of the neighbouring houses, this would be addressed by screen planting along the site boundaries. The works boundary fencing along the route has the potential to cause visual intrusion during the construction phase at nearby houses, however any adverse impacts would be temporary and not significant

***Overlooking & loss of privacy:***

***0-10m:***

The Greenway would be located within 10m of c.4 properties at Cloghane, Gortiforia, Gleensk and Drom West and it would occupy a level or elevated position along the railway embankment relative to these houses. Because of the proximity of the Greenway route, its orientation and the change in site levels, these houses are the most likely to be affected during the construction and operational phases. However, it is noted that there is already substantial natural screening (trees, mounds and ditches) between the Greenway and the houses, and this combined with the additional screening would ensure that no significant overlooking would occur and that the impacts would be moderate.

***10-20m:***

The Greenway would be located between 10m and 20m of c.16 properties at Reenard, Dooneen, Gortiforia, Gleensk and Drom West. The Greenway would be located within 15m of, and at a similar level to 5 houses between Renard Point and Dooneen and the houses would be screened by new 2m high boundaries, and within 19m of and 1.9m below another house which would be screened by new 1.2m high wall to the front. The Greenway would be located along an elevated section of the former track at Gortiforia and within c.20m of 4 houses where the levels vary from 4.5m below to 6.5m above the FFLs. These houses would be screened by an enhanced embankment and new 2m high panel fences. The Greenway would be located

within c.15m of 4 houses at Gleensk and the levels would vary from 7m above to 3.5m below the FFLs of the houses which would be screened by a new 2m high panel fence and by existing trees. The Greenway would be located between c.12m and 19m of 2 houses at Drom West where the levels vary from 1m above to 8.5m above the FFLs of the houses which would be screened new 2m - 2.2m high panel fences. The proposed screening measures would serve to protect the nearby houses from being overlooked.

***20-30m:***

The Greenway would be located between 20m and 30m of c.14 properties at Renard, Dooneen, Gortiforia, Gleensk and Drom West. The changes in levels between the FFL of most of the houses at Renard and Dooneen and the Greenway would be relatively modest, except for one house at Reenard (Chainage c.950m) where the change in levels is more noticeable. However, when combined with the separation distances and screening measures these houses would not be overlooked to any significant extent, and the impact would be moderate. The changes in levels between the FFL of the 5 houses at Gortiforia and Gleensk and the Greenway would be more dramatic, and it reflects the existing relationship between the railway embankment and the mountainous landscape. The Greenway levels relative to the FFL of the houses would range from c.6.0m below to c.10.0m above at Gortiforia, and c.15.0 m at Gleensk where the railway embankment is already screened by existing mounds and conifer trees. The combination of the separation distances, undulating nature of the slopes, natural features and the screening measures would ensure that these houses would not be overlooked to any significant extent. The Greenway would be located between c.4.0m and c.8.0m above the 3 houses at Drom West, and the combined separation distances and screening measures would ensure that these houses would not be overlooked to any significant extent.

***30-50m:***

The Greenway would be located between 30m and 50m of c.18 properties at Renard, Dooneen, Kells, Gortiforia and Drom West. The change in site levels at most of these locations is modest except to some houses at Gortiforia and

Drom West. The levels vary between c.7.0m below to c.14.0m above the FFLs over a distance c.32m to c.36m. The variation in levels reflects the existing relationship between the railway embankment and the character of the landscape. However, the combination of the separation distances, the undulating nature of the slopes and the screening measures would ensure that these houses would not be significantly overlooked.

***Other matters:***

The Greenway Information Group raised concerns at the oral hearing in relation to the height of the screen panels relative to neighbouring houses, particularly along the sections of the Greenway where there is a substantial change in level between the Greenway pavement and the neighbouring houses. For example, such a relationship would occur at Mr Moriarty's house in Drom West (Chainage c.27,830) where, notwithstanding the separation distance the screen panel would not provide for adequate screening. This concern could be addressed by a planning condition that would require the panel height to read as at c.2m when viewed from the c.3m wide Greenway pavement and not the outer boundary of the 5m wide pavement plus verges. The applicant should also ensure that this amendment is applied to other relevant sites where a similar relationship exists between the embankment, Greenway and neighbouring houses. This could be addressed by way of a planning condition.

***Loss of private open space:***

Several dwellings houses would be affected by a small loss of private amenity space to accommodate the proposed Greenway route and several others would be affected by driveway crossovers. The scale of the residential land take would vary from c.0.01ha to c.0.17ha and this would not have a significant impact on the amenity value of the private open spaces with no adverse impacts anticipated.

***General disturbance (dust, noise & traffic):***

The concerns raised by the Greenway Information Group in relation to noise and general disturbance during the construction phase of the Greenway are noted. The proposed site clearance and construction works could give rise to short term dust emissions, noise disturbance and traffic disruption at several dwelling houses along the route. There could be an additional disturbance at the houses located close to Greenway junctions and at driveway crossovers, and in the vicinity of the Kells Underpass of the N70. The delivery of construction materials along the road network also has the potential to adversely affect residential amenity. However, the works would be short term and temporary. The implementation of mitigation measures (including temporary screening, dust suppression, work sequencing & timing of deliveries) along with adherence to best construction practices would serve to minimise potential impacts at nearby houses during the construction phase.

The concerns raised by the Greenway Information Group and Mr Quinlan in relation to noise and general disturbance during the operational phase of the Greenway are noted. There are some 50 dwellings located within 50m of the proposed route, the nearest dwellings are located between 5m and 10m of the route however most are in excess of 20m. The additional trees, screen planting, enhanced embankments and panels would ensure that the nearest properties to the route would not be disturbed to any significant extent during the operational phase which would be busiest between June and August.

***Property devaluation:***

The concerns raised by the Greenway Information Group in relation to property devaluation are noted however no evidence has been submitted to substantiate this claim. I am satisfied on the basis of the above that the proposed development would not injure the amenities of the area to an extent that would result in a devaluation of property in the vicinity.



### **8.3.6 Conclusion**

Having regard to all of the above, I am satisfied that the proposed development would not adversely affect residential amenities to any significant extent as a result of visual intrusion, overlooking, overshadowing or general disturbance (including noise, vibration or dust emissions). This would be subject to the full implementation of mitigation measures and any recommended planning conditions. The loss of private open space in a small number of cases would be compensated for under the terms of the CPO arrangements.

## **8.4 Farming Practices (*EIA – Population & Human Health*)**

### **8.4.1 Project description**

The project would comprise the construction of a c.32km and c.5m wide Greenway and associated infrastructure including 5 x car parks, road crossings, farm gates, holding pens, timber fences and signage along with temporary construction compounds and access points. The project would also require the permanent acquisition of agricultural lands along the route.

### **8.3.2 Locational context**

As previously stated, the c.32km long Greenway would occupy an attractive scenic location within the N section of the Iveragh Peninsula between Renard Point and Glenbeigh. It would traverse a variety of landscapes including agricultural farmland which is mainly used for grazing (sheep and cattle).

### **8.4.3 Applicant's submission**

Section 7 of the EIAR and associated Appendices dealt with agriculture, including an Agrimony Assessment and Maps which identify the location of the individual land parcels affected by the project. This section evaluates data contained in the 2010 Agricultural Census, CSO Farm Structure Survey 2013 and individual farm surveys. The maps and data were amended by the Errata document submitted to the oral hearing. According to the report, the average farm size in Kerry is c.34ha, c.31% of the lands in the study area are used for rough grazing, which is well above the national level of c.10%, and grazing is mainly split between Sheep (c.84%) and cattle (c.15%).

During the **construction phase**, there would be temporary disturbance from noise and dust, restricted access to severed land parcels and disturbance to drainage patterns. The EIAR states that the works, which would be phased

over 24 site compounds, would not operate concurrently and that the drainage network would be fully restored, or alternative drainage systems provided.

During the **operational phase**, the project would require the permanent acquisition of c.6.36ha of agricultural lands from c.160 properties along the linear route, c.73 of these landholdings would be severed by the Greenway which would also run along the boundaries of the remaining c.87 holdings. The surveys comprised a mix of desktop, on-site and roadside surveys, and most of the lands are used for sheep and cattle grazing. The land take for the c.73 holdings would vary between 0.04ha and 0.70ha, most plots would be under 0.20ha, the number of farm crossings would be maintained, and the predicted impact range from not significant to minor. The land take from the c.87 holdings located adjacent to the Greenway would vary between 0.01ha and 0.57ha, most plots would be under 0.10ha and the predicted impact ranges from not significant to minor. The EIAR proposed a range of site-specific mitigation measures (including fencing, gates & holding pens; maintenance of drainage networks; continued access to power & water supplies; and retention of existing road accesses), compensation would be provided under the CPO land acquisition process and the Council would pay an annual maintenance grant to affected landowners.

#### **8.4.4 Policy context**

In relation to the current County Kerry Development Plan, Chapter 2 sets out the Core Strategy which seeks to support sustainable agriculture and agricultural related development, and Chapter 4 deals with Economic Development and Policy ES-10 seeks to promote and support the sustainable growth of agriculture.

#### **8.4.5 Planning assessment**

As previously stated, I surveyed the Greenway route and the surrounding area over three 4-day periods in late-2018 and early to mid-2019. I had regard to the relevant EIAR studies pertaining to farming which are summarised in

section 8.3.3 above, the CPO maps and accompanying documentation and the concerns raised by the Observers which are summarised in sections 4.0 & 7.0 above and Appendices 2 & 3. This mainly includes landowners in the Greenway Information Group who raised concerns in relation to farm severance, disruption to farming practices, traffic hazard, general disturbance and public liability. I also had regard to national, regional and local planning policies.

The Greenway would mainly traverse agricultural land. The CPO documentation mapped c.730 individual plots of land that would be acquired for the project on a mainly permanent (but also temporary) basis. The EIAR identified c.160 farm landholdings along the route that would be affected by the Greenway which would sever c.73 landholdings and run along the boundaries of a further c.87 holdings. Members of the Greenway Information Group raised concerns in relation the impact of the project on their property (as listed above), and these landholdings are mainly located at Caherciveen West, Cloghan, Killurly East, Dooneen, Tullig, Lisbane, Gortnagree, Kells, Boulerdah, Gleensk, Drom West and Drom East. The affected plots of land are mainly located along or close to the former railway track.

I examined the EIAR documentation and CPO maps, I carried out a detailed inspection of the Greenway route and I had regard to the Observer's written submissions. During the oral hearing I gave each of the affected landowners the opportunity to make a submission and ask questions of the Council in relation to the project and its perceived impacts. I then asked a series of questions of each landowner in relation to the location of their farm along the route, the scale and nature of their farming activities, whether the railway embankment traversed their lands, if the embankment had been incorporated into the adjacent fields, and if they had gated access across it. In relation to each of the landholdings, I asked the Council to clarify if the Greenway would run along or parallel to the embankment, the number of existing and proposed gated crossings, the field gradients relative to the Greenway crossings, and site specific drainage details, and I asked the Agronomist to confirm the status of the farm inspections.

Based on all the above, I was able to establish the existing level of integration and interconnection between the lands located on either side of the embankment and to then assess the anticipated degree of severance and disruption resulting from the Greenway project.

***Farm severance:***

The agricultural land over which the Greenway would traverse includes a significant proportion of the former railway embankment that has been incorporated into the surrounding farm landholdings to varying extents.

At most locations, the railway embankment forms a boundary with the fields on either both or one side of the embankment, and the boundaries are mainly defined by hedgerows and/or post and wire fences. Where there are two boundaries with the land on either side, the fields are mainly connected by gated crossings over the embankment, which also functions as a passageway for the linear movement of animals and machinery. In some locations where there is only one boundary, the embankment has been incorporated into the grazing lands on one side. At a small number of locations, the embankment has been fully removed and the lands incorporated into the adjacent field, although quite often the variation in site levels inhibits the movement of animals and machinery between fields. An exception occurs at a small number of locations (including Renard and Dorm West) where the embankment has been removed and the lands fully integrated to form one large field. In the remaining locations the embankment is either completely overgrown and forms a natural boundary between fields or it runs parallel to an existing roadside or field boundary.

Based on my assessment, I am satisfied that in most cases, the railway embankment already severs a substantial amount of the farmland that the Greenway would traverse, the lands on either side are not physically integrated and they are connected by gated crossings which would be maintained (with new gates and holding pens provided). The degree of additional severance along the Greenway route would therefore be at the minor end of the scale, except for a small number of locations where the

embankment has been completely removed and the lands integrated to form one large field (such as at Drom West where the owner has not objected).

Notwithstanding this conclusion, in most cases the lands on either side of the embankment are functionally connected within each landholding as grazing sheep and cattle are periodically moved around the fields, as is farm machinery during the silage making season. The Greenway would give rise to a disruption in farming practices at certain times of the year when grazing animals and farm machinery need to cross the pavement. However, given the scale, seasonal nature, and type of farming activity that occurs along the route, I am satisfied that in most cases the overall effects on farm functionality would be minor. Although inconvenient, the impacts would not be significantly adverse so as to warrant a refusal of permission for the project, or the omission of any of the sections that traverse farmland.

I am satisfied that the agricultural land not already severed by the railway embankment would not be physically or functionally affected because of the proximity of the Greenway to existing road and field boundaries.

***Farm access:***

The Greenway would cross over and form a junction with several private driveways that provide direct access off the local road network to farmhouses and associated buildings. This concern is assessed in section 8.5.5 below (Traffic, Movement & Safety).

***Agricultural crossings:***

The Greenway would traverse c.72 agricultural crossings which provide access from one side of a landholding to the other. The total number of existing crossing points within each landholding would be largely retained, and 4m wide stock proof gates would be provided, along with holding pens, where requested. The gates would rotate to close off either the adjacent farmland or the Greenway, as required. Under the original submission the landowner would have the right of way over the crossings whilst cyclists would have to stop. However, the applicant altered this position during the oral

hearing so that cyclists would have priority. Several Observers, including members of the Greenway Information Group, raised concerns at the oral hearing in relation to the additional disruption to farming practices and inconvenience caused to farmers as a result in this change in priority.

As previously stated, the lands, which are mainly used for sheep and cattle grazing, along with silage production, are not intensively farmed. The fields on either side of the embankment were historically connected by gated access points at level crossings, they are currently connected by gated crossings and they will continue to be connected across the Greenway by gated agricultural crossings. It is acknowledged that the Greenway will be more intensively used by cyclists on a daily basis than the railway track was ever used by trains (c.4 per day). However, whilst the road junction and private driveway crossovers along the 32km route (refer to section 8.5.5 below) will serve to slow down the speed of cyclists (which I am satisfied would improve overall safety and recreational amenity for a wider range of users), an additional c.72 priority agricultural crossings would render the Greenway un-functionable and un-useable.

On balance, I am satisfied that assigning priority to Greenway users is the preferred option, notwithstanding the inconvenience to the landowners. However, information panels should be provided at the car parks and along the route to advise cyclists that sections of the Greenway traverse a working agricultural landscape and that users might encounter seasonal delays when animals and farm machinery are being moved. However, having regard to the nature and scale of the farming activities along the route, I am satisfied that neither the inconvenience to farmers nor the delay to Greenway users will be significant, subject to a measure of goodwill on either side.

#### **8.4.6 Conclusion**

Having regard to all of the above, I am satisfied that the proposed development would not adversely affect farming practices to any significant extent as a result of disruption, severance, alteration of drainage patterns or general disturbance to sensitive animal (from noise, dust or recreational

activities), although it would give rise to an inconvenience. This would be subject to the full implementation of mitigation measures and any recommended planning conditions. The loss of farmland would be compensated for under the terms of the CPO arrangements, associated accommodation measures and an annual maintenance grant.



## **8.5 Traffic, movement and safety (EIA – Material Assets)**

### **8.5.1 Project description**

The proposed development would comprise the excavation and construction work associated with the c.32km long and c.5m wide Greenway along the N side of the Iveragh Peninsula. The Greenway would run along the former railway track (c.18km), cross agricultural land, run parallel to sections of the N70 National Secondary Road between Caherciveen and Glenbeigh, traverse several local roads and utilise the urban road network in Caherciveen.

Short stretches of the N70 would be realigned in the N section in the vicinity of Caitlin Beaters public house, and some portions would run directly adjacent to the N70 at Kells Station and Caitlin Beaters. The Greenway would run along a local road to the site of the former Mountain Stage station (c.1km) and cross the N70 via a replacement road bridge (Part 8 works) to Drom West. It would cross and/or run parallel to several local roads at Cloghanelinaghan, Dooneen and Faha. Three existing railway bridges would be refurbished or reinstated, and an underpass would be provided along the N70 at Gortnagree to the W of Kells Station.

The Greenway would form a junction with c.18 local roads and a crossover with c.32 private driveways (including farm access roads). Chicanes will be used to reduce cyclist speeds on the approach to these junctions and crossings. There would be 5 x permanent car parks located at Renard Point, Caherciveen, Goldens at Kells and Glenbeigh. Some 24 temporary work compounds would be provided along the route with several access points off the local road network, and the haulage route would be mainly along the N70.

### **8.5.2 Locational context**

As previously stated, the c.32km long Greenway would occupy an attractive scenic location in the N section of the Iveragh Peninsula between Renard Point and Glenbeigh, and it would mainly shadow the N70 and local roads.

### **8.5.3 Applicant's submission**

Section 9 of the EIAR, and accompanying Appendices and drawings dealt with the traffic impacts of the proposed Greenway during the construction and operational phases. The existing environment and local road network were described, several desktop studies and traffic surveys were undertaken including a Traffic Impact Assessment and Road Safety Audits, and an outline Construction and Environmental Management Plan was prepared. The EIAR assessed the impact of traffic generation and the capacity of the road network and junctions to accommodate additional traffic during the construction and operational phases. Following a request for Further Information the applicant submitted a further Road Safety Audit for several car parks, road junctions and private driveway crossovers, along with a Movement Management Plan for Caherciveen, and minor changes to the Greenway design and road layout in Caherciveen.

The EIAR concluded that only short-term temporary impacts during the construction phase are predicted and that the mitigation measures (which include a Traffic Management Plan & Co-ordinator, construction traffic limitations during July/August, road condition surveys, delivery programme, local information, travel plans for construction workers and temporary traffic signs) will minimise the impacts on the local road network during the construction phase. No adverse impacts were predicted during the operational phase as the assessment concluded that the road network has sufficient spare capacity to accommodate additional traffic, road junctions and car park entrances have been designed with adequate visibility in either direction, and cyclists will be required to dismount at a number of locations where gradients are steep (around Caitlin Beaters and Mrs Mahony's driveway crossing at Boulterdah to the E of Kells Station).

### **8.5.4 Policy context**

In relation to the County Kerry Development Plan and West Iveragh Local Area Plan, the relevant policies & objectives are set out in section 3.3 above.

### **8.5.5 Planning assessment**

As previously stated, I surveyed the Greenway route, including the N70 and local road network, the proposed road junctions and private crossovers over three 4-day periods in late 2018 and early to mid-2019. I had regard to Chapter 9 of the applicant's EIAR and associated Technical Appendices, drawings, oCEMP, Traffic Impact Assessment, Movement Management Plan and Road Safety Audits which are summarised in section 8.5.3 above. I also had regard to the written and oral concerns raised by the Observers which are summarised in sections 4.0 and 7.0 above and Appendices 2 and 3 (including TII, Galway Cycling Solutions, Galway Cycling Campaign, Greenway Information Group and Edward Fahy). The Observers raised concerns in relation to the quality of the survey work and potential impacts during the construction and operational phases with respect to: - traffic generation, hazard and safety; relationship to the road network, residential driveways and agricultural access roads; and access to the car parks, and the lack of consideration given to the use of quiet rural roads. Concerns raised in relation to agricultural crossings are addressed in section 8.4 above (Farming Practices). I also had regard to national, regional and local planning policies.

#### **Construction Phase:**

The c.32km long Greenway route would be split almost 60:40 between the former railway embankment and other lands (including agricultural land and local roads). The construction phase would take approximately 54 weeks using a multiple location approach, or longer if not. This phase would comprise the following elements that could affect traffic movement and safety:

- The installation of c.24 temporary construction compounds accessed off the N70 and local roads via c.8 direct access points.
- Significant construction works for several features (Kells underpass, N70 realignment at Caitlin Beaters, Nimmo's Bridge, gabion baskets at Drung Hill, a boardwalk at Coolnaharragill, and on-road sections).
- The refurbishment and repair of 2 x railway bridges and the Drung tunnels.

- The development of 3 new, and upgrade of 2 existing, car parks.

This phase would result in additional construction related traffic along the local road network (including HGVs transporting material and machinery to and from the compounds, cranes and workers vehicles) which could result in traffic delays, traffic hazards and soiling.

In relation to traffic movement, it is anticipated that the busiest week for both HGV and LGV traffic will be during the third week of the construction programme when the EIAR predicted that HGV and LGV traffic will increase by up to 113 and 350 trips per day respectively. This would equate to a temporary c.15% increase in Average Daily Traffic (ADT) along the N70 during this time, which would also include an almost doubling of HGV traffic between Caherciveen and Glenbeigh. Traffic management would therefore be required, particularly during construction and repair of the larger elements, although it is stated that roads will remain open to traffic with minimal disruption anticipated. I am not entirely convinced that traffic disruption would be minimal given that work would take place in several locations along the N70 at the same time. However, having regard to the temporary short term nature of the construction works, I am satisfied that there would be no long terms effects on traffic movement or safety along the road network.

In relation to the capacity of the N70 and local road network to accommodate additional construction related traffic during the peak construction period, the EIAR refers to TII AADT figures from 2017 when the N70 was operating at c.57% capacity under normal conditions and c.87% during the peak tourist month. This was predicted to rise to 61% in 2019 under normal conditions and c.92% during the peak tourism month (without the works). The construction works would result in an average annual increase in traffic load on the N70 to c.70% of its total capacity throughout the year. Under the worst-case scenario, capacity would be 102% during the peak construction week during the peak tourist month (with the works). It is therefore proposed to avoid a capacity exceedance during this week by means of construction programming and 100% capacity will thus be avoided. Predicted increases along the local

road network are more modest with a predicted overall average increase of c.7% and an HGV increase of c.46% (from 17 to 37).

I am satisfied that the conclusions of the traffic assessments, analysis and predictions are reasonably robust, and that the proposed traffic management measures would be an appropriate response to the predicted temporary increase in traffic levels and hazards along the N70 and local road network during the construction phase, notwithstanding the significant increase in HGV traffic during the peak construction activity week.

### **Operational phase:**

During the operational phase the c.32km long Greenway would interact with c.50 road junctions and private crossings (local roads, car parks, private driveways & agricultural access roads) and c.72 agricultural crossings. Under the original proposal the Greenway users would not have priority at any of these junctions or crossings, however the priority with respect to agricultural crossings was reversed in favour of cyclists during the course of the hearing.

### **Road junctions:**

The c.32km Greenway and 5 car parks would form a junction with c.18 roads between Renard Point and Glenbeigh including the N70 at Goldens at Kells, urban roads at Caherciveen and rural roads at Cloghanelinaghan, Dooneen, Drom West, Drom East, Faha and Curra Wood. Road traffic would have priority at these junctions and cyclists would have to stop.

The applicant's Traffic Impact Assessment (car parks), Caherciveen Movement Management Plan and Road Safety Audits concluded that the N70, local road network and urban roads at Caherciveen and Glenbeigh would continue to operate within their capacities during the operational phase. Road users would have priority at road junctions and cyclists would have to stop. It also concluded that the main Greenway junctions with the N70, local roads and car park entrances would continue to operate within their capacities

during the operational phase. This is with the exception of the River Behy Bridge at Glenbeigh where there would be delays along the R564 which could be managed by an alternating one directional traffic yield system.

Based on my examination of these reports, the predicted level of traffic increase, the additional measures proposed in the Caherciveen Movement Management Plan, the further analysis contained in the Road Safety Audits and my site inspections which took place during winter, spring and early summer, I would concur with these conclusions. I am satisfied that the traffic associated with the Greenway would not give rise to any significant congestion, delays, disruption or hazards along the N70 or any local and urban roads, or at any of the main Greenway junctions with the road network and car parks.

***Private driveways & agricultural access roads:***

The Greenway would cross over c.32 private driveways which have direct access off the road network, including residential driveways and agricultural access roads. The owner/occupant would have the right of way whilst cyclists would have to yield. Chicanes would be installed to slow cyclist's speed on approach to these crossings, and signage and road markings would be put in place. The amended design and position of the chicanes (as per the FI submission), was not reflected at all the private crossings, however this could be addressed by way of a condition to require compliance with Drawing no. 318-380 (Rev A).

General concerns were raised in relation to traffic safety relative to the volume of cyclists that would traverse the private driveway crossover junctions. The owner/occupant would have priority over the Greenway and cyclists would have to yield, the Greenway design (including the layout and position of the chicanes) at the approach to these crossovers would slow cyclist speeds, and I am satisfied that traffic safety would not be an issue. The contents of the FI Road Safety Audit in respect of several junctions is noted.

Several Observers, including members of the Greenway Information Group and Ciaran Quinan, raised specific concerns related to whether gates and/or underpasses should be provided at the intersection of the Greenway with their driveways. The issue of whether gates should be manually or electronically operated was also raised, with respect to the Observer's personal circumstances (including mobility difficulties and caring for vulnerable adults). These concerns mainly relate to CPO accommodation measures which should be addressed directly by the Council with the landowner.

Members of the Greenway Information Group raised concerns in relation to the possibility of animals straying on to the Greenway pavement in the vicinity of the crossover junctions as they may not be gated (unlike the agricultural crossings). The installation of cattle grids on either side of these junctions to work in combination with the chicane gates (c.50:50 chicane & cattle grid) would serve to deter farm animals from straying along the pavement. It is noted that during the oral hearing the applicant indicated a preference not to provide cattle grids. However, having cycled along a rural section the Great Western Greenway (Newport to Mulranny) where a similar arrangement exists, I am satisfied that this combination of chicane gates and cattle grids at these junctions would resolve this matter. This concern could be addressed by way of a planning condition.

Specific traffic safety concerns were raised by members of the Greenway Information Group (Mr Walsh, Mr O'Donnell & Ms O'Neill, Mrs Mahony and Mr Moriarty) about the relationship of the Greenway to their private driveways and agricultural access roads in relation to the presence of steep gradients or steep gradients combined with sharp bends close to the crossover junction. As previously stated, the owner/occupant would have priority over the Greenway and cyclists would have to yield so that private cars and farm vehicles would have the right of way. Notwithstanding this arrangement, the Greenway would traverse several driveways/agricultural access roads where the gradient and/or bend relative to the crossover remains a concern.

**Junction 24:** This junction is located at the intersection of the Greenway with an access road off the N70 at Lisbane (Chainage c.12,940) which serves several fields and farm buildings on the N side of the former railway track. The Greenway would be located to the S of the embankment. The Greenway crossover junction would be located to the N of a steep gradient and bend in the access road. Mr Walsh raised safety concerns in relation to the difficulties that farm vehicles might encounter when negotiating this arrangement. Based on my site inspection, I would concur that the gradient is particularly steep, and the bend is sharp at this location. The width of the Greenway at this crossover junction should be reduced to 2m and cyclists should be required to dismount, with appropriate signage and road markings. This concern could be addressed by way of a planning condition.

**Junction 25a:** This junction is located at the intersection of the Greenway with an access road off the N70 at Lisbane (Chainage c.13,550) which serves a dwelling house, fields and farm buildings on the N side of the former railway track. The driveway/agricultural access road is not particularly steep at this location. However, the driveway was previously crossed by a railway bridge and there is a sharp change in level between the embankment (or site of the embankment) to the E and W of the driveway. Mr O'Donnell and Ms O'Neill raised safety concerns as cyclists could approach this crossover junction at speed, notwithstanding the chicanes and signage. Based on my site inspection, I would concur that the Greenway gradient would be steep at this location. The width of the Greenway at this crossover junction should be reduced to 2m and cyclists should be required to dismount, with appropriate signage and road markings. This concern could be addressed by way of a planning condition.

**Junction 30:** This junction is located at the intersection of the Greenway with an access road off the N70 to the E of Kells station at Boulerdah (Chainage c.15,800) which serves several fields and farm buildings on the S side of the former railway track. The Greenway would be located to the N of the former railway track. Mrs Mahony raised concerns in relation to road safety having regard to the combined steep gradient and sharp bend relative to the



Greenway crossover junction, and with respect to the difficulties that farm vehicles might encounter when negotiating this arrangement. Based on my site inspection and examination of the submitted plans and aerial imagery, I would concur that the Greenway gradient would be particularly steep at this location. It is noted that the applicant has already proposed to reduce the width of the Greenway at this crossover junction to 2m and that cyclist will be required to dismount. This could be reaffirmed by way of a planning condition.

**Junction: 43:** This junction is located at the intersection of the Greenway with an access road off the N70 at Drom West (Chainage c. 27,840) which serves a dwelling house, fields and farm buildings on the N side of the former railway track. The Greenway would be located to the N of the embankment. Mr Moriarty raised concerns in relation to road safety having regard to the steep gradient along the access road relative to the Greenway crossover junction. Based on my site inspection, I would concur that the gradient is particularly steep at this location. The width of the Greenway at this crossover junction should be reduced to 2m and cyclists should be required to dismount. Appropriate signage and road markings should be provided. This concern could be addressed by way of a planning condition.

***Agricultural crossings:***

The agricultural crossings have been assessed in section 8.3.5 above.

**Other sections:**

***Caherciveen West:*** This section would run parallel to a private road (Chainage c.3,850 - c.3,975) and Mr Walsh has raised concerns in relation to trespass on to this road during the construction and operational phases. The Greenway route would be fenced off during the construction phase so construction vehicles would not have access to it. A low wall should be provided wall along the boundary between the Greenway and the private road so that the physical separation is evident. This could be addressed by way of a planning condition.

**Caherciveen town:** This section would run utilise the urban road network along Quay Street and Marina Road between the O'Connell Heritage Centre (old Barracks) and Caherciveen Marina. This section would be directly connected to the town centre via 3 streets. The Further Information submission proposed amendments along the route to provide for a safer environment for cyclists and pedestrians at junctions and along the road (localised road widening, footpaths, traffic calming measures, road markings and signage). These measures are acceptable, and this section would not give rise to a traffic hazard or endanger the safety of other road users.

**Kells underpass:** The Greenway would cross the N70 at Gortnagree to the W of Kells Station by way of an underpass which is an acceptable arrangement in terms of operational traffic safety. However, Mr O'Shea raised concerns during the oral hearing in relation to the scale of works required on either side of the N70 during the construction phase, the impact such works would have on his farming practices, and the difficulties it would pose for him when crossing farm animals from one side of the road to the other. These concerns are noted and they could be addressed by way of the Construction and Environmental Management and Traffic Management plans.

**Kells station:** This section would run off-line and parallel to the N70 in the vicinity of Kells Station and a neighbouring house (Chainage c.15,350 – c.15,475) before re-joining the railway embankment to the E. Re-routing along the N70 was required because a house was constructed on the site of the embankment and the lands to the S are characterised by a sensitive Lowland blanket bog habitat. Adequate and permanently maintained boundary fencing would be put in place to ensure the safety of Greenway users, and the speed limit should be significantly reduced on the approach to Kells Station. This concern could be addressed by way of a planning condition.

**Caitlin Beaters public house:** This complicated section would run off-line and parallel to the N70 in the vicinity of Caitlin Beaters public house (Chainage c.21,000 – c.21,225) before re-joining the railway embankment further to the E. Re-routing along the N70 was required because several

houses have been constructed along or in the vicinity of the embankment and the lands to the S are steeply sloping. The N70 would be realigned to provide additional space for the road and the Greenway. The Greenway gradients to the W and E of Caitlin Beaters from the embankment to the N70 are extremely steep over a short distance, and cyclists would have to dismount for the full extent of this section. Given that the public house would provide for a natural break in the journey and with the added attraction of a public viewing area on the opposite side of the road, which affords stunning panoramic views of the coast, I am satisfied that this arrangement would be acceptable. Adequate and permanently maintained boundary fencing would be put in place to ensure the safety of Greenway users. The contents of the Road Safety Audit with respect to junctions in the vicinity are noted. However, the speed limit should be significantly reduced to the E and W of Caitlin Beaters along the N70 to slow traffic travelling from Kells (and Caherciveen) and Gleensk (and Glenbeigh). This concern could be addressed by way of a planning condition.

#### **Survey work:**

The concerns raised by Mr Fahy in his written and oral submissions are noted in relation to the quality of the applicant's survey data and the methodologies used to describe the receiving environment and predict future impacts on the road network, junctions and safety. However, I am satisfied that the applicant's surveys and assessments were carried out broadly in accordance with relevant guidelines and that their conclusions are robust.

#### **8.5.6 Conclusion**

Having regard to the foregoing, I am satisfied that the N70 and the local road network has adequate capacity to accommodate traffic generated during the construction and operational phases of the Greenway, and that the proposed development, including the car parks, would not give rise to a traffic hazard or endanger the safety of other road users during either of these phases. On balance, I am also satisfied the proposed development would not have an adverse effect on any private residential driveways or agricultural access

roads in terms of road safety, subject to the full implementation of mitigation measures and compliance with the recommended planning conditions.

## **8.6 Infrastructure - slope stability (EIA - Land, Soil & Water)**

### **8.6.1 Project description**

The proposed development would comprise the excavation and construction work associated with the c.32km long and c.5m wide Greenway. The project would mainly comprise a 3m wide asphalt pavement bound by two 1m wide grass verges with associated fencing and drainage, along with revetment works in the N section parallel to the N70 where the former railway embankment was previously incorporated into the road realignment.

### **8.6.2 Locational context**

As previously stated, the c.32km long Greenway would occupy an attractive scenic location within the N section of the Iveragh Peninsula between Renard Point and Glenbeigh. The N section would mainly run along the former railway track where it would navigate a steeply sloping mountainous section between Gortiforia, Gleensk and Kilkeehagh, where there is a history of minor landslides and slippages in the surrounding area.

### **8.6.3 Applicant's submission**

Section 12 of the EIAR dealt with soils, geology and hydrogeology, several desktop studies, field surveys and site suitability tests were undertaken and the ground conditions along the Greenway route and hydrogeology of the surrounding area were described. Section 12.3 of the EIAR described the existing environment and section 12.3.8 of the EIAR referred to a series of minor landslide incidents (GSi records) within 500m of the proposed Greenway. These incidents occurred in peat, shallow bedrock or shallow Glacial Tills within a steeply sloping area between Kilkeehagh and Mountain Stage (100m AOD to 300m AOD). Section 12.4.2.1 stated that peat depths and current in-situ peat stability conditions would be investigated prior to construction works, and it identified potential adverse impacts in respect of

slope stability in such areas. It concluded that a Peat Stability Risk Assessment Report (PRSA) would be undertaken during the construction phase. Given that a PRSA is used to assess stability, identify risk and form the basis of mitigation measures, the applicant was requested to submit a PRSA report by way of Further Information in relation to the N section of the Greenway. This report subsequently formed part of the EIAR. The FI request and subsequent response report are summarised in sections 5.1 and 5.2 above and the PSRA Report is summarised in more detail below.

***Peat Stability Risk Assessment Report:*** carried out a qualitative assessment and quantitative analysis to describe past landslide events, the baseline environment and any potential risks or impacts on the Greenway infrastructure.

***Qualitative assessment:*** this assessment identified areas that are susceptible to minor landslides using desk top studies, the GSi Landslide susceptibility mapping tool, and walkover and photographic surveys. The ground investigations included peat probes that revealed narrow depths (0.05m to 0.4m) and shear values (5kPa to 56Pk) which were used in combination with slope angle to calculate the Factor of Safety, which concluded that a propagating failure in peat is highly unlikely.

***Quantitative analysis:*** a semi-quantitative analysis was initially used to calculate peat stability and predict future landslide risk, and the Peatslide Hazard Rating System assessed several interacting hazards (including rainfall & climate, substrata, presence of water on the slope, peat characteristics, slope angle, drainage, & geomorphology and site history). The PRSA concluded that 4 sites (Kilkeehagh E & W Gleensk and Gortiforia) are within the low to low moderate priority range and that some mitigation works may be required. The Risk Determination assessed potential risks to Greenway infrastructure and users. In relation to Greenway infrastructure, it concluded that there was a Probable risk of landslide run-out reaching the Greenway but that the Adverse Consequences would be Very Low and that the overall risk would be Negligible, and that the project should proceed with monitoring and mitigation. In relation to Greenway users, it concluded that the Adverse

Consequences for users would be Moderate to High but also Unlikely (in view of the minor scale and nature of landslides to date which occurred during heavy rainfall) and that the overall risk to users would be Low.

Two areas adjacent to the infrastructure in the N section at Gortiforia and Gleensk/Kilkeehagh were identified as being highly susceptible to minor landslides, with shallow soil cover and steep gradients. The Risk Assessment concluded that there is a Negligible Level of Risk to the infrastructure and a Low Level of Risk of injury to users. No mitigation measures were proposed for the infrastructure which is considered robust. However, catch fences with access gates were proposed to protect users along the following sections:

- Kilkeehagh: 1.4m high concrete post & chain-link fence (c.550m)
- East Gleensk: 1.4m high concrete post & chain-link fence (c.700m)
- West Gleensk: 1.8m high steel post & welded wire fence (c.100m) & 1.4m high concrete post & chain-link fence (c.670m)
- Gortiforia: 1.4m high chain-link fence parallel to stone wall (c.1,650m)

The **Report concluded:** that the study area will continue to be susceptible to minor run-out events, the impact of which can be mitigated by using catch fences to prevent injury to users in the unlikely event that that they are directly in the path of such an event.

At the **Oral hearing** the applicant responded to concerns raised by the Inspector in relation to slope stability during construction works and animal migration by Dr Flynn in relation to the catch fences. The applicant confirmed that slope integrity would not be affected by the works and that the fences would not prohibit mobility. The Greenway Information queried the prevalence of past landslide events in the area but did not provide any evidence in relation to frequency, cause or effects.

#### **8.6.4 Policy context**

In relation to the County Kerry Development Plan and West Iveragh Local Area Plan, any relevant policies & objectives are set out in section 3.3 above.

### 8.6.5 Planning assessment

As previously stated, I surveyed the Greenway route and surrounding area over three 4-day periods in late 2018 and early to mid-2019. I had regard to section 12 of the applicant's EIAR and the Peat Stability Risk Assessment Report, and submissions to the oral hearing which are summarised in section 8.6.3 above, and the oral concerns raised by the Observers which are summarised in section 7.0 and Appendix 2 (including the Greenway Information Group) who raised concerns in relation to the frequency and intensity of past landslides, the under-recording of past events and resultant impacts). I also had regard to national, regional and local planning policies.

The proposed c.32km Greenway would traverse a variety of landscape types with varying underlying geological conditions and changing site levels. The N section would be located within a steeply sloping mountainous area where the site levels range from 100m OD to 300m OD. This section would mainly run along the former railway track parallel to the N70 and there is a history of minor landslides and slippages in the surrounding area.

The applicant carried out a series of qualitative and quantitative assessments including a Peat Stability Risk Assessment. The report identified 4 sections of the route at Gortiforia, West Gleensk, East Gleensk and Kilkeehagh where there would be a low risk slippage (dependent on weather conditions) to the Greenway infrastructure and users. It proposed the installation of metal catch fences along these sections to stop run-out reaching the pavement or causing injury to users, in the unlikely event that users would be present during the adverse weather conditions which could give rise to slippage.

I am satisfied that the conclusions of the qualitative assessments and quantitative analysis are robust, and that the proposed mitigation measures in the shape of catch fences would be an appropriate response to the predicted level of risk to the infrastructure and users.



### **8.6.6 Conclusion**

Having regard to the forgoing, I am satisfied that the proposed development would not have an adverse impact on slope stability during the construction phase and that run-out from any future landslides or slippages in the surrounding area would not affect the Greenway infrastructure or users, subject to the installation of the catch fences.

## **8.7 Infrastructure - coastal processes (*EIA - Land, Soil & Water*)**

### **8.7.1 Project description**

The proposed development would comprise the excavation and construction work associated with the c.32km long and c.5m wide Greenway. The project would mainly comprise a 3m wide asphalt pavement bound by two 1m wide grass verges with associated fencing and drainage, and coastal revetment works in the SW section at Valentia Estuary.

### **8.7.2 Locational context**

As previously stated, the c.32km long Greenway would occupy an attractive scenic location within the N section of the Iveragh Peninsula between Renard Point and Glenbeigh. The SW section would extend along the S and N sides of Valentia Estuary from Renard Point (SW) to Cloghanelinaghan (NE). The W section of Valentia Estuary forms part of the Valentia Harbour and Portmagee SAC whilst the entire estuary forms part of the Valentia River Estuary pNHA.

The SW section would mainly run along the former railway track and parallel to the estuarine shoreline, except where it would skirt around several houses that have been built on or close to the track. The NE section would initially run along the former railway track after crossing the refurbished railway bridge at Caherciveen, and then along the S section of several agricultural fields that adjoin the estuarine shoreline at Cloghanelinaghan.

There is evidence of coastal/estuarine erosion along both the SW and SE sections of the Valentia Estuary shoreline. Several landowners have installed rock armour along the shore close to their houses and farmland, and sections of the original railway coastal protection walls along the estuary have been affected by erosion.

### 8.7.3 Applicant's submission

The Council's application and EIAR did not originally deal with coastal/estuarine erosion. The applicant was requested to submit a Coastal Erosion Risk Assessment Report by way of Further Information in relation to the section of the Greenway that runs close to Valencia Estuary. This report subsequently formed part of the EIAR. The FI request and subsequent response report are summarised in sections 5.1 and 5.2 above and the Coastal Erosion Risk Assessment Report is summarised in more detail below.

***The Coastal Erosion Risk Assessment Report*** undertook a walkover survey and carried out a qualitative analysis to calculate past rates of coastal erosion so as to predict future erosion rates and to identify any potential impacts on the Greenway infrastructure.

***The Stage 1*** assessment methodology comprised a desk study which included an analysis of wave height relative to wind conditions and local geography, a comparison of Irish Air Corps aerial imagery from the 1940/50s with recent imagery to calculate erosion rates for the intervening period, and a site walkover with photographic survey. The desk study review concluded that as the zone is tidal and the study area is above high water mark, extreme events in terms of erosion will be constrained to storms from specific wind directions at high tide. The walkover survey confirmed that a risk assessment was required for the sections where coastal erosion was observed.

***The Stage 2*** risk assessment at three sections examined wave height, existing erosion, aerial photography, climate change impact and the susceptibility of Greenway infrastructure to erosion.

***Cloghanelinaghan:*** this site is sheltered from ocean wave action and the area is depth limited with a maximum fetch of 2km for obliquely striking wave action and 900m for tangential wave action. For an average depth of 1.5m and a 10 minute wind speed of 30m/s (violent storm) the maximum wave heights are 0.69m (oblique) and 0.56m (tangential). The site walkover and aerial imagery comparison did not provide any evidence of significant erosion. The predicted impacts of climate change (rising sea levels & more frequent extreme weather

events) on erosion will be long term and not significant over the lifetime of the project given the sheltered location. The main risk will be from singular storm events in combination with high spring tides and the predicted impact on the 3m wide pavement would be nominal. The report recommended the installation of a re-enforced linear road edge berm along this section.

Renard Inner & Renard Point: these sites are sheltered from ocean wave action and the area is depth limited with a maximum fetch of 5km for obliquely striking wave action. At Renard Inner there is a maximum fetch of 1,200m for tangential wave action, and for an average depth of 2.5m during a violent storm the maximum wave height is 1.03m (oblique) and 0.71m (tangential). At Renard Point there is a maximum fetch of 2,500m for tangential wave action, and for violent storm conditions, the maximum wave height is 0.89m (oblique) with no figure for tangential waves. The walkover and aerial imagery comparison provided evidence of significant erosion in 6 sections (A-F), particularly at Renard A (Valentia Observatory) and Renard B & C where the lands have receded by c.5-8m over c.50 years, and the erosion rate was calculated as c.0.083m/year. There are also pockets of erosion along the remaining sections at Renard D, E & F. The predicted impacts of climate change on erosion will lead to an increased rate of erosion in the long term, and the main risks will be from singular storm events from a N/NW direction in-combination with high spring tides.

Based on this analysis, the report recommended the installation of the following measures to protect the infrastructure from the impacts of erosion, which would reduce the risk range from Nominal/Significant to Nominal/ Low:

- Renard A: re-instate embankment & new timber revetment (c.205m)
- Renard B: adequate setback (c.30m) & no works required
- Renard C: re-enforced linear road edge berm (c.450m)
- Renard D: repair & extend existing rock armour revetment (c.70m)
- Renard E: re-enforced linear road edge berm (c.320m)
- Renard F: extend existing rock armour revetment by c.10m

The **Report concluded:** that the risk from erosion to several segments of proposed infrastructure varied from Low at Cloghanelinaghan (NE) to Significant at Renard Point (SW), but that the risks would diminish to Low/Negligible following the installation of protection measures. It also noted that some of the original 1890's railway infrastructure along the SW section remained in situ and relatively undamaged by coastal erosion.

At the **Oral hearing**, in response to concerns raised by the Inspector, the applicant submitted a table which set out the separation distances between the proposed infrastructure and the shoreline, drawings and photographs that described the extent of erosion and undercutting at the Cloghanelinaghan section, along with a proposal to fill the gaps.

#### **8.7.4 Policy context**

In relation to the County Kerry Development Plan and West Iveragh Local Area Plan, the relevant policies & objectives are set out in section 3.3 above. The Development Plan contains several coastal protection policies and objectives that are relevant to developments proposed in the Coastal Development Zone. In particular Obj.NE-57 seeks to prohibit development that could not be adequately safeguarded over the lifetime of the development without the construction of coastal defences; Obj.NE-58 seeks to prohibit development in areas where the natural erosion process is likely to threaten the viability of such development; and Obj.NE-59 seeks to prohibit development where the impact on protected / designated landscapes, species populations, habitats or amenity areas would be significantly adverse.

#### **8.7.5 Planning assessment**

As previously stated, I surveyed the Greenway route and surrounding area over three 4-day periods in late 2018 and early to mid-2019. I had regard to the applicant's Coastal Erosion Risk Assessment Report and submissions to the oral hearing which are summarised in section 8.7.3 above, and the written and oral concerns raised by the Observers which are summarised in sections 4.0 and 7.0 above and Appendices 2 and 3 (including the Greenway Information Group, Mr Quinlan and Mr Sweetman) who raised concerns in

relation to proximity to the shoreline, erosion, the High Water Mark, Foreshore Licences, and the impact of construction works on the shoreline). I also had regard to national, regional and local planning policies.

It is noted that estuarine shorelines are dynamic systems that experience erosion by both short-term processes such as tidal currents, bi-directional tidal flows, storms and wind and boat wakes, as well as long-term processes like sea level rise, and are therefore subject to continual loss of land. The local variables that determine the degree of shoreline recession include shoreline type, geographic location, size and shape of estuary, vegetation composition, wave height, storm fetch and the pattern of storm intensity. Estuarine shoreline change can be calculated by a variety of methods. Most methodologies rely on both qualitative and quantitative assessments of the local variables in-combination with a comparison of aerial imagery. More sophisticated methods of assessment to analyse shoreline change include endpoint rate (EPR), an automated transect-based approach and the more recently devised point-based approach. It is noted that the point-based approach, which can be used to assess the entire estuary, includes shoreline composition (elevation & vegetation) in the analysis which can also affect erosion rates in certain locations, in addition to wave energy (fetch and wave exposure).

The applicant's Coastal Erosion Risk Assessment Report carried out a qualitative as opposed to a quantitative analysis to predict a future erosion rate and potential impacts on the Greenway infrastructure. The report assessed prevailing geographic conditions, calculated wave action strikes relative to wind speed and direction, compared aerial imagery and conducted a walkover survey. Several segments of Greenway infrastructure were identified as being at risk of coastal/estuarine erosion and the degree of severity ranged from Low at Cloghanelinaghan (NE) to Significant at Renard Point (SW). The report proposed several erosion protection measures in these areas (including walls, berms and rock armour) which it concluded would reduce the erosion risk to the Greenway infrastructure to Low or Negligible.

I have several concerns in relation to the applicant's assessment methodology and resultant conclusions with respect to the Greenway infrastructure, particularly given that the applicant's report sought to assess the potential impacts of coastal/estuarine erosion on proposed new infrastructure, as opposed to existing long established infrastructure, which is usually the case when coastal protection works are proposed. It is noted that Objective NE-57 of the Development Plan seeks to prohibit development in the coastal zone where such development could not be adequately safeguarded over the lifetime of the development without the construction of coastal defences, and Objective NE-58 seeks to prohibit development in areas where the natural erosion process is likely to threaten the viability of such development.

The Board may also recall approving several local authority proposals to construct coastal protection measures along coasts and within estuaries which sought to protect existing infrastructure in areas that were experiencing the effects of erosion. This includes measures to protect two stretches of the R736 adjacent to the E side of Bannow Bay in County Wexford, where a similar scale of coastal/estuarine erosion was undercutting the adjoining road (PL.JP0034). The Board should be entirely satisfied that the introduction of new infrastructure adjacent to an eroding estuarine shoreline will be durable and sustainable in the long term, and that the proposed Greenway would not be undermined or adversely affected by the natural processes of erosion in Valentia Estuary or any other coastal processes.

The applicant's report is qualitative as opposed to quantitative and as such does not provide a comprehensive overview of shoreline dynamics in the estuary. The wave action predictions are localised, the effects of bi-directional currents, estuarine tidal flows and the interaction of wave action with currents has not been analysed. There are few site specific calculations of past rates of erosion on which to extrapolate future rates of shoreline recession. The comparison of aerial imagery over c.50 years does not take account of the significant undercutting of shoreline embankment that has taken place in several locations which has not yet resulted in collapse and is therefore not visible from an aerial viewpoint (photographs in the attached wallet describe

this in more detail). The report relies on the continued presence of segments of the original railway coastal revetment works to extrapolate that these areas will not be affected by erosion in the future. Furthermore, it does not analyse the potential consequential effects of the site specific introduction of hard coastal revetment works on other unprotected sections of the estuary which could become vulnerable to erosion in the future, nor the in-combination effects of the existing and proposed works of the shoreline.

### **Valentia Estuary (SW):**

Based on my assessment of the **SW section** of the estuary, I would concur with the conclusions of the applicant's walkover survey in relation to the presence of significant areas of erosion along the shoreline between Renard Point and Valentia Observatory (Chainage c.50 to c.2825). The Greenway route would utilise sections of the former railway embankment, divert to the N of the embankment to avoid severing an agricultural field and skirt around the landward side of several existing houses that have been built on or close to the embankment. These houses are already protected by localised coastal revetment works (walls and rock armour) and given that the Greenway would be located on the landward side of the houses, the proposed infrastructure would not be affected by erosion at these locations. The remaining unprotected areas run parallel to the shoreline and they have been identified as Renard A to F in the Coastal Erosion report. Protection measures have been proposed for all but one of these sections at Renard B (Chainage c.2400 to c.2610) where there would be a c.30m setback from the shoreline. The combined existing and proposed revetment measures would give rise to an almost continuous hard revetment along most of the shoreline from Renard Point to Valentia Observatory (except for Renard B) and along the boundary with the Valentia Harbour and Portmagee Channel SAC and Valentia River Estuary pNHA.

### **Renard F (Chainage c.50 to c.400):**

This section of the Greenway at Renard Point would run along the former railway embankment and parallel to the estuarine shoreline which is already protected by a revetment wall to the E. There is evidence of significant



erosion in places where the lands have been eroded up to the site of the proposed infrastructure. Although the environmental impacts of the Greenway were assessed relative to the Valentia Harbour and Portmagee Channel SAC, the proximity of the infrastructure to a naturally eroding shoreline was not analysed. This issue was subsequently addressed in the FI response and the applicant proposes to extend the existing revetment wall westwards to fill some large gaps and to incorporate an existing drainage outfall. Having regard to the location of the proposed Greenway along the original railway embankment, I am satisfied that the proposed arrangements are acceptable at this specific location.

***Renard E (Chainage c.1,150 to c.1,375):***

This section of the Greenway to the E of White Horse Point would deviate off the railway embankment to run immediately parallel to the estuarine shoreline where there are signs of significant erosion in places. The landowner requested this deviation and the qualitative assessment of route selection options (EIAR section 5 & Appendix 5.2) compared several variables (including environment, amenity, standards, safety & re-connectivity). Although the environmental impacts of the deviation were assessed relative to the Valentia Harbour and Portmagee Channel SAC and Valentia River Estuary pNHA, the proximity of the infrastructure to a naturally eroding shoreline was not analysed. This issue was subsequently addressed in the FI response and the applicant proposes to construct a re-enforced linear road edge berm to provide additional protection for the infrastructure. It is noted that the N edge of the c.5m wide Greenway (c.3m wide pavement & verges) would be located close to the boundary with the shoreline, and that the degree of erosion and undercutting observed during my site inspections is considered to be significant in places.

Furthermore, the works required to install the protection measures at this location, which would comprise the construction of re-enforced linear road edge berm down to the rock head which would be filled with concrete, over c.350m, could cause a further collapse of shoreline embankment. This section

of the Greenway should be omitted pending further investigations and the consideration of a realignment to provide an enlarged buffer with the shoreline.

***Renard D (Chainage c.1,375 to c.1,600):***

This section of the Greenway runs to the E of Renard E, along the railway embankment and immediately parallel to the estuarine shoreline and the boundary with Valentia Harbour and Portmagee Channel SAC and Valentia River Estuary pNHA. There is an existing long established revetment wall with evidence of significant erosion in the vicinity of a drainage outfall to the E where the wall has failed. As previously stated, this erosion issue was addressed in the FI response and the applicant proposes to extend the existing revetment wall to fill a large gap around the drainage outfall. Having regard to the longevity of the existing revetment wall at this location, which dates from the c.1890s, I am satisfied that the proposed arrangements are acceptable at this specific location.

***Renard C (Chainage c.1,600 to c.2,050):***

This section of the Greenway runs to the E of Renard C and to the W of Hell boy house, along the railway embankment and parallel to the estuarine shoreline and boundary with Valentia Harbour and Portmagee Channel SAC and Valentia River Estuary pNHA. The railway embankment is set back c.10m from the shoreline boundary. There is an existing long-established low revetment wall with evidence of significant erosion where sections of the wall have either failed or been removed, and the shoreline has receded by up to c.5m in places. As previously stated, this erosion issue was addressed in the FI response and the applicant proposes to construct a re-enforced linear road edge berm (c.450m) berm to provide additional protection for the infrastructure. Having regard to the 10m set back from the shoreline and the durability of the remaining sections of the original revetment wall, I am satisfied that the arrangements are acceptable at this specific location.

***Renard B (Chainage c.2,400 to c.2,650):***

This section of the Greenway runs to the E of Hell boy house, along the railway embankment and parallel to the estuarine shoreline and boundary with Valentia River Estuary pNHA. The railway embankment is set back c.30m from the shoreline boundary and there is evidence of significant erosion in places. Section 6.0 of the Coastal Erosion report calculated the annual rate of erosion at Renard B as c.0.83m which equates to c.5m over 60 years. Based on my assessment of the site and surroundings, the rate of erosion has been underestimated as the report does not take account of the substantial embankment undercutting of up to c.3m in places, which is not visible from aerial imagery. However, having regard to the c.30m separation distance between the shoreline and the proposed infrastructure, I am satisfied that no additional protection works are required at this specific location.

***Renard A (Chainage c.2,650 to c.2,800):***

This section of the Greenway runs to the E of Renard B to the W of Valentia Observatory, along the sections of the former railway embankment that still remain, and parallel to the estuarine shoreline and boundary with Valentia River Estuary pNHA. There is evidence of significant erosion along this section of the estuary and in the vicinity of a drainage outfall, and some sections of the original timber revetment wall have been eroded. Under the original proposal (prior to the FI request) the applicant proposed to re-instate the entire c.200m long embankment and replace the timber revetments. Having regard to the relative durability the original revetment at this location, I am satisfied that the arrangements are acceptable at this specific location.

***Valentia Observatory to Mannix Point:***

The Greenway would traverse the N section of the Observatory site (Chainage c.2,825) towards Mannix Point, run in-between the campsite and two houses (Chainage c.3,175) and cross a reed swamp via the railway embankment (Chainage c.3,300), where the separation from the shoreline would increase substantially, and there are no erosion issues.

***Mannix Point to Caherciveen water treatment plant:***

This section of Greenway would deviate off the former railway embankment to run immediately parallel to the estuary and along a field boundary with a Salt marsh habitat, an area covered by Spring Tides and the Valentia River Estuary pNHA (Chainage c.3,300 to c.3,625). The agricultural lands rise up gently from W to E towards the water treatment plant relative to the shoreline, however the lower lying W portion of the field is separated from the estuary by a row of low revetment rocks and there is evidence of mild erosion and coastal inundation in this area (Chainage c.3,350 to 3,400).

The landowner requested this deviation and the railway embankment is located c.80m to the S. The Council's qualitative assessment of route selection options (EIAR section 5 & Appendix 5.2) considered the environmental impacts of the deviation relative to the Valentia River Estuary pNHA. However, the proximity of the Greenway to an area covered by Spring Tides and the potential effects of Climate Change and rising sea levels along with any resultant impacts on the proposed infrastructure were not analysed.

Although the applicant submitted further details to the oral hearing in relation to the set back from the estuary, there has been no detailed analysis of the potential impacts of coastal processes on the proposed infrastructure at this location (including rising sea levels, storm surges and the frequency of increasingly violent storms in the SW region). This section of the Greenway should be omitted pending further investigations and the consideration of a realignment of the route to provide a more substantial buffer with the estuary, particularly in relation to the lower lying W segment.

***Valentia Estuary (SW) Conclusion:***

Having regard to the foregoing, I am satisfied that most of the proposed infrastructure along the SW side of Valentia Estuary would have a long term durability, subject to the construction of the site specific revetment works, and that it would not be compromised by the effects of coastal processes including estuarine erosion. However, this is with the exception of Renard E and the

lands in-between Mannix Point to Caherciveen water treatment plant where an enlarged buffer with the shoreline should be provided. As previously stated, the proposed coastal protection works, when taken in combination with the existing incremental revetment works, would give rise to an almost continuous linear wall along the S side of Valentia Estuary, and the potential effects on estuarine dynamics, biodiversity and other unprotected sections of the estuary have not being addressed.

### **Valentia Estuary (NE):**

Based on my assessment of the **NE section** of the estuary (Chainage c.5,375 to c.7,100), I would not concur with the conclusions of the applicant's walkover survey in relation to estuarine erosion at Cloghanelinaghan. I observed the effects of erosion to be more severe than recorded in the Coastal Erosion report, but not as dramatic as in the SW section given its more sheltered location. The Greenway route would utilise sections of the former railway embankment after crossing the refurbished Caherciveen Railway Bridge, divert to the S of the embankment to avoid severing agricultural fields, and then run parallel to field boundaries with the estuary and the Valentia River Estuary pNHA.

### **Cloghanelinaghan West:**

The Greenway would follow the line for the former railway embankment in a SW to NE direction (Chainage c.5,375 to c. 5,975) and it would be set back a significant distance from the shoreline for most of its length. There was no evidence of erosion at this location or that it be adversely affected by coastal processes. I am satisfied that no additional protection works are required.

### **Cloghanelinaghan East:**

The Greenway would divert off the line of the former railway embankment (Chainage c.5,975 to c.7,100) to run along the S boundaries of several agricultural fields with the shoreline and Valentia River Estuary pNHA.

The field embankment along this section of the estuary has been significantly undercut by the interaction of waves, tidal flows and currents. The field fencing mainly defines the boundary with the estuary, several sections of the embankment have either collapsed or are in eminent danger of collapse, and there are hedgerow trees on the shoreline. I do not accept the applicant's contention that the observed undercutting is related to the presence of field drains in the surrounding area.

The landowners requested a deviation off the former railway embankment at this location, the Greenway would be located to the S of the embankment and parallel to the shoreline over a distance of c.1km (Chainage c. 6,050 to c.7,100). As for the previous SW section, the Council's qualitative assessment of route selection options (EIAR section 5 & Appendix 5.2) compared several variables. Although the EIAR assessed the environmental impacts of the deviation relative to the Valencia River Estuary pNHA, the proximity to a naturally eroding shoreline was not analysed. This issue was subsequently addressed in the FI response and at the oral hearing.

The S edge of the c.5m wide Greenway (c.3m wide pavement & verges) would be located close to the field boundary with the shoreline and the degree of undercutting recorded during my site inspections is up to c.2.5m in places. Furthermore, the works required to install the protection measures at this location, which would comprise the construction of re-enforced linear road edge berm mainly underground over c.650m, could cause the embankment to collapse on to the shoreline. This section of the Greenway should be omitted pending further investigations and the consideration of a realignment to provide for an enlarged buffer with the shoreline.

***Valentia Estuary (NE) Conclusion:***

Having regard to the foregoing I am not satisfied that the proposed infrastructure along the NE side of Valentia Estuary would have a long term durability, notwithstanding the construction of the site specific revetment works, and that it would be compromised by the natural processes of

shoreline erosion in the estuary. The proposed infrastructure should be set back from the shoreline boundary and a substantial buffer should be provided.

**Other concerns:**

The concerns raised by the Observers in relation to the relationship of the Greenway to the Historic High Water Mark, the need for a Foreshore Licence, and possible impacts of construction works on the shoreline are noted. The works would be located on the landward side of the Historic High Water Mark and a Foreshore Licence is not required. The applicant confirmed that the shoreline would be kept free of machinery and materials during the construction phase.

**8.7.6 Conclusion**

Having regard to the foregoing, I am not satisfied that the dynamics of coastal processes and estuarine erosion in the Valentia Estuary have been adequately addressed, and that the measures proposed to manage erosion are sufficiently robust so as to protect the entirety of the Greenway infrastructure into the future at a number of specific locations. In coming to this conclusion, I have also had regard to the anticipated effects of climate change, including rising sea levels, storm surges and the frequency of increasingly violent storms in the SW region.

I am also not satisfied that the potential in-combination effects of the existing and proposed revetment works along the S side of Valentia Estuary on estuarine dynamics, biodiversity and designated sites have been adequately addressed. Furthermore, I am not satisfied that the potential consequential impacts of the site specific introduction of hard revetments on other unprotected soft sections of the estuary shoreline have been adequately addressed, in terms their future vulnerability to erosion.

Although the principle of providing the SW section of the Greenway adjacent to Valentia Estuary is acceptable, both sections (SW and NE) of the Greenway adjacent to the estuary should be omitted pending a detailed

quantitative analysis of estuarine dynamics and the consideration of a future realignment of certain sections further back from the shoreline. This is with the exception of the urban area at Caherciveen.

In the event that the Board do not concur with this recommendation to omit the Valentia Estuary section of the Greenway in its entirety, then it may wish to consider the omission of three specific sections of the Greenway infrastructure as outlined above, pending further investigations, the consideration of site specific realignments and the provision of a more substantial buffer with the shoreline. Because of the complex pattern of land ownership and the constraints imposed by the CPO, it would not be possible to address these concerns by planning conditions. These areas comprise:

- (a) East of White Horse Point at Renard E (Chainage c.1,150 to c.1,375),
- (b) Between Mannix Point and Caherciveen WWTP (Chainage c.3,300 to c.3,625), and
- (c) Cloghanelinaghan East (Chainage c.5,975 to c.7,100).

Finally, the Board should note that the sections of the proposed development that would be affected by these recommendations relate only to a small proportion (c.10%) of the overall c.32km long Greenway.



## **8.8 Ecology and biodiversity (EIA - Biodiversity & AA)**

### **8.8.1 Project description**

The proposed development would comprise the excavation and construction work (including some localised rock breaking) associated with the c.32km long and c.5m wide Greenway. The project would mainly comprise a 3m wide asphalt pavement bound by two 1m wide grass verges with associated fencing, drainage, river crossings, boardwalks and coastal revetments. It would also comprise the construction of gabion walls over which sections of the Greenway would run.

### **8.8.2 Locational context**

The Greenway would occupy an attractive scenic location along the N section of the Iveragh Peninsula. The c.32km long linear route would traverse a variety of habitat types including a coastal estuary, coastal wetlands, an urban area, agricultural land, heathland, mountainous terrain and woodlands. It would cross c.38 streams and interact with three large rivers, including the Ferta River which drains into Valentia River Estuary in the SW section and the Behy River that drains into Castlemaine Harbour in the NE section.

The Greenway would skirt or run close to several designated sites including the Valencia Harbour and Portmagee Channel SAC & Valentia River Estuary pNHA in the SW section, and the Killarney National Park, Macgillycuddy's Reeks & Caragh River Catchment SAC & pNHA and the Iveragh Peninsula SPA in the N section. It would also traverse or run close to several nationally and internationally important habitats (including Estuaries, Shingle & gravel shores, Sheltered rocky shores, Reed bed & large sedge swamps & Upper saltmarsh in the SW section, and Dry Heath, Wet Heath & Lowland Blanket Bog in the N section).

Several rare and protected species of flora and fauna have been recorded along the Greenway route or in its vicinity, including Chamomile in the SW coastal section, St. Patrick's Cabbage in the N mountainous section, Otter along the watercourses and tributaries, Kerry Slug and Lesser horseshoe bat in the N section, and Freshwater pearl mussel in the Behy River at Glenbeigh.

### **8.8.3 Applicant's submission**

Section 11 of the EIAR dealt with biodiversity, section 12 dealt with soils, geology & hydrogeology, and section 13 dealt with hydrology and water quality. Each section was supported by Technical Appendices and an outline Construction and Environmental Management Plan was prepared. Volume 5 of the EIAR contains a Natura Impact Statement (NIS), which was amended by way of the Further Information response submission mainly in relation to coastal protection works, and the Errata document submitted to the oral hearing. EIAR Technical Appendix 11.1 included an Ecological Field Surveys report, an Aquatic Ecology Survey and a preliminary Invasive Species Management Plan (which was elaborated on in the FI response submission and the Errata document submitted to the oral hearing).

The EIAR described the existing environment. It identified the designated sites within a 10km radius (including 8 x European sites, 8 x pNHAs & NHAs, 1 x Ramsar site and 3 x nature reserves) and it listed the agencies that were consulted (including NPWS, IFI, EPA & BCI). Several desktop and field studies were undertaken. Field surveys and evaluations were carried out for terrestrial habitats and species (including mammals, bats, birds and Kerry slug), and aquatic habitats and species (including several species of fish, Freshwater pearl mussel and other aquatic invertebrates), along with biological sampling and water quality assessments. The results of these surveys and evaluations are contained in EIAR Appendix 11.1. EPA records indicate that water quality in the Behy River at in the NE section at Glenbeigh is Q4 Good Status, whilst water quality in the Ferta River in the SW coastal section is Q3-4 Moderate status. Section 11.6 of the EIAR identified potential significant impacts on several key ecological receptors along the route.

**European sites:** Volume 5 of the EIAR, which contains the NIS, described the European sites along the Greenway route and identified potential significant effects on their Conservation Objectives (Refer to the NIS).

**Habitats & plant species:** non-European sites (Valentia River Estuary pNHA - potential water quality impacts); rare and protected flora (Chamomile & St. Patrick's Cabbage - potential loss but none recorded along the route); and habitats of national to international importance (Dry heath, Wet heath & Lowland blanket bog - minor habitat loss). It identified potential construction phase impacts on several habitats of national to international importance adjacent, including Eroding/upland rivers, Lowland blanket bog, Dry heath, Wet heath, Reed bed & large sedge swamp, Upper saltmarsh, Sheltered rocky shore, Shingle & gravel shores, & Estuaries (potential impacts resulting from chemical pollution, sediment run-off, machinery & trampling).

**General Mammals:** several species of mammal that occur along or in the vicinity of the route could be disturbed during the construction and operational phases, including Badger, Pine martin, Irish stoat, Red squirrel, Hedgehog, Pygmy shrew, Irish mountain hare and Red deer. Construction impacts would be short term temporary whilst operational impacts would be imperceptible.

**Otters:** a holt located along the shoreline of the Valentia River Estuary would not be directly affected. Although construction works have the potential to affect water quality and thus prey species along watercourse commuting corridors, the degree of impact would be mitigated by the measures contained in the oCEMP, with no permanent long term impacts predicted.

**Seals:** the Common and Grey seals that frequent the Valentia River Estuary would not be directly affected by the works however they might be disturbed at a nearby haul-out site during the construction phase, and operational impacts would be imperceptible.

**Birds:** the minor loss of trees, hedgerows and scrubland and associated breeding habitats along and in the vicinity of the linear route would have a

minor permanent impact on several Red and Amber listed species of bird (including Grey wagtail & Meadow pipit and Greenfinch, Robin & Stonechat). The Greenway would also have a minor impact on several species of foraging birds including Annex 1 species (Chough, Dunlin & Little egret) and Red and Amber listed species (Curlew & Meadow pipit, and House martin, House sparrow, Kestrel, Sand martin & Swallow) as a result of minor habitat loss and noise during the construction phase. Operational impacts along the linear route would be imperceptible.

**Bats:** the loss of some foraging habitat along the linear route would have a minor impact on several species of bat (including Lesser horseshoe, Soprano, Common pipistrelle, Brown long-eared, Daubenton's, Whiskered, Natterer's and Leisler's) but no disconnection along foraging corridors or loss of prey species would occur. Daytime works will not disturb bats who are nocturnal, and lighting will be restricted in the Drung tunnels. The Greenway will circumnavigate a Lesser horseshoe bat (LHB) summer roost, construction works will take place outside the breeding season and pre-construction surveys will be undertaken. Proximity of the roost to the N70 indicates that LHB is habituated to traffic noise with only minor operational impacts predicted. (Refer to the NIS for further details in relation to LHB which is a Qualifying Interest for the nearby Killarney Park SAC).

**Kerry slug:** several suitable habitats were recorded adjacent to the Greenway route (at Behy woodlands, Gleensk woodlands & several fields containing boulders) which will not be affected by the works. One area of suitable habitat was recorded along the route at the Drung Hill Tunnels where c.2,100sq.m. of sandstone bedrock will be removed to facilitate rock gabions to support the Greenway. Kerry slug could be affected by this loss of habitat and foraging grounds, and by trampling during construction. Pre-construction surveys will be undertaken, trapped slugs will be translocated a suitable habitat and the gabion walls will be treated to encourage lichen growth. (Refer to the NIS for further details in relation to the Kerry slug which is a Qualifying Interest for the nearby Killarney Park SAC).

***Amphibians:*** there is potential for disturbance and increased risk of mortality to several species including Common lizard, Smooth newt and Common frog during construction, but no long term operational impacts predicted.

***Aquatic fauna:*** construction phase impacts on water quality have the potential to affect several fish species (including Brown trout, Lampreys, Atlantic salmon & European eel) and aquatic invertebrates along water courses, either directly or by habitat impairment. Freshwater pearl mussel is present in the Behy River close to the Glenbeigh trail head car and there is potential for impacts during the operational phase. Potential impacts would be mitigated with no construction or long term operational impacts predicted.

***Invasive species:*** several invasive plant species were identified in the vicinity of the Greenway route (including Japanese knotweed, Giant rhubarb, Rhododendron, Cherry laurel, Pampas grass & Montbretia), and a management plan will be put in place.

***Conclusion:*** post mitigation impacts on non-European sites, habitats, flora and fauna would mainly range from no impact to imperceptible or slight.

#### **8.8.4 Policy context**

In relation to the County Kerry Development Plan and West Iveragh Local Area Plan, the relevant policies and objectives are set out in section 3.3 above. The Development Plan contains several policies and objectives for the protection of European sites, biodiversity, ecology and habitats. In particular Obj.NE-1 seeks to conserve, manage and where possible enhance natural heritage; Obj.NE-5 seeks to ensure that cumulative impacts on biodiversity are assessed; Obj. NE-51 seeks to ensure that coastal protection works are designed, implemented and managed in a manner which takes into account biodiversity; Obj.NE-53 seeks to take an ecosystems-based approach to the assessment of potential impacts of development proposals on coastal areas; and Obj.NE-59 seeks to prohibit development in areas where the impact on protected / designated landscapes, species populations, habitats or amenity areas would be significantly adverse.

### **8.8.5 Planning assessment**

As previously stated, I surveyed the Greenway route and surrounding area over three 4-day periods in late 2018 and early to mid-2019 (during the winter, spring & early summer). I had regard to the Sections 11, 12 and 13 of the EIAR, associated Technical Appendices and oCEMP, the Further Information response submission and the Errata document. I also had regard to the written and oral concerns raised by the Observers which are summarised in sections 4.0 and 7.0 above and Appendix 2 (Greenway Information Group & Mr Sweetman) in relation to Lesser horseshoe bat, Kerry slug and Freshwater pearl mussel. I had regard to national, regional and local planning policies. The c.32km long linear Greenway route would traverse a range of habitat types including a coastal estuary, coastal wetlands, an urban area, agricultural land, heathland, mountainous terrain and woodlands, and it would cross c.38 streams and interact with two large rivers and Valentia Estuary. The route corridor and surrounding area are frequented by a wide variety of terrestrial and aquatic flora and fauna, some of which are protected species.

The applicant carried out a series of desk and field surveys along and in the vicinity of the Greenway route corridor, the main ecological receptors and potential impacts during the construction and operational phases were identified, and mitigation measures were proposed to minimise any predicted impacts. On balance, I am generally satisfied that the survey work and evaluations are robust, and that the proposed mitigation measures would be an appropriate response to the predicted level of risk to the ecological receptors. However, there are some outstanding areas of concern which will be addressed below. Note that Section 10.0 of this report deals with potential effects on European sites and includes an Appropriate Assessment.

#### **Coastal and wetland habitats:**

The SW section of the Greenway located between Renard Point and the Caherciveen water treatment plant (Chainage c.50 to c.3,625) would run parallel to the S side of the Valentia Estuary which is a designated pNHA in its entirety as well as a SAC to the W. The E boundary between the Valentia Harbour and Portmagee Channel SAC occurs at Chainage c.2,400, in the

vicinity of Hell-boy house and to the W of the Valentia Observatory lands. The interaction of the Greenway with the Valentia Harbour and Portmagee Channel SAC is dealt with in Section 10.0 of this report (Appropriate Assessment). The NE section of the Greenway would be located between Caherciveen railway bridge and Cloghanelinaghan and it would run parallel or close to the N side of the Valentia Estuary pNHA (Chainage c.5,400 to c.7,100).

***Hell-boy house to Valentia Observatory:***

The Greenway would run E from the SAC boundary (in the vicinity of Hell-boy house at Chainage c.2,400) along or close to the former railway embankment and parallel to the shoreline towards Valentia Observatory and over the proposed replacement coastal revetment wall (Chainage c.2,400). It was stated in the submitted documents and confirmed at the oral hearing that the shoreline would be protected during the construction works and that no machinery or materials would be stored on the shoreline. This is considered acceptable having regard to the sensitive nature of the shoreline which includes Sheltered rocky shores (National to International Importance), Shingle & gravel shores (National importance). Note that coastal erosion concerns are addressed in section 8.8 of this report.

***Valentia Observatory to Mannix Point:***

The Greenway would traverse the N section of the Observatory site (Chainage c.2,825) towards Mannix Point and run in-between the campsite and two houses (Chainage c.3,175), where the separation from the shoreline would increase substantially, and there are no ecological or stability issues.

***Mannix Point to Caherciveen water treatment plant:***

The Greenway would traverse or run adjacent to a series of interconnected coastal and wetland habitats which include Reed bed and large sedge swamp and Upper saltmarsh habitats, and agricultural fields (Chainage c.3,175 to c.3,725).

Reed bed and large sedge swamp habitat: The Greenway would cross over a section of railway embankment that bisects a substantial Reed bed and large sedge swamp which is a habitat of National Importance (Chainage c.3,175 to c.3,300). These Swamps are known to support several EU protected species including Otter, Sedge Warbler, Water Rail, Moorhen and other waterfowl. I inspected this site on three occasions (winter, spring and early summer) and the swamp was waterlogged on all three visits, irrespective of tidal conditions in the estuary. The Greenway pavement would be located on the railway embankment and the scale of the existing drainage network would be retained which would ensure that the hydrological regime of the swamp is maintained on either side of the infrastructure.

Having regard to the National Importance of this habitat, it is vital that none of the works associated with the construction or operation of this section of Greenway encroach into the adjoining Reed bed and large sedge swamp habitat. All the pavement construction works should take place on the railway embankment and the permanent fence should be located on the edge of the embankment. According to Drawing no. 318-505 (Drainage and Fencing), a temporary fence would be constructed parallel to the Greenway c.5m either side of the embankment and within the swamp. This is unacceptable incursion into the sensitive wetland habitat and the temporary fence should be omitted by way of a planning condition, in the event that the Board does not concur with the recommended omission of the Valentia Estuary section.

Shoreline habitats: The Greenway would deviate off the former railway track to run parallel to a field boundary with the Valencia River Estuary pNHA (Chainage c.3,300 to c.3,625). The shoreline is characterised by a series of interconnected coastal habitats which include Sheltered rocky shores (National to International Importance), Shingle & gravel shores (National importance) and Upper salt marsh (National Importance). The landowner requested a deviation as discussed in section 8.7.5 (Infrastructure - Coastal Processes). Although the Council considered the environmental impacts of this deviation relative to the Valencia River Estuary pNHA, the immediate proximity of the Greenway to the Upper salt marsh habitat was not analysed.



The applicant provided further separation details to the oral hearing which confirms that the Greenway would not encroach into the shoreline habitats. I am therefore satisfied, that the construction of the Greenway at this location would not have an adverse impact on the Valentia River Estuary pNHA or the array of interconnected coastal and wetland habitats. Notwithstanding this conclusion, it should be noted that the omission of this section of the Greenway was recommended under section 8.7.5 pending further investigation of estuarine dynamics and the consideration of a realignment. The final part of this section of the Greenway would run parallel to the field boundary with Caherciveen water treatment plant to re-join the former railway track at an urban road (Chainage c. c.3,625 to c.3,725) where there are no ecological or coastal issues of concern.

***Cloghanelinaghan:***

The Greenway would cross the refurbished Caherciveen railway bridge to the NE side of Valentia Estuary. It would run parallel to the N side of the Valencia River Estuary pNHA where the shoreline is mainly characterised by a Sheltered rocky shore habitat of National Importance, with agricultural fields beyond (Chainage c.5,375 to c.7,100). It is noted that the landowners requested a deviation off the former railway track at this location where the track traverses the field diagonally from SW to NE. The Council's qualitative assessment of route selection options (EIAR section 5 & Appendix 5.2) compared several variables (including environment, amenity, standards, safety & re-connectivity). Although it considered the environmental impacts of the deviation relative to the Valencia River Estuary pNHA, the immediate proximity of the Greenway to the Sheltered rocky shore habitat, and the potential effects of Climate Change, rising sea levels and estuarine erosion were not analysed, although some of these concerns were addressed in the Further Information response submission. Refer to section 8.7.5 above (Infrastructure - Coastal Processes) which recommended the omission of part of this section of the Greenway, pending further investigations and the consideration of a realignment.

**Protected species:**

Several protected plant and animal species occur within the Greenway study area. However, based on the survey information submitted by the applicant in the written and oral submissions, and my site inspections (which took place during the winter, spring & early summer seasons), I am satisfied that the proposed construction and operation phases of the Greenway would not have any adverse impacts on most of these species. Notwithstanding this conclusion, several species require further consideration (including Chamomile and St. Patrick's cabbage, Kerry slug, Lesser horseshoe bat, and Freshwater pearl mussel). It is noted that a section of the Greenway skirts the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC where two of its Qualifying Interest species (Lesser horseshoe bat and Kerry slug) occur in the vicinity. The interaction of the Greenway with this SAC and its Qualifying Interests is dealt with in Section 10.0 of this report (Appropriate Assessment).

***Chamomile:***

The SW section of the Greenway would be located parallel to the Valentia Estuary at Renard Point where Chamomile is known to occur, probably in greater abundance than recorded in the applicant's surveys. A pre-construction survey should be undertaken and if Chamomile is encountered the specimens should be translocated to another suitable habitat in the vicinity.

***St. Patrick's cabbage:***

The N section would be located between Goldens at Kells and the site of the former Mountain Stage railway station. St. Patricks Cabbage is known to occur at the Golden Mile and Drung tunnels in much greater abundance than recorded by the applicant's surveys, and at other locations along the route. A pre-construction survey should be undertaken. Reasonable attempts should be made for this species to remain in-situ particularly at the Golden Mile and Drung Tunnels. However, if site specific removal is unavoidable, then the specimens should be translocated to another suitable habitat in the vicinity.

***Kerry slug:***

The N section of the Greenway at Drung Hill skirts the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC, and Kerry slug is a Qualifying Interest for this European site. This species is known to frequent an area around the Drung tunnels which includes the sandstone rock face adjacent to the N70. This escarpment was exposed as a result of past road alignment works along the N70 that removed a section of railway embankment. It is now proposed to excavate a c.2,100sq.m. section of sandstone bedrock and construct a sandstone rock gabion revetment wall, over which the Greenway would run.

These works, which would result in the loss of suitable habitat (albeit outside the SAC) could have a negative impact on Kerry slug, and there would also be an increased risk of mortality during the construction phase from trampling. Pre-construction surveys would be undertaken, any slugs encountered would be humanely trapped and translocated to a suitable habitat. The sandstone gabion walls will be coated with a yogurt culture to encourage lichen growth, which is the preferred diet of Kerry slug. I am satisfied that these measures would serve to minimise any adverse impacts on this species during the construction phase. Given that Kerry slug prefers dark damp conditions, it is unlikely to be affected to any significant extent during the operational phase.

The Board should refer to the section 10.0 Appropriate Assessment section of this report in relation to the assessment of likely significant effects on the Killarney National Park Macgillycuddy's Reeks & Caragh River Catchment SAC.

***Lesser horseshoe bat:***

The N section of the Greenway skirts the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC, and Lesser horseshoe bat (LHB) is a Qualifying Interest for this European site. The LHB has a summer roost in the vicinity of this SAC within a vacant building close to the N70, and it forages in the surrounding area. A section of Greenway would run parallel and to the rear of this building, and the construction works, which

would also include rock breaking (over c.3-4 days), that could cause disturbance to the roost and its occupants. According to the applicant, the works are scheduled to take place outside of the breeding season, pre-construction surveys will be undertaken and lighting in the Drung tunnels will be restricted to daylight hours in case bats forage along them at night. The applicant also states that the bats will not be disturbed by Greenway users as they are already habituated to traffic noise from the nearby N70.

Notwithstanding these commitments and conclusions, the Greenway Information Group and Mr Sweetman raised concerns in relation to the impact of the construction and operational phases of the project on this species. They submit that LHB has been known to continue occupying summer roosts throughout the year in and around Killarney National Park, where the occupied structure is well sealed, and in areas where the climate is mild, such as the area within which the vacant building is located. They also submit that the bats will be impacted during the operational phase by disturbance from the anticipated large volume of cyclists that will use the Greenway.

In relation to the first concern, pre-construction surveys will be undertaken before the works commence to ensure that the roost has been vacated. It is unlikely that this summer roost is used by bats throughout the year, as even though the windows are boarded up, the building is not adequately sealed so as to maintain a constant temperature. However, in the unlikely event that LHB are still resident in the building in the winter and during the pre-construction surveys, a Derogation Licence should be sought from the NPWS to enable their temporary and humane removal from the building. This could be addressed by way of a planning condition.

In relation to the second concern, the proximity of the vacant building to the busy N70 indicates that the resident LHBs are well habituated to traffic noise. Notwithstanding the absence of site specific background noise surveys, I am satisfied that any disturbance from Greenway users would not be equal to the noise and disturbance generated by passing traffic, including that caused by heavy vehicles such as delivery trucks, HGVs and tourist coaches.

The Board should refer to the section 10.0 Appropriate Assessment section of this report in relation to the assessment of likely significant effects on the Killarney National Park Macgillycuddy's Reeks & Caragh River Catchment SAC.

***Freshwater pearl mussel:***

The NE section of the Greenway would be located at Curra Woods near Glenbeigh. The proposed trail head car park would be located adjacent to the River Behy within which several dispersed individual adult Freshwater pearl mussels (FPM) occur. The applicant's aquatic surveys identified a single adult at the opposite bank in the vicinity of the car park, and several others upstream of the site. According to the applicant, the design of the car park and EIAR mitigation measures will ensure that water quality is protected and that fish and aquatic invertebrates, including FPM, will not be adversely affected.

Notwithstanding these commitments and conclusions, the Greenway Information Group and Mr Sweetman raised concerns in relation to the need for an Appropriate Assessment of the likely significant effects of the project on Freshwater pearl mussel. They queried the status of the FPM survey which related only to adult specimens and not juveniles which may be present in the river. They also raised concerns in relation to adverse impacts on water quality and aquatic species (including FPM) during the construction phase as a result of the works, and also the impacts during operational phase as a result of contaminated run-off from the car park.

In relation to the first concern, the River Behy is not covered by any European site designations. Although this river has an aquatic connection to other European sites in the surrounding area, the sites that are located downstream of the proposed works are not designated for Freshwater pearl mussel. This issue is addressed in more detail in in Section 10 and Appendix 4 of this report (Appropriate Assessment).

In relation to the second concern, it is noted that EPA records indicate that water quality in the Behy River in the vicinity of the car park is Q4 Good Status. However, Freshwater pearl mussel requires pristine water quality and Q5 status to thrive. I am therefore satisfied that this section of the Behy River does not provide a suitable habitat to sustain a FPM community or population. Notwithstanding this conclusion, measures should be put in place to ensure that there is no diminution in water quality as a result of the works and that the existing specimens are not adversely affected during either the construction or operational phases of the Greenway.

In relation to the third concern, I have had regard to the design and layout of the car park, the separation distance from the riverbank, the change in levels between the car park surface and water levels in the river (including the climate change adjustments) and the drainage details. I consider these arrangements to be acceptable. I am satisfied that the construction and operational phases of the Greenway would not have an adverse impact on water quality, subject to adherence to best construction practices and the implementation of the EIAR mitigation measure (including silt traps and petrol interceptors). Therefore, there would be no significant adverse impacts on any fish species or aquatic invertebrates (including FPM), by way of chemical pollution, siltation or smothering with this section of the Behy River.

**Biodiversity:**

As previously stated, the c.32km long and c.5m wide Greenway would traverse a variety of landscapes and natural habitats, and the project should protect and enhance biodiversity along the route and in the surrounding area. There are many other areas along the c.32km route that are of nature conservation interest in addition to those outlined above. This includes the parts of the SW and NE sections where the former railway embankment runs through agricultural land where the boundaries are defined by mature hedgerows. It includes the Golden Mile at Kells in the N section where the route runs along an elevated section of the railway embankment that is partly exposed and partly through a canyon like quarry, which supports a rich variety of wildlife (including plants and invertebrates). And the Curra woods in the NE

section which contains an array of shade tolerant plant species. Furthermore, the c.3m wide Greenway would be flanked by c.1m wide grass verges on either side for most of the route, and the natural regeneration of these verges should be encouraged in the interest of nature conservation and biodiversity. This could be addressed by way of a planning condition.

**Derogation licences:**

The concerns raised by the Greenway Information Group and Mr Sweetman, in relation to the Derogation Licences granted to the applicant by the NPWS in respect of the works in the vicinity of a vacant building that hosts a summer roost for Lesser horseshoe bat, are noted. Such Derogation Licences give permission to carry out work on a known bat roost and the timing of works is dictated by bat use (usually during the autumn or spring season when bats are less likely to be within a structure). The licences are usually operative for 1 year and require renewal if the works have not been completed.

The Board should note that potential impacts on protected species, including Lesser horseshoe bat, have been assessed in an earlier part of section 8.8.5 as part of the planning assessment of the proposed development. Section 9.0 of this report assesses the environmental impact of the proposed development on Biodiversity (including Lesser horseshoe bat) and section 10.0 carries out an Appropriate Assessment of the likely significant effects of the development on European sites (including Lesser horseshoe bat which is a Qualifying Interest for the nearby Killarney National Park Macgillycuddy's Reeks & Caragh River Catchment SAC.).

**8.8.6 Conclusions**

Having regard to the forgoing, I am satisfied that the proposed development would not have any significant adverse impacts on ecology or biodiversity along the c.32km route subject to the implementation of the relevant EIAR mitigation measures and compliance with the recommended conditions.

## 8.9 Other issues

**Archaeology:** There are no National Monuments, Recorded Monuments or sites of archaeological interest located along the Greenway Route however it is possible that the surrounding lands may contain as yet undiscovered artefacts. A condition should therefore be attached to ensure that the groundworks are monitored during the construction phase and that any discoveries are recorded and preserved by record.

**Cultural Heritage:** There are several Protected Structures and features of interest located along or in the vicinity Greenway route including the Caherciveen Railway Bridge and O'Connell Viaduct which would be refurbished as part of the project. Having regard to the scale and nature of the linear project, I am satisfied that the proposal would not adversely affect cultural heritage in the surrounding area to any significant extent.

**Drainage:** The concerns raised by several members of the Greenway Information Group in relation to drainage difficulties along the route (including Mr. Walsh at Caherciveen West & Lisbane, Mr. Coffey at Ballydarrig/Cloghane, and Mr O'Shea at Gortnagree in the vicinity of the proposed Kells Underpass) are noted. All excavation and construction work, including the management of ground water at the Kells Underpass should be carried out in accordance with best construction practices, and none of the works should exacerbate any existing drainage difficulties. These concerns should be addressed in the final Construction and Environmental Management (CEMP), and the Surface Water and Drainage Management Plans. Furthermore, the proposed drainage arrangements along the Greenway should comply with all relevant regulations, requirements and guidelines.

**Environmental services:** The proposed sanitary arrangements in the various car parks are considered acceptable subject to the structures been well designed to assimilate into the surrounding landscapes, and compliance with Council requirements in relation to waste management.



**Flood risk:** The contents of the applicant's flood risk assessment are noted. The proposed development would not give rise to a flood risk subject to compliance with all relevant regulations, requirements and guidelines, and the full implementation of the Council's drainage arrangements and EIAR mitigation measures. The concerns raised by the Greenway Information Group in relation to flooding at the trail head car park at Glenbeigh, which would be adjacent to the Behy River, and the adjoining local road area noted. However, having regard to the change in levels between car park and the riverbank, I am satisfied that the proposed car park would not be at risk of flooding. I am satisfied that the photographic evidence submitted relates to pluvial flooding from higher ground to the N in Curra Woods combined with poorly maintained culverts and not fluvial flooding from the Behy River.

**Tourism:** The proposed development would have an overall positive benefit on tourism in the area and it is anticipated that the Greenway will attract a significant number of new visitors to Caherciveen throughout the year with a peak during the summer months.

**Legal issues:** The concerns raised by some of the Observers in relation to the submission by the Council of an errata and associated documents to the oral hearing are noted. Although the information gave rise to subsequent amendments to the EIAR and NIS, I am satisfied that neither the information nor the amendments were significant or substantive so as to warrant an adjournment of the hearing and subsequent cross circulation of documents, as requested by the Greenway Information Group and Mr Sweetman. The parties had adequate time during the course of the c.4 week oral hearing (which included a c.3 week recess) to consider this information and make submissions. However, in the event that the Board does not concur with this conclusion, then it may wish to circulate these documents to the parties for consideration and written submissions. Other legal concerns raised at the oral hearing in relation to the NIS and the Board's subsequent AA are addressed in Section 10 (AA) of this report.

## **9.0 ENVIRONMENTAL IMPACT ASSESSMENT**

### **9.1 Introduction**

This section of the report deals with the potential environmental impacts of the proposed development during the construction and operational phases of the development, but not the decommissioning phase as it anticipated that the Greenway will not be removed.

***This section should be read in conjunction with Section 8.0 (Planning Assessment) and Section 10.0 (Appropriate Assessment of this report.***

### **9.2 Compliance legislative requirements**

Directive 2011/92/EU was amended by Directive 2014/52/EU. Kerry County Council has submitted an Environmental Impact Assessment Report (EIAR) which is presented in a 'grouped format' comprising the following:

- Non-Technical Summary
- Main Statement
- Technical Appendices
- Photomontages
- Addendum to EIAR Report (FI reports)
- Errata Document (Amendments to EIAR text)

It is submitted by the applicant that the EIAR has also been prepared in accordance with the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 that came into effect on 1<sup>st</sup> September 2018, and which the Board will be aware, transposed Directive 2014/52/EU into Irish planning law. As is noted in the EIAR, for the purposes of the Road Act, 1993, as amended, regulations are in the process of being prepared by the relevant Department. It is proposed therefore to apply the requirements of Directive 2014/52/EU.

As is required under Article 3(1) of the EIA Directive 2011/92/EU amended by Directive 2014/52/EU, the EIAR identifies, describes and assesses in an appropriate manner, the direct and indirect significant effects of the project on the following environmental factors: (a) population and human health; (b) biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape and it equally considers the interaction between the factors referred to in points (a) to (d).

I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality, and that the information contained in the EIAR and supplementary information provided by the applicant, adequately identifies and describes the direct, indirect and cumulative effects of the proposed development on the environment and complies with the requirements of Section 50 of the Roads Act, 1993, as amended and Directive 2011/92/EU as amended by Directive 2014/52/EU.

I am satisfied that the information contained in the EIAR complies with article 94 of the Planning and Development Regulations 2000, as amended, and the provisions of Article 5 of the EIA Directive 2014.

I have carried out an examination of the information presented by the applicant, including the EIAR, and the submissions made during the course of the application and oral hearing. A summary of the results of the submissions made by the prescribed bodies and observers has been set out at Sections 4.0 and 6.0, and Appendices 2 and 3 of this report.

The EIAR describes the proposed development, including information on the site and the project size and design. A description of the main alternatives studied by the applicant and alternative locations considered, is provided and the reasons for the preferred choice. The impact of the proposed development

was assessed under all the relevant headings with respect to population and human health; noise, air and climate; biodiversity; landscape; land, geology and soils; hydrology and hydrogeology; roads and traffic; material assets and cultural heritage; interactions of impacts; and the suggested mitigation measures are set out at the end of each chapter.

The content and scope of the EIAR is in compliance with Planning Regulations. No likely significant adverse impacts were identified in the EIAR.

### **9.3 Consideration of Reasonable Alternatives**

The consideration of reasonable alternatives was considered in EIAR Section 5 and associated Appendices. This section considered strategic route alternatives, site specific route options where there are obstructions on the former railway line, and site specific route options where there is no obstruction but where the landowner requested a deviation.

In relation to strategic route alternatives, the EIAR considered 4 options including an on-road option, the re-use of the former railway track, a new greenfield option and finally the “do-nothing” option. The on-road option was discounted mainly due to cost and land take concerns. The “do-nothing” option was discounted as the potential socio-economic benefits of the project to the surrounding area would not be realised. The Greenfield option was discounted in its entirety mainly due to cost and land take concerns. However, it formed part of the final route selection in-combination with the use of the former railway track, of which c.18km was available for re-use with the remaining c.14km comprising greenfield and on-road sections.

In relation to site specific route options where there is an obstruction along the former railway line (including c.20 houses), the EIAR carried out a qualitative assessment of several options at each location with respect to 4 variables (engineering, economics, environment and safety).

In relation to site specific route options where there the landowner requested a deviation off the former railway line (at c.15 locations), the EIAR carried out a qualitative assessment of the requested deviation with respect to 7 variables (environment, amenity, re-connection to former railway track, residential amenity, safety, maintenance of design standards and potential adverse impacts on adjoining landowners). An off-line deviation was preferred at several locations. Refer to section 8.0 of this report (Planning Assessment) for a more detailed site specific analysis of some of the route options.

#### **9.4 Summary of Likely Significant Effects**

Section 8.0 of this report identifies, describes and assesses the main planning issues arising from the proposed development and it should be considered in conjunction with the following environmental impact assessment (EIA).

The EIA identifies and summarises the likely significant effects of the proposed development on the environment with respect to several key receptors in the receiving environment. It identifies the main mitigation measures and any residual impacts following the implementation of these measures together with the planning conditions recommended in section 8.0 of this report, and it reaches a conclusion with respect to each of the receptors. It assesses cumulative impacts, identifies interactions between the receptors, and considers the risks associated with major accidents and/or disasters. The EIA reaches a Reasoned Conclusion.

For ease of reference the EIA is presented in a tabular format with respect to:

- Population and Human Health
- Air and Climate
- Landscape
- Biodiversity
- Land soil and water
- Material assets
- Cultural heritage

## Population and human health

**EIAR** sections 7, 8, 9 & 10 & associated Appendices (as amended by the FI submission and Errata document) dealt with population, human health, employment, economic activity, land use & agronomy, air & climate, noise & vibration, traffic, services and tourism. The EIAR did not predict any significant adverse impacts on human beings, population or human health as a result of dust emissions, noise & vibration, farming practices, visual intrusion or traffic movements during the construction and operational phases, subject to implementation of mitigation measures. Positive socio-economic impacts were predicted in relation to tourism, recreation, employment, farm diversification, and combating rural isolation.

<b>Submissions</b>	<b>Concerns raised</b>
<p>Significant support from Failte Ireland, elected representatives, local businesses, community groups, interest groups &amp; local people.</p> <p>Concerns raised by IFA, TII, Greenway Information Group, Galway Cycling Solutions, Galway Cycling Campaign, Mr Fahy, Mr Sweetman, Mr Lyne &amp; Mr Curran</p>	<p>Disturbance during construction phase (noise, vibration, dust &amp; traffic safety).</p> <p>Disruption of farming practices during construction &amp; operation (severance, access &amp; animal disturbance).</p> <p>Traffic safety &amp; quality of surveys.</p> <p>Residential amenity during operation (disturbance, overlooking &amp; trespass).</p> <p>Query perceived economic benefits.</p>
<b>Potential impacts</b>	<b>Analysis &amp; Mitigation measures</b>
<p><b>Population:</b> Potential positive impacts by way of increased opportunities to remain/return to</p>	<p><u>Refer to S.8.3, 8.4 &amp; 8.5 of Planning Assessment for detailed analysis.</u></p> <p>Annual maintenance grant.</p> <p>Fences, gates &amp; drainage.</p>

<p>local area, reverse population decline &amp; counter rural isolation.</p> <p><b>Socio-economics:</b> Potential impact on farm incomes (loss of land, disturbance to sensitive farm animals &amp; insurance costs associated with farm animals straying onto the Greenway). Positive impacts on tourism, recreation &amp; employment.</p> <p><b>Farm severance:</b> Potential impacts by way of disruption to farming practices on either side of the Greenway (movement of animals &amp; machinery).</p> <p><b>Noise &amp; vibration:</b> Potential for noise impacts on residential amenities from construction activities and minor disturbance during the operational phase.</p> <p><b>Dust:</b> Potential for dust &amp; air quality impacts during construction phase.</p> <p><b>Traffic:</b> Construction traffic volumes have potential for localised air quality impacts &amp; road safety.</p>	<p>Suggested condition to require installation of cattle grids at junction of Greenway with farm access roads.</p> <p>Embedded mitigation measures related to design &amp; layout including provision of a similar number of gated agricultural crossings as currently exist across the former railway track.</p> <p>Screening &amp; fences (both phases) Best construction practices. Phasing &amp; timing of construction works.</p> <p>Phasing &amp; timing of construction works. Best construction practices.</p> <p>Embedded mitigation related to design. Phasing &amp; timing of construction works. Prior notification of works. Traffic management plan. Traffic co-ordinator.</p> <p>Embedded mitigation related to design. Localised screening at several houses (timber panels &amp; planting).</p>
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<p><b>Visual intrusion:</b> Linear nature of project has minor potential for visual impacts at nearby houses &amp; moderate impacts associated with gabion revetment walls at Valentia Estuary &amp; along N70 at Drung Hill. Refurbishment &amp; replacement of railway bridges will have a positive impact.</p> <p><b>Health &amp; safety:</b> Potential for adverse impacts on health &amp; safety from on-site accidents.</p>	<p>Ecological measures to accelerate plant colonisation of gabion walls along N70 would also apply.</p> <p>Compliance with health &amp; safety laws. Safety &amp; Health Management Plan. Security fencing during works.</p>
<p><b>Residual Effects:</b> There will be some increase in noise, dust &amp; traffic emissions during the construction &amp; operational phases however predicted levels are within guidance limit values. Residual impacts are not predicted to be significant subject to the implementation of mitigation measures &amp; suggested conditions.</p>	
<p><b>Cumulative Impacts:</b> None predicted.</p>	
<p><b>Conclusion:</b> I have considered all the written and oral submissions made in relation to population and human health, in addition to those specifically identified in this section of the report. I am satisfied that they have been appropriately addressed in terms of the application and that no significant adverse effect is likely to arise.</p>	



## Air and Climate

**EIAR** sections 8 & 9 and associated Appendices (as amended by the FI submission and Errata document) dealt with air & climate and traffic. The EIAR did not predict any significant adverse impacts on air and climate as a result of dust emissions or traffic movements during the construction and operational phases, subject to implementation of mitigation measures.

<b>Submissions</b>	<b>Concerns raised</b>
Concerns raised by Greenway Information Group.	Dust during construction phase. Release of historic contaminants during excavations along railway embankment.
<b>Potential impacts</b>	<b>Analysis &amp; Mitigation measures</b>
<p><b>Dust:</b> Potential short term localised impacts on air quality resulting from dust emissions during the construction phase.</p> <p><b>Traffic emissions:</b> Potential short term localised impacts on air quality resulting from increased traffic volumes during construction phase.</p> <p><b>Historic contaminants:</b> Potential short term localised impacts on air quality resulting from possible release of contaminants during</p>	<p><u>Refer to S.8.3 &amp; 8.5 of Planning Assessment for detailed analysis.</u></p> <p>Phasing &amp; timing of construction works. Adherence to best construction practice. Compliance with relevant guidance.</p> <p>Embedded mitigation related to design. Phasing &amp; timing of construction works. Prior notification of works. Traffic management plan. Traffic co-ordinator.</p> <p>No specific measures.</p> <p>Best construction practices. Dust control measures also apply.</p>

excavation works along railway embankment.	
<p><b>Residual Effects:</b> There will be some increase in dust &amp; traffic emissions during the construction phase however predicted levels are within guidance limit values and residual impacts are not predicted to be significant, subject to the implementation of mitigation measures.</p>	
<p><b>Cumulative Impacts:</b> None predicted.</p>	
<p><b>Conclusion:</b> I have considered all the written and oral submissions made in relation to air and climate, in addition to those specifically identified in this section of the report. I am satisfied that they have been appropriately addressed in terms of the application and that no significant adverse effect is likely to arise.</p>	

## Landscape

**EIAR** sections 7 & 14, and associated Appendices, Photomontages and Residential Amenity Assessment dealt with population (residential & visual amenity), and landscape & visual impacts. A visibility analysis (20km radius) was undertaken which included a Zone of Theoretical Visibility, a Viewpoint Assessment Summary & Assessment of Landscape and Visual Effects. Several viewpoints were assessed (Protected Views & Prospects, Areas of Especially High Scenic Amenity, Sensitive Landscape Character Areas, main transport & scenic routes and nearby houses). The Residential Amenity Assessment dealt with the visual impacts on residential amenity. The EIAR did not predict any significant adverse impacts on landscape during the construction and operational phases, subject to implementation of mitigation measures in relation to nearby houses.

<b>Submissions</b>	<b>Concerns raised</b>
<p>Significant support from Failte Ireland, elected representatives, local businesses, interest groups, community groups &amp; local people.</p> <p>Concerns raised by IFA, Greenway Information Group &amp; Mr Sweetman.</p>	<p>Dominant feature on the landscape.</p> <p>Impact on high amenity areas, views &amp; sensitive landscapes.</p> <p>Change to farming practices will adversely affect landscape character.</p> <p>Design &amp; scale of Nimmo's Bridge.</p> <p>Design &amp; location of WCs in car parks.</p>
<b>Potential impacts</b>	<b>Analysis &amp; Mitigation measures</b>
<p><b>Protected views &amp; landscape character.</b> Potential minor impacts when viewed from outside the immediate route corridor with respect to sensitive sites (Protected</p>	<p><u>Refer to S.8.2, 8.3 &amp; 8.7 of Planning Assessment for detailed analysis.</u></p> <p>No specific mitigation measures.</p> <p>Embedded mitigation related to linear design &amp; route selection.</p>

<p>Views, Areas of Especially High Scenic Amenity, Sensitive Landscape Character Areas &amp; scenic routes.</p> <p><b>Coastal revetment walls:</b> Potential minor localised visual impacts on the coastal landscape at Valentia Estuary.</p> <p><b>N70 Gabion walls:</b> Potential minor localised visual impacts on coastal and mountainous landscape along the N70 close to Drung Hill.</p> <p><b>Nimmo's Bridge:</b> Potential for minor localised visual impacts on coastal &amp; mountainous landscape along N70, but overall positive impact on visual amenity.</p> <p><b>Residential amenity:</b> Potential for minor localised visual impacts on houses during operational phase.</p> <p><b>WC design:</b> Potential minor adverse localised visual impacts at car parks.</p> <p><b>Railway bridges:</b> Refurbishment of O'Connell's' Viaduct &amp; Caherciveen railway bridge will have a positive impact on visual amenity.</p>	<p>No specific mitigation measures.</p> <p>No specific mitigation measures. Ecological measures to accelerate plant colonisation of gabion walls along N70 would also apply.</p> <p>No specific mitigation measures. Embedded mitigation related to design. (Principle views are towards coast)</p> <p>Embedded mitigation related to linear design &amp; layout. Screening (timber panels &amp; planting).</p> <p>No specific mitigation measures. Suggested condition to require a high standard of design at these locations.</p>
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**Residual Effects:** Impacts predicted to be minor subject to implementation of mitigation measures & suggested conditions.

**Cumulative Impacts:** None predicted.

**Conclusion:** I have considered all the written and submissions made in relation to landscape, in addition to those specifically identified in this section of the report. I am satisfied that they have been appropriately addressed in terms of the application and that no significant adverse effect is likely to arise.

## Biodiversity

**EIAR** sections 11, 12 & 13 and associated Appendices (as amended by the FI submission which included Peat Stability & Coastal Erosion reports, and Errata document) dealt with: - biodiversity; soils, geology & hydrogeology; and hydrology & water quality, and an outline Construction & Environmental Management Plan was prepared. Desk top studies & field surveys were undertaken & Appendix 11 contains an Ecological Field Surveys report, an Aquatic Ecology Survey and a preliminary Invasive Species Management Plan. Volume 5 of the EIAR contains the NIS which dealt with Biodiversity (Refer to section 10.0 Appropriate Assessment for more details). The EIAR did not predict any significant adverse impacts on biodiversity during the construction and operational phases, subject to the implementation of mitigation measures.

<b>Submissions</b>	<b>Concerns raised</b>
Concerns raised by the Greenway Information Group & Mr Sweetman	Adverse impacts on designated sites (SPAs, SACs, pNHAs), important habitats, protected animal species (including Kerry slug, Lesser horseshoe bat & freshwater pearl mussel) rare & protected plant species (including Chamomile & St Patricks cabbage) and wildlife during construction & operation.
<b>Potential impacts</b>	<b>Analysis &amp; Mitigation measures</b>
<b>European sites:</b> Refer to section 10.0 of this report (Appropriate Assessment).	<u>Refer to S.8.7 &amp; 8.8 of Planning Assessment for detailed analysis.</u>

<p><b>NHAs &amp; pNHAs:</b> Potential impacts on Valentia River Estuary pNHA including water quality &amp; habitat impacts resulting from proximity of works to shoreline. Refer to sections 8.7.5 &amp; 8.8.5 of this report (Planning Assessment, Infrastructure - Coastal Processes &amp; Biodiversity)</p> <p><b>Habitats:</b> Potential impacts on several habitats along the route including habitats of national &amp; international importance.</p> <p><i>Reed bed &amp; large sedge swamp, Upper saltmarsh, Sheltered rocky shore, Shingle &amp; gravel shores</i> within Valentia Estuary - potential construction impacts resulting from minor habitat loss, chemical pollution (accidental spillages), sediment run-off, machinery, trampling &amp; proximity of route; and potential operational impacts resulting from proximity to habitats.</p>	<p>Embedded mitigation in design. Best construction practice. Surface Water Management Plan. Timing of works &amp; seasonality. Exclusion zones, fencing &amp; screening. Revetment works above HWM Project Ecologist.</p> <p>Suggested conditions to omit parts of this section of Greenway pending further investigation &amp; consideration of an increased buffer with the shoreline, areas at risk of erosion.</p> <p>Best construction practice. Timing of works &amp; seasonality. Exclusion zones &amp; fencing Habitat restoration plan Project Ecologist.</p> <p>Suggested conditions to omit parts of the Valentia Estuary section of the Greenway pending further investigation &amp; consideration of increased buffer with the shoreline to protect habitats &amp; infrastructure; and to confine works within the Reed bed &amp; large sedge swamp habitat to the railway embankment only.</p>
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<p>Potential adverse impacts on Greenway infrastructure resulting from proximity to areas at risk of erosion and/or covered by Spring Tides, combined with the potential effects of climate change (including rising sea levels &amp; storm surges).</p> <p><i>Eroding/upland rivers, Dry heath, Wet heath &amp; Lowland blanket bog</i> - potential construction impacts resulting from minor habitat loss, chemical pollution (accidental spillages), &amp; sediment run-off.</p> <p><b>Plant species:</b> Potential minor localised impacts on rare and/or protected flora (Camomile &amp; St Patrick's cabbage).</p> <p><b>Birds:</b> Potential minor impacts on several bird species resulting from minor loss of foraging ground &amp; disturbance during construction &amp; operation (including CI species for the nearby Castlemaine Harbour SPA &amp; Iveragh Peninsula SPA).</p> <p><b>Bats:</b> Potential impacts resulting from minor loss of foraging ground during construction; general disturbance along foraging routes during construction &amp; operation</p>	<p>As above (suggested condition to omit sections of the Greenway).</p> <p>Best construction practice. Exclusion zones &amp; fencing. Buffers around watercourses. Timing of works, seasonality &amp; weather. Project Ecologist.</p> <p>Best construction practice. Pre-construction surveys. Removal to suitable habitat. Project Ecologist.</p> <p>Best construction practice. Timing of works &amp; seasonality. Project Ecologist.</p> <p>Best construction practice. Pre-construction surveys. Timing of works &amp; seasonality. Minimal artificial lighting in tunnels. Project Ecologist.</p>
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<p>(including artificial lighting along route &amp; within in Dung tunnels).</p> <p><b>Lesser horseshoe bat:</b> Potential additional impacts on this species resulting from disturbance caused by localised, short duration, rock breaking &amp; construction works adjacent to a summer roost along N70. (QI species for the nearby Killarney National Park SAC).</p> <p><b>Kerry slug:</b> Potential impacts resulting from removal of c.2, 100sq.m of suitable habitat &amp; associated loss of foraging ground (sandstone rock) to provide gabion walls along N70; disturbance &amp; risk of mortality during construction &amp; operation resulting from trampling (QI species for the nearby Killarney National Park SAC).</p> <p><b>Fisheries &amp; aquatic life:</b> Potential pollution of watercourses along &amp; in the vicinity of the Greenway route by suspended solids, building materials released during construction &amp; accidental fuel spillages or leaks. Potential pollution of watercourses by suspended solids &amp; accidental fuel spillages or leaks during</p>	<p>As above, and NPWS Derogation Licences if required for temporary removal of LHB if still present at roost.</p> <p>Pre-construction surveys. Exclusion zones. Humane trapping &amp; removal to translocation area (suitable habitat). NPWS Derogation Licences if required. Painting gabion walls with yogurt culture to accelerate Lichen colonisation to recreate a suitable habitat. Habitat Restoration Plan. Project Ecologist.</p> <p>Timing and sequencing of works. Best construction practice. Surface water management plan. Buffer zones, silt traps, silt fencing, interceptors &amp; stilling ponds etc. Timing of works, seasonality &amp; weather. Compliance with water quality standards Project Ecologist.</p>
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<p>operational phase.</p> <p><b>Freshwater pearl mussel:</b> Several individuals in the Behy River (Q4 status), adjacent to the trail head car park at Glenbeigh: and same range of potential impacts as above. (Behy river is not a European site).</p> <p><b>Other animal species:</b> Potential minor impacts resulting from disturbance during construction &amp; operation phases for mammals (including commuting otter &amp; badger along the route) with potential barrier effects (boundary fences &amp; catch fences) and seals in Valentia Estuary; and potential disturbance and loss of foraging for small reptiles &amp; invertebrates. (Otter is a QI species for the nearby Killarney National Park SAC &amp; Castlemaine Harbour SAC).</p> <p><b>Biodiversity:</b> Potential positive impacts resulting from preparation of an Ecological Restoration &amp; Management Plan &amp; educational resource at LHB summer roost.</p>	<p>As above, and Pre-construction surveys. NPWS Derogation Licences if required. Approved disposal sites for WC waste from car park.</p> <p>Embedded mitigation in design. Pre-construction surveys (Badger &amp; Otter) Buffer zones around watercourses. Environmental screen (within 200m of Seal haul-out in Valentia Estuary) Timing of works &amp; seasonality. Project Ecologist.</p> <p>Suggested condition to enable natural re-colonisation of c.1m wide verges along either side of the pavement.</p>
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**Residual Effects:** Impacts predicted to be minor subject to implementation of mitigation measures and suggested conditions, including those requiring the omission of parts of the Greenway along Valentia Estuary pending further investigations and future setbacks.

**Cumulative Impacts:** None predicted.

**Conclusion:** I have considered all the written and oral submissions made in relation to biodiversity, in addition to those specifically identified in this section of the report. I am satisfied that they have been appropriately addressed in terms of the application and that no significant adverse effect is likely to arise.

## Land, soil and water

**EIAR** sections 12 & 13 and associated Appendices (as amended by the FI submission which included Peat Stability & Coastal Erosion reports, and the Errata document) dealt with: - soils, geology & hydrogeology and hydrology & water quality. Several desktop studies, field surveys & ground investigation tests were undertaken and the EIAR contained a Flood Risk Assessment report and outline Construction & Environmental Management Plan. The EIAR did not predict any significant adverse impacts on land, soil or water during the construction and operational phases, subject to implementation of mitigation measures.

<b>Submissions</b>	<b>Concerns raised</b>
Concerns raised by the Greenway Information Group, Mr Quinlan & Mr Sweetman.	Proximity to the Foreshore. Slope stability & landslides. Drainage & flood risk. Water quality in watercourses. Proximity of Kells Underpass to a spring. Release of historic contaminants during excavations along railway embankment.
<b>Potential impacts</b>	<b>Analysis &amp; Mitigation measures</b>
<b>Coastal erosion:</b> Potential impacts on bank stability resulting from proximity of works & infrastructure to the naturally eroding shoreline at Valentia Estuary. Refer to section 8.7.5 of this report (Planning Assessment, Infrastructure - Coastal Processes)	<u>Refer to S.8.6, 8.7 &amp; 8.8 of Planning Assessment for detailed analysis.</u>  Embedded mitigation in design (FI coastal protection measures). Best construction practice. Timing of works & seasonality. Revetment works above HWM. Project Ecologist.

<p><b>Landslides:</b> Potential impacts on slope stability resulting from proximity of works &amp; proposed infrastructure to an area along the N section of the route that is prone to minor landslides (Gortiforia, Gleensk &amp; Kilkeehagh). Refer to section 8.8.5 of this report (Planning Assessment, Infrastructure – Slope Stability)</p> <p><b>Flood risk:</b> Potential localised impacts at several locations along the route (including Caherciveen West, Cloghane, Tullig, Lisbane &amp; Gortnagree) resulting from proximity of works &amp; infrastructure to areas that have existing drainage issues, including a natural spring in vicinity of the proposed Kells Underpass at Gortnagree.</p> <p><b>Water quality:</b> Potential pollution of watercourses (including fish &amp; aquatic invertebrates) by suspended solids, building materials released during construction &amp; accidental fuel</p>	<p>Suggested conditions to omit parts of this section of the Greenway pending further investigation &amp; consideration of increased buffer with the shoreline.</p> <p>Embedded mitigation in design (FI catch fences measures).</p> <p>Best construction practice.</p> <p>Detailed Method Statements</p> <p>Timing of works, seasonality &amp; weather.</p> <p>Works monitored by Geotechnical Engineer.</p> <p>Adherence to best construction practice methodologies.</p> <p>Surface Water Management Plan.</p> <p>Site Drainage Management Plan.</p> <p>Compliance with all relevant regulations &amp; guidelines.</p> <p>Best construction practice.</p> <p>Timing and sequencing of works.</p> <p>Surface Water Management Plan.</p> <p>Site Drainage Management Plan.</p> <p>Buffer zones, silt traps, silt fencing, interceptors &amp; stilling ponds, etc.</p>
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<p>spillages or leaks. Potential pollution of watercourses by suspended solids &amp; accidental fuel spillages or leaks during operational phase.</p> <p><b>Ground &amp; surface water contamination:</b> Potential impacts resulting from leakage &amp; spillages from construction vehicles &amp; fuel stores. Potential minor pollution impacts by accidental fuel spillages or leaks during operational phase.</p> <p><b>Historic contaminants:</b> Possible release of contaminants during excavation works has minor potential for water quality impacts (including surface water run-off &amp; seepage to groundwater).</p>	<p>Timing of works, seasonality &amp; weather. Compliance with water quality standards Project Ecologist.</p> <p>As for above.</p> <p>No specific measures.</p> <p>Best construction practices. Water quality management measures.</p>
<p><b>Residual Effects:</b> Residual impacts are not predicted to be significant subject to the implementation of mitigation measures and suggested conditions, including those requiring the omission of parts of the Greenway along Valentia Estuary pending further investigations and future setbacks/buffers, and pre-construction surveys at specific locations.</p>	
<p><b>Cumulative Impacts:</b> None predicted.</p>	
<p><b>Conclusion:</b> I have considered all the written and oral submissions made in relation to land, soil &amp; water, in addition to those specifically identified in this section of the report. I am satisfied that they have been appropriately addressed in terms of the application and that no significant adverse effect is likely to arise.</p>	

## Material assets

**EIAR** sections 7 & 9 and associated Appendices (as amended by the FI submission which included an updated Agronomy Assessment report and Errata document) dealt with material assets, traffic & transportation and agronomy. The EIAR did not predict any significant adverse impacts on material assets during the construction and operational phases, subject to implementation of mitigation measures.

<b>Submissions</b>	<b>Concerns raised</b>
<p>Significant support from Failte Ireland, elected representatives, local businesses, interest groups, community groups &amp; local people.</p> <p>Concerns raised by TII, Greenway Information Group, Galway Cycling Solutions, Galway Cycling Campaign, Mr Fahy &amp; Mr Lyne.</p>	<p>Quality of traffic surveys</p> <p>Road &amp; junction safety</p> <p>Lack of use of quiet rural roads</p> <p>Disturbance during construction</p> <p>Disruption to farming practices during construction (including Kells underpass)</p> <p>Impact on farming practices.</p> <p>Query farm diversification benefits.</p>
<b>Potential impacts</b>	<b>Analysis &amp; Mitigation measures</b>
<p><b>Road network:</b> Potential localised impacts resulting from disruption during road &amp; junction upgrades, and during construction &amp; delivery of machinery &amp; materials.</p>	<p><u>Refer to S.8.3, 8.4 &amp; 8.5 of Planning Assessment for detailed analysis.</u></p> <p>Compliance with Council &amp; TII requirements for road improvements.</p> <p>Prior notification of work to landowners.</p> <p>Traffic management plan</p> <p>Traffic co-ordinator</p> <p>Phasing &amp; timing of works.</p>

<p><b>Road safety:</b> Potential minor localised impacts during the construction phase, and during the operational phase at road junctions &amp; private crossings.</p> <p><b>Temporary farm severance:</b> Potential for impacts during the construction phase resulting from disturbance to farming practices on either side of the Greenway (including the Kells underpass).</p> <p><b>Other traffic concerns:</b> Quality of traffic surveys addressed in section 8.5.5 (Planning Assessment) &amp; lack of use of quiet rural roads addressed in section 9.3 above (Consideration of Alternatives)</p> <p><b>Farming practices:</b> Potential impacts on farming practices &amp; incomes (loss of land, disruption &amp; insurance costs associated with farm animals straying onto Greenway).</p> <p><b>Farm severance:</b> Potential for operational impacts resulting from disturbance to &amp; disruption of farming practices on either side of the Greenway (movement of animals &amp; machinery).</p>	<p>As for above, and Embedded mitigation measures in relation to design &amp; route selection.</p> <p>As for above, and Suggested condition to require that a connection is maintained between the lands located on either side of the N70 during construction.</p> <p>Annual maintenance grant. Fencing, gates &amp; drainage.</p> <p>Suggested condition to require installation of cattle grids at junction of Greenway with farm access roads.</p> <p>Embedded mitigation measures related to design &amp; layout including provision of a similar number of gated agricultural crossings as currently exist across the former railway track.</p>
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<b>Residual Effects:</b> Residual impacts are not predicted to be significant subject to the implementation of mitigation measures and suggested conditions.	
<b>Cumulative Impacts:</b> None predicted	
<b>Conclusion:</b> I have considered all the written and oral submissions made in relation to material assets, in addition to those specifically identified in this section of the report. I am satisfied that they have been appropriately addressed in terms of the application and that no significant adverse effect is likely to arise.	

## Cultural heritage

**EIAR** sections 7 & 15 and associated Appendices (as amended by the FI submission and Errata document) dealt with archaeology, architectural heritage, landscape & tourism. The EIAR did not predict any significant adverse impacts on cultural heritage during the construction and operational phases, subject to implementation of mitigation measures.

### **Submissions**

Significant support from Failte Ireland, elected representatives, local businesses, interest groups, community groups & local people.

Concerns raised by Greenway Information Group.

### **Concerns raised**

Impact on rural landscape.  
Query tourism benefits.

### **Potential impacts**

**Features of heritage interest:**  
Potential localised impacts on unrecorded artefacts along route.

**Historic railway bridges:**  
Refurbishment of O'Connell's Viaduct & Caherciveen railway bridge will have a positive impact on cultural heritage & visual amenity.

### **Analysis & Mitigation measures**

Refer to S.8.2 & 8.9 of Planning Assessment for detailed analysis.

Archaeological monitoring

<p><b>Tourism:</b> Potential positive impacts resulting from direct Greenway usage and indirect knock-on effects for employment (including tourism, recreation, holiday accommodation &amp; farm diversification).</p>	
<p><b>Residual Effects:</b> Residual impacts are not predicted to be significant subject to the implementation of mitigation measures and suggested conditions.</p>	
<p><b>Cumulative Impacts:</b> None predicted</p>	
<p><b>Conclusion:</b> I have considered all the written and oral submissions made in relation to cultural heritage, in addition to those specifically identified in this section of the report. I am satisfied that they have been appropriately addressed in terms of the application and that no significant adverse effect is likely to arise.</p>	

## 9.5 Cumulative Impacts

The following existing, permitted or proposed plans and projects which are located within a 20km radius of the proposed development have the potential to result in-combination effects with the project on the receiving environment:

- Garranebane, Carranearagh & Renard cycleways (included in project).
- Planetarium at Valentia Observatory, Caherciveen.
- Small mixed use development (office & retail) at Garranban, Caherciveen.
- Primary care medical centre at Garranbane, Caherciveen.
- Housing development at Carhan (25 houses), Caherciveen.
- Telecommunications structure at Tullig.
- Poly tunnel & access road at Boulerdah (Kells).
- N70 bridge at Drom West (concurrent Part 8 proposal).
- Walkway from Behy Bridge Rossbeigh parallel to R564.
- Community childcare facility at Glenbeigh.
- Three holiday homes at Treanoughtragh, Glenbeigh

Having regard to the nature and scale of these projects and the separation distance from the Greenway route, I am satisfied that cumulative effects can be avoided, managed and mitigated by the embedded measures which form part of the proposed development, mitigations measures, and suitable conditions. There is, therefore, nothing to prevent the granting of approval on the grounds of cumulative effects.

## 9.6 Interactions and Interrelationships

I have also considered the interrelationships between the key receptors and whether this might as a whole affect the environment, even though the effects may be acceptable when considered on an individual basis. In particular, the potential arises for the following interactions and interrelationships.

***Population and human health:***

- Noise and dust
- Air quality and climate
- Landscape and visual amenity
- Material Assets (farming practices)
- Roads and traffic (air quality, safety & disturbance)

***Air & climate***

- Noise and dust
- Roads and traffic (emissions)
- Population and Human Health

***Landscape***

- Population and Human Health (visual amenity)
- Material Assets and Cultural Heritage (tourism & recreation)

***Biodiversity:***

- Hydrology (water quality & fisheries)
- Population and human health (water quality)
- Material assets (farming practices)
- Landscape (visual amenity)
- Soils and geology (coastal erosion, slope stability & water quality)
- Land (farming practices & landscape character)

***Land, Soil and water:***

- Air quality
- Biodiversity (terrestrial & aquatic)
- Population & Human Health

***Material Assets and Cultural Heritage:***

- Population & human health
- Landscape (visual amenity & landscape character)
- Roads and traffic (disturbance & safety)

In conclusion, I am satisfied that any such impacts can be avoided, managed and mitigated by the measures which form part of the proposed development and the aforementioned conditions, as recommended in section 8.0 above.

**9.7 Risks associated with major accidents and/or disasters**

No outstanding risks associated with major accidents or disasters identified and the potential impacts associated with climate change have been factored into most sections of the EIAR. However, the potential impacts associated with climate change, and the resultant impacts on the proposed infrastructure, have not been adequately addressed with respect to sections of the Greenway adjacent to Valentia Estuary. The omission of parts of this section was recommended by way of a planning condition in section 8.7.5 of this report.

**9.8 Reasoned Conclusion**

Having regard to the examination of environmental information contained above, and in particular to the EIAR and the submissions from the planning authority, prescribed bodies and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment have been identified in section 8.0 and section 9.0 of this report. It is considered that the main significant direct and indirect impacts of the proposed development on the environment are as follows. Where appropriate, the relevant mitigation measures in the EIAR are referenced.

- The localised ***risk of coastal erosion impacts*** during the construction and operational phases arising from proximity of the project to the Valentia Estuary, in-combination with the potential effects of climate change (including rising sea levels and storm surges) could undermine the durability, longevity and sustainability of the proposed infrastructure. The omission of parts of this section of the Greenway was recommended by way of a planning condition in section 8.7.5 of this report, pending further investigations of estuarine dynamics and consideration of an additional setback from the shoreline.
- The localised ***risk of slope instability during the construction and operational phase*** through a lack of control over or mismanagement of the excavation and spoil removal works, in combination with naturally occurring minor landslides in the area. These impacts would be mitigated by the agreement of measures within the Construction and Environment Management Plan and the implementation of the mitigation measures contained in the Peat Stability Risk Assessment in relation to the installation of catch fences at Gortiforia, Gleensk and Kilkeehagh. These measures would also serve to protect the Greenway infrastructure and Greenway users.
- ***Biodiversity impacts*** arising from proximity to sensitive habitats and foraging corridors, connections to aquatic and water dependent habitats, changes to vegetation along the route, and general disturbance during the construction and operational phases. These impacts would be mitigated by the agreement of measures within a Construction and Environment Management Plan and the implementation of mitigation measures which include: - pre-construction surveys (for Badger, Otter, Lesser horseshoe bat, Kerry slug, Freshwater pearl mussel, St Patrick's Cabbage & Camomile); water quality (as above); an Invasive Species Management Plan; the appointment of a Project Ecologist; in addition to the conditioned omission of parts of the Valentia Estuary section of the Greenway pending further investigations and future setbacks.

- The ***risk of pollution of ground and surface waters during the construction phase*** through a lack of control of surface water during excavation and construction, the mobilisation of sediments and other materials during excavation and construction and the necessity to undertake construction activities in the vicinity of existing watercourses. The construction of the proposed project could also potentially impact negatively on ground and surface waters by way of contamination through accidents and spillages. These impacts would be mitigated by the agreement of measures within the Construction and Environment Management Plan, and the implementation of mitigation measures related to: - design and avoidance, accidental spills and contamination, drainage management (Surface Water Management & Drainage Management Plans).
- The proposed project would give rise to an increase in ***vehicle movements and resulting traffic impacts*** during the construction phase and significant impacts on the road network including along the N70 which includes several upgraded site accesses, and during the operational phase where the Greenway would interact with several road junctions and traverse several private driveways. These impacts would be mitigated by the agreement of measures within a Construction and Environment Management Plan and the implementation of mitigation measures related to: - the preparation of a Traffic Management Plan & appointment of a Traffic Co-ordinator, phasing & timing of works and prior notification of site specific works; and the implementation of a Mobility Management Plan for Caherciveen.
- The project could give rise to minor localised impacts on ***residential amenity*** during the construction (noise, dust, traffic safety & general disturbance) and operational (overlooking, noise & general disturbance) phases. These impacts would be mitigated by the implementation of measures related to the protection of air quality, control of noise the erection of screening panels.



- The project could give rise to localised impacts on ***farming practices*** during the construction (noise, dust, traffic safety, restricted access & general disturbance) and operational (severance, traffic safety, noise & general disturbance) phases. These impacts would be mitigated by the implementation of measures related to the protection of air quality, control of noise the maintenance of field and road crossings.
- The proposed development would have ***potentially significant positive environmental impacts*** during the operational phase from a reduction in carbon emissions and the creation of a new public amenity and tourist attraction.

In ***conclusion***, having regard to the above identified significant effects, I am satisfied that the proposed development would not have any unacceptable direct or indirect impacts on the environment, subject to the implementation of the mitigation measures and any conditions recommend in section 8.0 of this report.

## 10.0 APPROPRIATE ASSESSMENT

Refer to the report of Dr Maeve Flynn (Inspectorate Ecologist) which is contained in Appendix 4 of this report.

A small proportion of the proposed greenway route would be partially located within European sites designated Special Conservation Areas (SAC) under the Habitats Directive (92/43/EC) and Special Protection Areas (SPA) under the Birds Directive (2009/147/EC).

The applicant submitted a screening report and Natura Impact Statement (NIS) which concluded that the proposed development could result in significant effects on five European sites in the absence of mitigation and a NIS was required to inform appropriate assessment of potential effects on the conservation objectives of the Killarney National Park, Macgillycuddy's Reeks & Caragh River Catchment SAC, Iveragh Peninsula SPA, Valencia Harbour/Portmagee Channel SAC, Castlemaine Harbour SPA and Castlemaine Harbour SAC. Following a request for further information, a NIS addendum was submitted, and together with submissions and information gathered at the oral hearing, this suite of scientific information was considered in the Appropriate Assessment undertaken by Dr Flynn.

The Appropriate Assessment ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC Iveragh Peninsula SPA, Valencia Harbour/Portmagee Channel SAC, Castlemaine Harbour SPA or Castlemaine Harbour SAC in view of the Conservation Objectives of those European sites. No reasonable scientific doubt remains as to the absence of such effects.

I would concur with Dr Flynn's conclusions in respect of the Appropriate Assessment which now forms part of this report.

## **11.0 COMPULSORY PURCHASE ORDER**

### **11.1 Introduction**

The statutory powers of the local authority to acquire land are contained in Section 213 of the Planning and Development Act 2000 (as amended) and approval under Section 52 (2) of the Roads Act 1993 (as amended) which authorises the Road Authority to compulsorily acquire any land or any rights in relation to land specified in the approved scheme.

As noted in section 7.0 above, approximately 70 submissions were made in respect of the compulsory purchase order, with some landowners making a submission of support of the CPO. However, at the time of writing this report, some 27 objections and 2 submissions of support remain, which have not been formally withdrawn.

Kerry County Council's case is based on the grounds that the proposed CPO will serve an important community need in terms of:- acting as a catalyst to create employment, reduce population decline, retain community and social services, and counter rural isolation; that it will give effect to a wide range of Development Plan objectives for the surrounding area; and that it would be in accordance with European, national and regional policy. The Objectors on the other hand argue that the sole purpose of the CPO is to facilitate the provision of a recreational amenity for tourists, and that confirmation of the CPO will result in the unnecessary acquisition of their land to facilitate an amenity project which will not benefit the wider community.

The Board should note that a number of the concerns raised by the Objectors have been addressed in preceding sections of this assessment which should therefore be read in conjunction with this CPO assessment [section 8.0 (Planning Assessment) and section 9.0 (Environmental Impact Assessment)].

These assessments concluded that the scheme would be in keeping with the proper planning and sustainable development of the area subject to compliance with recommended conditions, and that it not have any significant adverse effects on the environment, subject to the implementation of mitigation measures.

## **11.2 Assessment of CPO**

Four criteria are normally applied where it is proposed to use powers of compulsory purchase to acquire land or property namely:

- Development Plan compliance,
- Community need,
- Suitability of land to meet the community need, and
- Alternatives.

### **11.2.1 Development Plan compliance**

Section 6 of the EIAR provides a comprehensive review of an extensive range of public policy and sets out how the proposed development complies with this policy. Section 3.0 of this report summarises the policy context for the proposed Greenway scheme with regard to European, national and regional transport policy, including the Strategy for the Development of National and Regional Greenways, 2018, as well as with national, regional and local planning policy. This includes Project Ireland 2040 which encompasses the National Planning Framework and the National Development Plan, Smarter Travel, the Southwest Regional Planning Guidelines and the Kerry County Development Plan 2015-2021. Since the publication of the EIAR, the West Iveragh Local Area Plan has been adopted (Adopted on 24/07/19 and effective from 04/09/19).

Section 8.1.2 of this report assesses policy compliance and concludes that the Greenway scheme complies with European, national, regional and local transportation and planning policy, and in particular the Kerry County

Development Plan 2015-2021 and the recently adopted West Iveragh Local Area Plan 2019-2025. The Development Plan and West Iveragh Local Area Plan contain a variety of policy objectives related to land use, environment, transport, heritage, amenity, tourism and agriculture that are of relevance to the lands affected by the CPO. Although the affected lands are occupied by a variety of land uses, most of the lands located within rural areas are not covered by any specific zoning objective.

The relevant policies and objectives are summarised in section 3.3 of this report and the most pertinent to this CPO case are summarised below.

### **County Kerry Development Plan 2015-2021**

**Core Obj. CS-6:** seeks to promote the integration of land use & transportation policy and to prioritise the provision of sustainable cycling & walking modes.

**Obj.RD-14:** seeks to promote the sustainable development of walking, cycling, public transport & other sustainable forms of transport.

**Obj.RD-28:** seeks to promote (RD-14) by facilitating & promoting the sustainable development of necessary infrastructure at appropriate locations.

**Obj.RD-29:** seeks to promote (RD-14 & RD-28), including where possible the retrofitting of cycle & pedestrian routes into the existing urban road network.

**Obj.RD-30:** seeks to support the sustainable establishment of a network of "Greenways" as per Table 7.4 (Farranfore to Caherciveen to Renard Point).

**Obj.RD-31:** seeks to support the sustainable establishment of a network of interlinked cycle ways & walkways (including Glenbeigh-Renard).

**Obj.RD-32:** seeks to protect all existing or historic rail lines and associated facilities from redevelopment for non-transport purposes in order to protect their future use as a network for green cycle/walking routes.

**Obj. T-11, 20, 21, 23 & 26:** seek to promote & facilitate the... sustainable provision of a network of car free walking & cycling tracks.

**Obj. T-27:** seeks to promote & facilitate the sustainable reuse of existing former railway lines for amenity purpose, such as cycleways & walkways.

### **West Iveragh LAP 2019-2025:**

**Obj. GY-01:** seeks to construct a greenway along the route of the former railway line between Renard to Glenbeigh.

**Obj. GY-02:** seeks to protect all existing or historical rail lines and associated facilities from redevelopment for non-transport related purposes in order to protect their future use as greenways/cycle or walking routes.

**Obj. GY-03:** seeks to establish a network of interlinked greenways within the Iveragh Peninsula.

**Obj. GY-05:** seeks to support and facilitate the maintenance, enhancement and promotion of all existing & future greenways within the Iveragh Peninsula.

**Obj. CH-T-05:** seeks to facilitate the creation of the S Kerry Greenway along the old Renard/Caherciveen-Killorglin railway line as a recreational greenway.

**Obj. CH-TM-05:** seeks to promote the development of Cycleways and Greenways in and around Caherciveen where appropriate.

It is therefore clear that the adopted Kerry County Development Plan and West Iveragh Local Area Plan include specific objectives for the Greenway based on the route currently before the Board.

Furthermore, Section 15 (1) of the Planning and Development Act 2000 states that it shall be the duty of the Planning Authority to take steps within its powers as may be necessary for securing the objectives of the Development Plan. Section 212(1) (a) of the same Act permits the Planning Authority to “secure, facilitate and control the improvement of the frontage of any public road by widening, opening, enlarging or otherwise improving.” Section 212 (3) of the same acts permits the Local Authority to “in connection with any of its functions under this Act, make and carry out arrangements or enter into agreements with any person or body for the development or management of land and may incorporate a company for those purposes.”

### **Conclusions:**

Having regard to the foregoing, I am satisfied that the lands affected by the proposed CPO substantially accord with European, national and regional transportation and planning policy, and the various policy objectives contained in the Kerry County Development Plan and West Iveragh Local Area Plan as they relate to land use, environment, transport (including walking routes, cycleways & greenways), heritage, amenity, tourism and agriculture, and this

includes the Objector's lands. I am therefore satisfied that the use of a CPO to acquire lands for the implementation of the South Kerry Greenway scheme would be inappropriate.

### **11.2.2 Community Need**

Section 2 of the EIAR sets out the need for the South Kerry Greenway and the scheme objectives for the Greenway scheme and associated CPO, which were elaborated on by the applicant during the oral hearing.

The scheme objectives seek to:

- Increase the economic contribution of tourism.
- Provide a catalyst for economic regeneration.
- Maximise economic potential.
- Contribute to the health and wellbeing of the community.

The main benefits of the scheme would:

- Facilitate the realisation of a specific policy objective.
- Address demographic trends (decline in population, employment & school enrolments).
- Provide community wide benefits.
- Provide economic benefits (employment, tourism, & farm diversification).
- Provide a safe and accessible cycling & pedestrian amenity

The applicant stated that the N section of the Iveragh Peninsula suffers from a falling population, lack of employment opportunities and general socio-economic decline, and that this ongoing decline could in turn compromise the sustainable provision of community, social and educational services and related facilities in the wider area. This view was shared by the wider community, as evident in the written and oral submissions which are summarised in Sections 4.0 and 7.0 and Appendices 2 and 3 of this report. The applicant and the wider community concurred that there is a definitive community need for an infrastructural project that will act as a catalyst for the

rejuvenation of the area. The need and justification for the proposed Greenway scheme was assessed in Section 8.1.5 of this report which concurred this analysis.

There was a prolonged discussion at the oral hearing in relation to whether or not the proposed CPO of lands along the Greenway route, including the plots owned by the Objectors, would serve a wider public need or the interests of an amenity project. The concerns raised by the parties at the oral hearing are detailed in the digital recording that accompanies this report and the various written and oral submissions are summarised in Section 7.0 and Appendix 3. Several landowners objected to the route alignment through agricultural lands, notwithstanding the fact that the former railway embankment already crosses many their lands (as assessed in Section 8.4.5 of this report).

Although I understand the concerns raised by the Objectors in relation to the issue of community need and the potential adverse effects of the Greenway scheme on their landholdings, on balance, it is considered that the overall benefits of the proposed Greenway scheme to the wider community would outweigh these localised adverse impacts.

I am satisfied that the Greenway scheme is an appropriate and suitable means of meeting the stated objectives of the project. It would accord with national, regional and local policy, improve road safety and accessibility by pedestrians and cyclists, provide for improved environmental conditions and it will also provide an economic return on investment. It is considered, therefore, that the proposed development will benefit the wider community and the CPO can be justified in the interests of the common good. I consider that the community need for the scheme has therefore been established.

**Conclusion:**

Having regard to the foregoing, I am satisfied that the proposed CPO of the lands affected by the proposed South Kerry Greenway scheme, including the



plots owned by the Objectors, would serve a community need which has been fully established.

### **11.2.3 Suitability of land to meet community need**

It is proposed to permanently acquire 14.6ha of land along the c.32km South Kerry Greenway corridor and an additional 7.4ha will be temporarily acquired for construction works. At present the lands are in a variety of uses including agriculture, woodland, residential and urban, the c.18km would be located along the line of the former railway embankment and the SW section would run adjacent to Valentia Estuary. The status of the embankment ranges from lands where it remains in-situ with remnants of the track bed still evident, to lands where it has been fully removed and the lands integrated into the surrounding fields, or upon which houses have been constructed. The lands adjacent to Valentia Estuary are subject to the effects of coastal processes including erosion and coastal inundation. No habitable dwellings will be permanently acquired, and no public rights of way will be extinguished.

I refer to Section 8.0 of this assessment and to the conclusion that the proposed design and layout of the Greenway is appropriate, as is the location and layout of the proposed car parks. The extent of the land that would be acquired under the Order on a permanent and temporary basis is determined by the specifications of the proposed Greenway layout and associated construction works. I am satisfied that the lands proposed to be acquired are necessary to facilitate the provision of the scheme, and that the land-take is necessary and proportional to ensure the delivery of the proposed development to an appropriate design standard. However, this is with the exception of the lands located in the SW section of the scheme in the vicinity of Valentia Estuary (SW & NE) which have been omitted by way of a recommended planning condition, as detailed in Section 7.8.5 of this report. Although the construction of the Greenway scheme is acceptable in principle, a more detailed assessment of estuarine dynamics and some site specific realignments are required adjacent to the shoreline.

The landowner's objections in relation to the effect of the land-take on farming practices has been addressed in Section 8.4 of this report. This section concluded that although the proposed Greenway would have a permanent effect of farming practices as a result of severance (functional as opposed to physical in most cases), disruption to farming activities (seasonal movement of animals & machinery) and general disturbance (from noise, dust and proximity of recreational activities), the impact would not be unduly significant when balanced against the wider community benefits of the scheme. The loss of farmland would be compensated for under the terms of the CPO arrangements and associated accommodation measures.

The landowner's queries in relation to the suitability of the railway embankment lands with respect to the potential release of historic contaminants during construction have been addressed in Sections 8.0 and 9.0 of this report. It was concluded that the construction works would not have an adverse effect on air or water quality subject to the implementation of mitigation measures and recommended planning conditions. The landowners also queried the suitability of the embankment to accommodate the project in terms of strength and durability. Given that the embankment previously accommodated railway trains I am satisfied that the lands are suitable for the construction and operation of a Greenway for cyclists and pedestrians.

A substantial proportion of the Greenway scheme would utilise the former railway embankment (c.18km) in addition to small sections of the local rural and urban road network that would be improved. The remaining sections would utilise lands that are either located adjacent to or near the former embankment and road network, which is supported by the policy objectives contained in the County Development Plan and West Iveragh Local Area Plan. I am therefore satisfied that the location of the lands is appropriate for meeting community needs in terms of complying with planning policy, except for those lands omitted by way of a recommended planning condition, where site specific realignments should be considered adjacent to Valentia Estuary.

**Conclusion:**

Having regard to the foregoing, I am satisfied that the lands identified in the CPO are required for the construction of the project and that the lands are therefore considered suitable to meet this community need, except for the recommended site specific realignments adjacent to Valentia Estuary.

**11.2.4 Alternatives**

Section 5 of the EIAR and associated Appendices carried out a route selection analysis to assess route options between Renard Point and Glenbeigh. This included an evaluation of the Do-Nothing compared to the Do-something options, alternative route corridors and alternatives within the route corridor. Section 9.3 of this report considered several strategic route alternatives, and site specific route options where there are obstructions on the railway embankment or where the landowner requested a deviation.

The landowners objected to the route corridor selected and the matter was debated at length during the oral hearing, as summarised in sections 7.0 above and detailed in the digital record of the hearing. Several of the landowners queried why the existing rural road network was not been utilised to a greater extent and several suggested a number of site specific route alternatives across or adjacent to their lands. It is noted that the existing rural roads would not have the capacity to accommodate the predicted number of cyclists that would be required in order to realise the overall benefits of the scheme. Furthermore, many of the suggested alternatives would align the Greenway along or close to large sections of the N70 which would reduce the amenity value of the scheme and thus the ability of the scheme to realise the overall benefits to the community. The suggested alternatives would therefore not ensure compliance with Development Plan policies and objectives which seek to utilise as much of the former railway embankment as possible, and the reduction in amenity value would fail to realise the full potential of the Greenway and the stated community need for the scheme.

It is considered that the process undertaken by the Council has been a robust assessment of alternative options having regard to environmental considerations and the stated Scheme Objectives, which are considered to be reasonable. I agree that the route corridor chosen is the one which best meets these objectives. I also accept that the consideration of site specific options within the selected corridor was a rigorous process, which had regard to environmental considerations and to the Scheme Objectives. I generally concur with the reasons for choosing the preferred strategic and site specific alternatives as presented in the EIAR, and as amended by the recommended planning condition in relation to Valentia Estuary.

The landowners also identified potential impacts on properties and lands, as well as environmental considerations including impacts on human health, noise, air and visual impacts and on terrestrial and aquatic ecology. The issues relating to properties and lands are likely to arise no matter which route is chosen. The planning and environmental issues have been addressed in detail in the Section 8.0 and 9.0 of this report. It is acknowledged that sections of the proposed route present burdens in respect of residential owners and farming practices, and that these impacts will, in many cases, be permanent impacts notwithstanding the mitigation measures proposed. Issues relating to severance and loss of lands arising are matters to be addressed by way of compensation.

**Conclusion:**

Having regard to the foregoing, I am satisfied that several alternative strategic and site specific options for providing the South Kerry Greenway scheme have been considered and assessed, and that the proposed route alignment and affected lands represent the most reasonable means of achieving the scheme's objectives and meeting the identified community need, in the interests of the common good.

## **11.3 Site specific CPO issues**

### **11.3.1 CPO submissions**

The main issues raised in the written submissions are summarised in Sections 4.0 & 6.0 and Appendix 3 of this report. The CPO Objectors and Supporters who attended the oral hearing were given the opportunity to provide a brief summary of their main concerns and to question the Applicant at the end of their submissions. The ensuing debate is available on the digital record of the proceedings.

### 11.3.2 Individual CPO Supporters

Plot owners who support the CPO made the following submissions to the oral hearing:

***Mortimer Moriarty*** (Plot 220a): supports the Greenway, has no objection to the CPO and described the benefits the project would bring to the area.

***John Joseph O'Connor - IRD Kells & Foilmore Co.*** (Plot 580 a-d): Pat Kavanagh spoke on behalf of Mr. O'Connor who is recently deceased, he supports the Greenway, has no objection to the CPO and described the benefits the project would bring to the surrounding area.

### 11.3.3 Individual CPO objectors

Individual Plot owners who object to, or have concerns about the CPO made to the oral hearing:

***Ciaran Quinlan*** (Plot 165 a-g): supports the Greenway but concerned about coastal erosion, proximity to dwelling house (located on site of railway embankment), impact on residential amenity and relationship with driveway (underpass preferred).

***James Clifford*** (Plots 335a, 357 a-b & 360 a, c & d): Mr Sweetman and Ms Heavy BL raised concerns on behalf of Mr Clifford in relation to inadequate public consultation, farm severance, impact on farming practices, design of crossings, gates & fencing, drainage arrangements, privacy and biodiversity. It was confirmed that the railway embankment transects the landholding and that the fields on either side are connected by a gated crossing, and the Council confirmed that the crossing would be maintained. Several other

concerns were raised in relation to the Errata document, planning policy, legal jurisdiction, population & socio economic dynamics, consideration of alternatives, European sites, coastal erosion and the Foreshore. These issues have been addressed in section 8.0 and section 9.0 of this report (Planning Assessment Environmental Impact Assessment).

**Morgan Lyne** (Plot 570 a, c & e) raised concerns in relation to principle of the CPO process, lack of consideration of alternatives to the CPO process, Council procedures (including letters to deceased relatives), no consideration of other viable options (including agricultural underpasses), inconvenience and general disturbance.

**Patrick O'Shea** (Plot 730 a-h): Mr O'Brien (Agricultural Consultant) raised concerns on behalf of Mr O'Shea in relation to proximity to the dwelling house (elevated railway embankment to rear of original house), screening arrangements, impact on residential amenity (overlooking, security & loss of privacy, and noise & disturbance during construction), inadequate screening and lack of consideration of other more scenic alternatives on higher ground.

#### **11.3.4 Collective CPO objectors**

Harrington & Co. Solicitors (with Michael O'Donnell BL) represented the remaining CPO objectors who attended the oral hearing. They mainly comprise farmers who also form part of the Greenway Information Group.

##### ***General submission***

The general concerns raised in respect of the CPO are summarised below:

- Need for scheme not established (particularly in relation to population & socio-economic dynamics).
- Lands are not suitable in respect of the scheme (particularly in relation to the railway ballast & reclaimed lands).
- Material contravention of Development Plan (and conflict with Iveragh Local Area Plan).
- Pre-determined route from the outset (along railway embankment).

- Inadequate detail of scheme provided therefore impossible to assess potential impacts (Inadequacies in the EIAR), no serious consideration of alternatives.
- Ambiguity and vagueness of works (Inadequacies in the EIAR related to baseline surveys).
- Incorrect procedures adopted in respect of scheme (Roads Act v Planning & Development Act v Foreshore Act).

### ***Individual CPO Objections***

The individual objectors expressed support for the Greenway but raised a series of similar concerns in relation to the principle of the CPO process, Council procedures, lack of consideration of alternatives and the impact of the land take and operation of the proposed Greenway on: - residential amenity, access to land and property, farm severance, farming practices, movement of animals & machinery, priority of access across the greenway, drainage arrangements, health and safety, trespass & privacy, liability and insurance, visual amenity and landscape character, biodiversity, inconvenience and general disturbance. Most of the Objectors confirmed that the railway embankment transects their landholding and that the fields on either side are connected by a gated crossing. The Council confirmed that these crossings would be maintained under the Greenway project.

The following objectors also raised specific concerns in respect of their individual landholdings.

***Michael Sheehy*** (Plot no.150a-c): proximity to two dwelling houses and wastewater treatment system, relationship to residential driveway & operation of Greenway gates (Mr. Sheehy has a disability), visual impact of berms, overlooking, loss of privacy and trespass.

***James and Patricia Walsh*** (Plot 245a, 247a & 510a-h): proximity to and incursion on to a private roadway, absence of fencing & danger to livestock, drainage arrangements & localised flooding, proximity to commercially zoned lands & disturbance from construction traffic (245a); loss of right of way (247a); farm severance, dangerous junction along steep laneway & future

development potential of house to N (510a-h); and absence of site specific drainage details.

**Jeremiah Coffey** (Plot 375a-c & 365 a-d): farm severance, changes to farming practices & inconvenience and resultant impact on rural character, durability of fences (prefer concrete posts), inadequate site specific drainage arrangements & flood risk, sensitivity of sheep (particularly during lambing), and disturbance to Greenway users from farm activities (frequent movement of livestock & machinery). Mr Coffey also queried site specific population changes (DED), the causes of population decline in Caherciveen (mainly related to the loss of several big employers), and the absence of tourist facilities including a substantial reduction in the number of public houses.

**Denis O'Connor & Carmel Ni Mhorain** (Plot 410 a-c): farm severance, inconvenience and adverse visual impact on character of rural landscape.

**Michael Patrick Clifford** (Plot 423a & 426b): farm severance, change in farming practices, durability of fences, loss of trees, maintenance of Greenway, sensitivity of Limousin cattle & threats to livestock from dogs.

**Mike Garvey & Mr. Garvey senior** (Plot 465 a-e): farm severance, proximity to Mr. Garvey's (Senior) house, ineffective screening, social media intrusion, inconvenience, changes to farming practices & resultant impact on character of rural landscape, sensitivity of sheep & cattle (including bull), threats to livestock from dogs & dog fouling, and disturbance to Greenway users from farm activities (slurry spreading, weed killer & sheep dipping).

**Jack Quirke** (Plot 470): farm severance, absence of site specific details, disturbance to Greenway users from activities at sheep handling facility (sheep dipping).

**Michael Quirke** (Plot 475 a-d & 485 a-c): farm severance, changes to farming practices, quality & durability of gates and fences, sensitivity of dairy cattle and sheep (including impacts on Quality Assured Dairy products and Black-faced mountain sheep that are particularly feisty), threats to livestock from dogs & dog fouling, query proposals for stone railway arch (Chainage c.11,850), disturbance to Greenway users from farm activities (silage production, odours & regular slurry spreading relative to particular dairy herd).



**Mary O'Neill & Christy McDonnell** (Plot 520 a-f): farm severance, fencing, proximity to N70, sensitivity of cattle (including Limousin bull), relationship to residential & farm driveway, family cares for people with special needs who can't be left unattended (driveway & gate issues), disturbance to Greenway users from farm activities (slurry spreading) and impact on development potential of adjacent lands.

**Breda O'Neill-Collins** (Plot 522a): Mary O'Neill raised concerns on behalf of her sister in relation to the presence of a rare micro habitat (Atlantic Temperate Rainforest) and rare species of Lichen along the route, and the impact on the development potential of adjacent lands.

**Pat Murphy (Plot 530 & 545)**: Denis O'Connor raised concerns on behalf of his elderly friend in relation to severance, proximity to the rear of the unoccupied house (Mr Murphy hopes to return to his house in the future), overlooking, and noise & vibration disturbance during construction.

**Paul O'Shea** (Plot 550 b, c, d, f, g, j, k): railway embankment located parallel to S site boundary with N70 in fields to N, restricted access between lands on N & S side of the N70 during construction of Kells Underpass, adverse impact on spring to NW, continuity of water supply, inadequate site specific excavation & design details for underpass, inadequate details for groundwater management (including location of stilling pond) and drainage arrangements.

**Mary Mahoney** (Plot 620): proximity to stables, trespass, sensitivity of pure-bred Arabian horses, dangerous junction on steep incline at bend in lane.

**James Dominic Moriarty & Patrick Kelly** (Plot 895): proximity to rear of house which is occupied by an elderly couple, overlooking, noise & vibration disturbance during construction, relationship to residential & farm driveway (dangerous junction on steep incline).

**Thomas Moriarty** (Plot 915 a-b & 919): farm severance, continuity of water supply, location of water troughs, proximity of holding pens to nearby houses, access to N70, disturbance to Greenway users from farm activities (slurry spreading, farm odours & soiling of Greenway).

**John Anthony Moriarty** (Plot 960 a & f): farm severance, disturbance during construction, continuity of water supply, disturbance to Greenway users from farm activities (slurry spreading, farm odours, soiling of Greenway).

**James Sheahan** (plot 980 a & l): farm severance, changes to farming activities, need to re-organise farming practices to cross Greenway, query viability of alternatives & on-road options to N, junction safety with local road to N, durability of fencing, proximity to farm yard and N70, sensitivity of cattle, disturbance to Greenway users from farm activities (slurry spreading), considered the use of the CPO to be a toxic procedure.

**Others:** Several further landowners, who did not make individual submissions to the oral hearing, were represented by Harrington & Co Solicitors who stated that the same concerns apply [Kathleen Clifford (Plot 390), Sean Sullivan (Plot 395), Pat Lyne (Plot 490), Sean Murphy (Plot 495) and Timothy Sheahan (Plot 955)].

**Expert witness:** Mr Pdraig Murphy (Civil Engineer) raised safety concerns in relation to the design of several of the junctions on the CPO Objectors lands in relation to steep gradients and bends combined with the movement of large agricultural vehicles crossing the Greenway.

### **11.3.5 Consideration of CPO Issues**

The concerns raised by the Objectors in relation to the need for the scheme, the suitability of the lands and consideration of alternatives have been addressed in section 11.2 above, and in Sections 8.0 and 9.0 of this report.

The concerns raised in relation to application procedures, material contravention of the Development Plan (including conflict with Iveragh Local Area Plan), and the veracity of the EIAR have been addressed in Sections 8.0 and 9.0 of this report.

Many of the planning and environmental concerns raised by the Objectors have already been addressed in preceding sections of this report which should therefore be read in conjunction with this CPO assessment [section

8.0 (Planning Assessment) and section 9.0 (Environmental Impact Assessment)].

Such concerns relate to potential adverse impacts on farming practices including: - farm severance, access across the Greenway (animals & machinery), disruption to farming operations and disturbance to farm animals; animals straying on to the Greenway, trespass, insurance costs and public liability; drainage arrangements, flood risk and water quality; traffic safety at the intersection of the Greenway with farm access roads; residential amenity (overlooking, loss of privacy, trespass & general disturbance); rural landscape character; biodiversity; and the impact of farming activities on Greenway users (slurry spreading, weed killer & sheep dipping). These concerns were assessed in Sections 8.0 and 9.0 of this report and are addressed by way of planning conditions as considered appropriate, adherence to best construction practice and implementation of mitigation measures.

Other site specific concerns relate to whether gates are required at the intersection of the Greenway with residential and/or farm access crossings at specific locations, the type of gate preferred (manual or electronic), the need for holding pens on either side of the agricultural crossings, durability of agricultural fences, a preference for an underpass at particular residential and agricultural crossings, site specific drainage arrangements, and maintenance of water supply during construction works. These concerns were addressed in Section 8.0 of this report however they mainly relate to accommodation measures and should be addressed directly by the Council.

Although I understand the concerns raised by the Objectors in relation to the potential adverse effects of the land take and Greenway scheme on their landholdings, on balance, I am satisfied that the overall benefits of the scheme to the wider community would outweigh these localised impacts. Furthermore, many of the Objector's concerns can be addressed by way of adherence to best construction practices, planning conditions and mitigation

measures in addition to the accommodation measures agreed with the Council.

### **11.3.6 Written submissions**

Several Plot owners made written submissions to the Board but did not attend the oral hearing. Their objections to the CPO, which are of a similar nature to those addressed above, are summarised in Section 7.0 and Appendix 3 of this report, and they do not raise any issues not already covered.

## **11.4 Overall conclusion**

Having regard to the assessment carried out above, I am satisfied that:

- The community need for the South Kerry Greenway scheme has been established.
- The particular lands that constitute the route corridor are suitable to meet the needs of the South Kerry Greenway scheme.
- The scale, layout and location of the proposed South Kerry Greenway scheme have been justified.
- All lands included in the CPO, excepting those lands omitted by way of a recommended planning condition adjacent to Valentia Estuary, and
- The proposed South Kerry Greenway scheme is compatible with the relevant development plan provisions.

The proposed development is therefore acceptable in environmental and planning terms and I recommend that the CPO be confirmed and the application for the South Kerry Greenway scheme be approved.

## 11.5 Recommendation

I acknowledge that the proposed Compulsory Purchase Order for the proposed South Kerry Greenway scheme will involve the permanent loss of approximately 14.6ha of land and the temporary loss of approximately 7.4ha of land for construction works. At present the lands are in a variety of uses including agricultural and residential lands. However, this loss should be balanced against the wider objectives which seek to implement South Kerry Greenway scheme in accordance with the policies and provisions contained in the Development Plan and the need to secure the objectives of the Development Plan in accordance with the provisions of Section 15(2) and Sections 212(1) (a) of the Planning and Development Act 2000.

The acquisition of the lands in question would also serve an important community need in the N section of the Iveragh Peninsula between Renard Point and Glenbeigh by providing a safe and accessible cycling and pedestrian amenity that would facilitate the realisation of a specific policy objective and in turn act as a catalyst to address the ongoing decline in population, employment and school enrolments, provide community wide benefits, and provide economic benefits along the route. I therefore recommend that the Compulsory Purchase Order of the South Kerry Greenway scheme be confirmed.

## 11.6 Decision

**CONFIRM** the above compulsory purchase order with modifications based on the reasons and considerations set out in Section 14.0 and Schedule 2 below.

## **12.0 CONCLUSION AND RECOMMENDATION**

I recommend that the application under Section 51(2) of the Roads Act, 1993 as amended for the construction of the South Kerry Greenway should be granted for the reasons and considerations as set out in Schedule 1 and consequently that the CPO is approved (Schedule 2).

## 13.0 SCHEDULE 1 - SOUTH KERRY GREENWAY

### REASONS AND CONSIDERATIONS

Having regard to:

- a. the National Planning Framework Plan, 2018-2040,
- b. South West Regional Planning Guidelines, 2010 to 2022,
- c. the National Cycle Policy Framework, 2009-2020,
- d. the Strategy for the Development of National and Regional Greenways, 2018,
- e. Rural Cycle Design (Offline) DN-GEO-03047, TII, 2017,
- f. the policies of the planning authority as set out in the Kerry County Development Plan 2015-2021 and the West Iveragh Local Area Plan 2019-2025,
- g. the distance to dwellings or other sensitive receptors,
- h. the submissions made in connection with the application,
- i. the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on European Sites,
- j. the Appropriate Assessment report of the Ecologist, and
- k. the report and recommendation of the Inspector.

#### **Proper planning and sustainable development:**

It is considered that subject to compliance with the conditions set out below the proposed development would accord with European, national, regional and local planning and related policy, it would not have an unacceptable impact on the landscape or ecology, it would not seriously injure the visual or residential amenities of the area or of property in the vicinity, and it would be acceptable in terms of traffic safety and convenience. The proposed development would,

therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment:**

The Board considered the Screening Report for Appropriate Assessment, the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European Sites. The Board noted that the proposed development is not directly connected with or necessary for the management of a European Site and considered the nature, scale and location of the proposed development, as well as the report of the Ecologist. In completing the appropriate assessment, the Board adopted the report of the Ecologist and concluded that, by itself or in combination with other plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the sites' conservation objectives.

### **Environmental Impact Assessment:**

The Board completed an environmental impact assessment of the proposed development taking account of:

- (a) the nature, scale, location and extent of the proposed development on a site,
- (b) the Environmental Impact Assessment Report (EIAR) and associated documentation submitted in support of the application,
- (c) the submissions received from the prescribed bodies and observers, and
- (d) the Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed



development on the environment. The Board agreed with the examination, set out in the Inspector's report, of the information contained in the environmental impact assessment report and associated documentation submitted by the applicant and submissions made in the course of the application. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- The risk to the longevity of the proposed infrastructure during the operational phase, resulting from the natural processes of coastal and estuarine erosion, would be mitigated by the omission of the sections of the Greenway located in close proximity to Valentia Estuary, pending further investigations.
- The risk of slope instability and peat erosion during the construction and operational phases which would be mitigated by the implementation of measures set out in the Environmental Impact Assessment Report (EIAR) and the outline Construction and Environment Management Plan (oCEMP), and Peat Risk Stability Assessment Report.
- The risk of pollution of ground and surface waters during the construction phase which would be mitigated by the implementation of measures set out in the Environmental Impact Assessment Report (EIAR) and the outline Construction and Environment Management Plan (oCEMP) which include specific provisions relating to groundwater, surface water and drainage.
- Noise, vibration and dust during the construction and/or the operational phases would be avoided by the implementation of the measures set out in the Environmental Impact Assessment Report (EIAR) and the outline Construction and Environment Management Plan (oCEMP) which include specific provisions relating to the control of dust and noise.
- Biodiversity impacts, including on habitats, flora and fauna (including terrestrial and aquatic wildlife), would be mitigated by the implementation of specific mitigation to protect such habitats, flora and fauna (including Lesser horseshoe bat, Kerry slug, Freshwater pearl mussel, St Patrick's cabbage and Camomile), during the construction and operational phases.

- The increase in vehicle movements and resulting traffic during the construction phase would be mitigated by the preparation of a Construction Traffic Management Plan and a Mobility Management Plan.
- Landscape and visual impacts would arise during the operational phase from the insertion of the c.32km long roadway into the rural and coastal landscape, however, the linear design and layout of the project would assist in assimilating the works into the landscape.
- The impacts on residential amenity and farming practices during the construction and operational phases would be avoided by the implementation of the measures set out in the Environmental Impact Assessment Report (EIAR) and the outline Construction and Environment Management Plan (oCEMP) which include specific provisions relating to the control and management of dust, noise, water quality and traffic movement.
- The impact on cultural heritage would be mitigated by archaeological monitoring with provision made for resolution of any archaeological features or deposits that may be identified.
- Positive environmental impacts would arise during the operational phase from the reduced reliance on motorised vehicles and the provision of a public amenity area.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed, and subject to compliance with the conditions set out below, the effects of the proposed development on the environment, by itself and in combination with other plans and projects in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

## CONDITIONS

1. The developer shall ensure that all construction methods and environmental mitigation measures set out in the Environmental Impact Statement, Natura Impact Statement and associated documentation are implemented in full, save as may be required by conditions set out below.

**Reason:** In the interest of protection of the environment.

2. Having regard to the provisions, policies and objectives contained in the following documents in relation to climate change and coastal protection: -
  1. Project Ireland 2040 – the National Planning Framework,
  2. Government of Ireland Climate Action Plan 2019,
  3. Regional Spatial and Economic Strategy for the Southern Region, and
  4. Kerry County Development Plan 2015,

(and in particular Objective NE-57 of the Development Plan which seeks to prohibit development in those parts of the Coastal Development Zone where such development could not be adequately safeguarded over the lifetime of the development without the construction of coastal defences, and Objective NE-58 which seeks to prohibit development in areas of the Coastal Development Zone where the natural erosion process is likely to threaten the viability of such development.)

the Board is not satisfied on the basis of the plans and particulars submitted with this application that the section of the proposed South Kerry Greenway infrastructure located along the SW and NE sides of Valentia Estuary would not be adversely affected by the natural processes of erosion and the pattern of spring tides that occur within the estuary, or that the potential future impacts of climate change on estuarine dynamics (including rising sea levels and storm surges) and thus the proposed infrastructure, have been adequately addressed.

Furthermore, the Board is not satisfied that the potential in-combination effects of the existing and proposed revetment works along the SW side of Valentia Estuary on estuarine dynamics, biodiversity and designated sites, or the potential consequential impacts of the site specific introduction of hard revetments on other unprotected sections of the estuary shoreline have been adequately addressed, in terms their future vulnerability to erosion.

The following sections of the South Kerry Greenway shall be omitted pending further investigations and the consideration of an increased buffer zone between sections of the Greenway infrastructure and its boundary with the Valentia Estuary shoreline:

- (a) Renard Point to Caherciveen water treatment plant (Chainage c.50 to c. 3,700), and
- (b) Cloghanelinaghan (Chainage c.5,975 to c.7,100).

**Reason:** In the interest of the proper planning and sustainable development of the area, to ensure the protection, durability and longevity of the proposed South Kerry Greenway infrastructure, in the interests of coastal protection and biodiversity, and to ensure compliance with the policies and objectives of the Development Plan.

3. The following sections of the South Kerry Greenway shall be amended so that the width of the Greenway pavement is reduced to 2.0m where it crosses the following junctions; cattle grids should be provided at the intersections of the Greenway with the access road/driveway, the grids should be half the width of the pavement and work in combination with the chicane gates; and signage should be provided to advise cyclists to dismount and cross the junction foot:

1. Junction 24 (Chainage c.12,940).
2. Junction 25a (Chainage c.13,550)
3. Junction 30 (Chainage c.15,800).
4. Junction 43 (Chainage c. 27,840).

**Reason:** To take account of steep gradients at the intersections and in the interest of traffic, cyclist and pedestrian safety.

4. The design and position of the chicanes, and associated signage and road markings along the South Kerry Greenway relative to the private residential driveways and agricultural access roads with direct access off the public road network should comply with the details contained in Drawing no. 318-380 (Rev A) of the Further Information submission that was received by the Board on the 8<sup>th</sup> day of April, except where otherwise amended by condition no.3.

**Reason:** In the interest of clarity and traffic safety.

5. The development shall comply with the following transportation requirements:
  1. the section of the South Kerry Greenway that runs parallel to a private road in Caherciveen West (Chainage c.3,850 - c.3,975) shall be separated from the adjacent private road by a low wall.
  2. The connection between landholdings located on either side of the N70 shall be maintained for the duration of the construction works.
  3. the speed limit along the N70 on the approach to Kells Station shall be reduced to 50km per hour for vehicles travelling from the West and the East, and to 30km per hour along the section of the South Kerry Greenway at Kells station that would run parallel to the N70.
  4. the speed limit along the N70 on the approach to Caitlin Beater's public house at Gortiforia shall be reduced to 50km per hour for vehicles travelling from the South West and the East, and to 30km per hour along the section of the South Kerry Greenway at Caitlin Beaters public house that would run parallel to the N70.

**Reason:** In the interest of clarity and traffic safety.

6. The 1.0m wide verges located on either side of the Greenway pavement should be maintained in a way that allows for the recolonization of these areas by vegetation that is indigenous to the various locations along the Greenway route.

**Reason:** In the interest of biodiversity and visual amenity.

7. All plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

**Reason:** In the interest of the proper planning and sustainable development of the area, and to prohibit the spread of invasive species.

8. The services of a suitably qualified and experienced Ecologist shall be retained to undertake pre-construction surveys at the various project elements immediately prior to commencing work in order to check for the presence of protected species in the vicinity (including Badger, Otter, Lesser horseshoe bat, Kerry slug, Freshwater pearl mussel, St Patrick's cabbage and Camomile). Any specimens should be removed and relocated to a similar, suitable, undisturbed nearby habitat under the direct supervision of the Ecologist and subject to a Derogation Licence where required.

**Reason:** In the interest of protecting ecology and wildlife in the area.

9. The height of the screening panels to be constructed along sections of the South Kerry Greenway in order to protect the residential amenities of adjacent houses shall be at least 2.0m high when viewed from the edge of the 3m wide pavement, to take account of steep gradients along sections of the route.

**Reason:** To protect the residential amenities of nearby houses.

10. The information panels proposed for the South Kerry Greenway car parks shall contain a notification to alert the users that sections of the Greenway traverse working agricultural landscapes, that seasonal delays may be encountered along the route, to be respectful of farming practices, and to ensure that all dogs are leashed, and the design of the car park sanitary facilities shall reflect the character of the surrounding landscape.

**Reason:** In the interest of the proper planning and sustainable development of the area, to ensure minimal disturbance to farming activities and farm animals, and to protect the visual amenities of the area.

11. The preservation, recording and protection of archaeological materials or features that may exist within the site shall be facilitated. In this regard, a suitably-qualified archaeologist shall be retained to monitor all site investigations and other excavation works and provide arrangements for the recording and for the removal of any archaeological material considered appropriate to remove.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

## **14.0 SCHEDULE 2 – COMPULSORY PURCHASE ORDER**

### **REASONS AND CONSIDERATIONS**

Having considered the objections made to the compulsory purchase order, the report of the person who conducted the oral hearing into the objections, the purpose of the compulsory purchase order, and also having regard to:

(i) the need to provide a catalyst for economic regeneration of the area,  
(ii) the community need, public interest served and overall benefits, including benefits to the wider area and the increased provisions for a range of non-motorised road users to be achieved from use of the acquired lands,

(iii) the provisions of the current Kerry County Development Plan and the West Iveragh Local Area Plan and the policies and objectives stated therein, which specifically identify the proposed South Kerry Greenway development, and

(iv) the proportionate design response to the identified need,

it is considered that, subject to the modifications to the Order as set out in the Schedule below, the acquisition by the local authority of the lands in question, as set out in the compulsory purchase order and on the deposited maps, are necessary for the purpose stated, and that the objections cannot be sustained having regard to the said necessity.



## **SCHEDULE**

The compulsory purchase order shall be modified in accordance with the following omission of CPO plots that lie between Renard Point and Caherciveen (Chainage c.50 to c. 3,700) and at Cloghanelinaghan (Chainage c.5,975 to c.7,100) ranging from Plot no.110 to Plot no. 230 and from Plot no. 261 to Plot no. 305.

*Karla Mc Bride*

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Karla Mc Bride  
Senior Planning Inspector  
28<sup>th</sup> April 2020

## **APPENDIX 1: PUBLIC SUBMISSIONS**

### **LIST OF OBSERVERS TO GREENWAY PROJECT (ABP-302450-18)**

#### ***Original application***

Alan Landers

An Taisce

Ann Landers

Ballinskellig Hostel

Barry and Mary O'Shea

Brendan Sheehan

Caherciveen Dental Practice

Casey O'Neill

Catherine Spain

Clare Sugrue

Cllr Michael Cahill

Colette Langan

Colm Ryder

Darragh O'Driscoll

Declan Sugrue

Deirdre Garvey

Deirdre Grealish

Denis O'Connor and Carmel Ni Mhorain

Dermot Walsh

Des O'Keefe

Dr Brian O'Donovan

Eamon Casey

Eamonn Bowler

Edward Fahy

Eileen O'Driscoll

Failte Ireland

Ferini Limited

Fiona O'Connell

Fitzgerald and O'Connor DAC  
Frank Curran  
Gallery One Arts and Crafts Co - Operative  
Galway Cycling Campaign - Shane Foran  
Galway Cycling Campaign  
Galway Cycling Solutions  
Geological Survey of Ireland  
Gillian and Mike O'Connor  
Helena and Sheena Donnelly  
Ian and Ann Nugent  
IRD Waterville CLG  
Irish Natura and Hill Farmers Association  
Iveragh Eagles Rugby RFC  
Iveragh Tile and Plumbing Centre  
Iveragh United FC  
Jack and Eva Li  
Jacks Courtyard Restaurant and The Glenbeigh Hotel  
James and Anne Smith  
James and Patrick Walsh  
James and Shelia Moriarty  
James Guirey  
James Lynch Construction Ltd  
James Sugre  
Jerry O'Connor  
Jimmy Sugrue  
Joanne O'Neill  
John Fitzgerald  
John Sheehan  
Josephine Keating  
June O'Connell  
Karen Mc Donnell  
Keith Curran  
Keith Phelan  
Kerry Coast Hotel

Kevin Murphy and Others  
Killian Nolan and Conor O'Shea  
Kitty's Boutique  
Leonard and Margaret Hurley  
Leonard O'Sullivan  
Mairead Murphy and Others  
Maria and John Teahan  
Maria Ni Conaill  
Mary and John Sheehan  
Mary O'Neill Mc Donnell and Christy Mc Donnell  
Matt Quirke  
Mayor of Cahersiveen  
Michael Burke  
Michael J Corkery Ltd  
Michael Timothy O'Sullivan  
Mid Kerry Tourism Cluster  
Newmarket Street East End Business Owners Group  
Niall O'Driscoll  
Noreen O'Connell  
Norma Moriarty  
O'Driscolls Off Licence  
Padraig Garvey  
Patrick and Mary Mc Allen  
Patrick Griffin  
Patrick O'Shea - O'Shea Bed and Breakfast  
Patrick Sugrue  
Paul Moriarty  
Paul O'Shea  
Peter Harty  
Peter Sweetman  
Philip O'Sullivan  
Portmagee Development Group  
Portmagee Hostel  
Rita and Barney Mc Loughlin

Royal Valentia Hotel  
Sadie Curran  
Sarah O'Neill  
Shane Mc Donnell  
Shane O'Neill  
Sive Rowing Club  
Skellig Coast Tourism Network  
South Kerry Development Partnership Company  
St Marys GAA  
Stephen Curran  
The Irish Farmers Association  
The Point Bar Ltd  
The Property Shop  
Thomas Horgan  
Timothy Sheahan  
Tom and John Quirke  
Tony Curran  
Transport Infrastructure Ireland  
Valentia Island Car Ferry  
Valentia Island Events Committee  
Valentia Island Scallop Festival  
Vincent Devlin  
Vintners Federation of Ireland - South Kerry Branch  
Vintners Federation of Ireland  
Waterville Craft Market

***Further Information***

Barry and Mary O'Shea -Submission  
Galway Cycling Campaign  
Grainne Lane and Stephen Kendrick  
Greenway Information Group  
James and Patricia Walsh  
June O'Connell  
Lorcan Murphy

Mary O'Neill McDonnell and Christy Mc Donnell  
Michael and Barbara Lane  
Newmarket Street East End Business Owners Group  
Reenard GAA Club  
Transport Infrastructure Ireland  
The Asana School of English

#### **LIST OF OBJECTORS TO CPO (ABP-302452-18)**

Clifford, James  
Clifford, John and Pauline  
Clifford, Michael Patrick  
Coffey, Jeremiah  
Conway, William and Theresa  
Fitzgerald, Jeramiah  
Fitzgerald, Shannon and Maurice  
Fogarty, Patrick  
Garvey, Mike  
Golden, Michael J  
Intergrated Resource Development Foilmore Kells Company  
Lyne, Morgan  
Mahoney, Mary  
Mahoney, Mary (Further Information)  
Moriarty, James Dominic  
Moriarty, John Anthony  
Moriarty, Mortimer  
Moriarty, Thomas  
O Connor, Denis and Ni Mhorain, Carmel  
O'Neil Collins, Breda  
O Neil Michael  
O Shea, John and Goretta  
O Shea Patrick and Reprs of Michael O Shea  
Quinlan, Ciaran

Quinlan, Ciaran

Quirke, John J

Quirke, Michael

Sheahan, James

Sheehy, Michael

The Greenway Information Group





## APPENDIX 2: SUMMARY OF SUBMISSIONS (ABP-302450-18)

### OBJECTORS TO GREENWAY PROJECT & CONCERNS RAISED

Name	Location	Concerns raised
Ciaran Quinlan	Renard	<ul style="list-style-type: none"> <li>• Proximity, inconvenience &amp; intrusion</li> <li>• Realign with public road</li> <li>• Public liability &amp; security measures required</li> <li>• Require screening close to house</li> <li>• Access to driveway should not be hindered</li> </ul>
James & Patricia Walsh	Caherciveen	<p><b>Plot 245:</b></p> <ul style="list-style-type: none"> <li>• Site infected with Japanese Knotweed &amp; yard recently treated</li> <li>• Inadequate JK survey work &amp; inaccurate references in EIAR</li> <li>• Inadequate details for future treatment &amp; prevention</li> <li>• Chainage 3000 refers to direct access to public road where none exists</li> <li>• Maintain the grass verge &amp; erect fence between 245 &amp; Keating's Yard</li> </ul> <p><b>Plot: 247:</b></p> <ul style="list-style-type: none"> <li>• Right of way, wayleave &amp; legal interest</li> <li>• Severance of access point to marina &amp; farm</li> <li>• Traffic hazard at proposed car park junction with road</li> <li>• No traffic management proposals</li> <li>• Traffic conflict along Marine Walk Road</li> <li>• TIS only contains estimates for Quay Street, not a true reflection of area</li> <li>• Traffic hazard &amp; inadequate visibility at road junctions</li> <li>• Lack of street details &amp; management plan</li> <li>• Previous route diverted GW cyclists into Caherciveen (preferable)</li> </ul>

		<ul style="list-style-type: none"> <li>• Bridge &amp; stream not identified and no proposals to cross the stream</li> <li>• Inadequate drainage &amp; flood risk assessment</li> <li>• No drainage surveys or flow calculations for chainage 3950 to 4000</li> <li>• Existing CIE bridge is a PS which should be repaired</li> </ul> <p><b>Plot 510:</b></p> <ul style="list-style-type: none"> <li>• Farm severance &amp; major impact on farm activities</li> <li>• Reduction in number of crossings will result in hardship</li> <li>• Disruption to machinery &amp; livestock movements</li> <li>• Health hazard &amp; traffic risk to animals &amp; cyclists</li> <li>• Standard gates are not suitable for a sheep farm</li> <li>• No fence or gates at certain sections &amp; fence maintenance required</li> <li>• Previously agreed bridge missing from application</li> <li>• Inadequate drainage arrangements</li> <li>• Drainage issues on the track &amp; lands affected by run-off</li> <li>• Culvert A074 is located on a busy stream</li> <li>• Serious run off from GW &amp; flood risk to farm lands</li> <li>• No water volumes predictions &amp; ecological damage from run-off</li> <li>• No reference to sika spruce plantation, impact of flood waters on pH &amp; all watercourses drain to Fertha River</li> <li>• Adverse impacts on flora, fauna &amp; biodiversity</li> <li>• Inadequate survey details in EIAR or NIS</li> <li>• Several features omitted including a traditional stone &amp; retaining walls</li> <li>• No drainage, soil storage or watercourse protection measures proposed</li> <li>• No re-instatement proposals</li> <li>• Buffer zone included in access arrangements</li> <li>• Traffic hazard at exit on to N70</li> <li>• Request a legal RoW on the W side of J24 &amp; specific crossing points</li> <li>• Request a crossing at the level crossing to the E which also allows important access to the main road</li> </ul>
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		<ul style="list-style-type: none"> <li>• Farm lands entrance blocked by signs</li> <li>• Inaccurate representation of junctions in drawings.</li> <li>• Excessive GW width in places</li> <li>• No consideration of alternatives to the railway track</li> <li>• Public liability, financial costs &amp; property devaluation</li> </ul>
Jerry O'Connor	Caherciveen	<ul style="list-style-type: none"> <li>• Owns the former Railway House which occupies a triangular site</li> <li>• Site is surrounded by roads on 2 sides</li> <li>• GW will create another roadway to the N</li> <li>• Property will be an island within 3 roads within 15-20 feet</li> <li>• Adverse impact on residential amenity</li> <li>• Road not necessary for the GW and will serve the marina</li> </ul>
Dennis O'Connor & Carmel Ni Mhorain	Dooneen	<ul style="list-style-type: none"> <li>• Unnecessary &amp; wasteful exercise</li> <li>• No consideration of alternatives (i.e. local roads)</li> <li>• Adverse impact on the environment &amp; wildlife</li> <li>• Run-off will enter watercourses</li> <li>• Severance of farm landholding</li> <li>• No way to connect machinery &amp; livestock across GW</li> <li>• Public liability &amp; insurance costs</li> <li>• Existing open drain omitted, run-of &amp; flood risk</li> </ul>
Mary & Christy McDonnell	Lisbane	<p><b>Object to CPO &amp; Project:</b></p> <ul style="list-style-type: none"> <li>• Inadequate process &amp; no consideration of alternatives</li> <li>• Severance of farm &amp; impact on farming activities</li> <li>• Impact on machinery movement across GW</li> <li>• Significant land take</li> <li>• Adverse impact on site gradients &amp; farm entrances</li> <li>• Steep gradients along GW &amp; chicanes are insufficient</li> <li>• Safety concerns for cyclists &amp; farmers</li> </ul>

		<ul style="list-style-type: none"> <li>• Inaccuracies in drawings (fences &amp; drains)</li> <li>• Inadequate drainage, excessive run-off &amp; flood risk</li> <li>• Inadequate fencing, not stock proof (bulls), and health &amp; safety issues</li> <li>• Inadequate details for stock movement across GW</li> <li>• Car parking at farm entrance off N70 close to GW</li> <li>• Privacy, security &amp; trespass</li> <li>• Insufficient annual maintenance payments</li> <li>• Excessive width of GW and resultant land take</li> </ul>
Karen Mc Donnell	Lisbane	<ul style="list-style-type: none"> <li>• As above for Mary &amp; Christy McDonnell</li> </ul>
Shane Mc Donnell	Lisbane	<ul style="list-style-type: none"> <li>• As above for Mary &amp; Christy McDonnell</li> </ul>
James & Anne Smith	Drom	<ul style="list-style-type: none"> <li>• Inadequate process</li> <li>• Very steep gradient at junction with GW &amp; farm entrance</li> <li>• Health &amp; safety issues for drivers &amp; cyclists</li> <li>• Public liability issues</li> <li>• Inadequate treatment of existing water supplies</li> <li>• Property devaluation</li> <li>• Privacy, trespass &amp; security</li> <li>• Adverse visual amenity</li> <li>• Adverse impact on ecology &amp; wildlife</li> <li>• Alternatives routes available</li> </ul>
Paul Moriarty	Drom	<ul style="list-style-type: none"> <li>• Houses permitted along track over past 20 years</li> <li>• Noise &amp; disturbance</li> <li>• Trespass &amp; security</li> <li>• Impact on ecology &amp; wildlife</li> <li>• Combine GW with widening of main road</li> <li>• Very steep gradients</li> </ul>

Timothy Sheahan	Glenbeigh	<ul style="list-style-type: none"> <li>• Farm severance</li> <li>• Additional work to move livestock &amp; machinery</li> <li>• Insufficient pressure to provide water for cattle higher than track</li> <li>• Maintenance &amp; liability</li> <li>• Inadequate stock proof fencing</li> <li>• Inadequate sanitary &amp; waste facilities along the route</li> </ul>
James & Sheila Moriarty	Glenbeigh	<ul style="list-style-type: none"> <li>• Proximity to house &amp; on raised ground</li> <li>• Loss of privacy &amp; trespass</li> <li>• Property devaluation</li> <li>• Severance of family farm &amp; restricted access to yard</li> <li>• Inadequate process &amp; consultation</li> <li>• No consideration of alternatives including:- Curra Road from Glenbeigh to Mountain Stage, or alongside new road from Coolnaharragill to Coolroe</li> </ul>
Colm O'Donnell Irish Natura & Hill Farmers Association	Sligo	<ul style="list-style-type: none"> <li>• Inadequate process</li> <li>• Should only be used for major infrastructure projects</li> </ul>
Thomas Cooney Irish Farmers Association	Dublin 12	<ul style="list-style-type: none"> <li>• Inadequate process &amp; legal requirements were not followed</li> <li>• Contravenes undertaking that CPO would not be used</li> <li>• Contravenes Government policy (Greenways Strategy)</li> <li>• No consideration of alternatives</li> <li>• Professional agronomists not used to determine impact on landholdings</li> </ul>
Deirdre Grealish RRRA & Coastal Action Group	Galway	<ul style="list-style-type: none"> <li>• Inadequate process &amp; consultations</li> <li>• Contravenes Government policy (Greenways Strategy)</li> </ul>
Michael Burke Umbrella for GW concern groups	Galway	<ul style="list-style-type: none"> <li>• Request the opportunity to make a presentation at the OH</li> </ul>

<p>Michael Burke Galway Cycling Solutions Umbrella for GW concern groups</p>	<p>Galway</p>	<ul style="list-style-type: none"> <li>• Actively involved with various agencies to find a workable GW solution</li> <li>• Welcome &amp; support the overall idea of the GW</li> <li>• Object to severance of farmlands</li> <li>• Proper consultation with, and consideration of land holders required</li> <li>• Proposal does not comply with Greenway Strategy</li> <li>• Should be bound by the National Cycle Policy Framework 2009-20</li> <li>• NCPF was used to deliver Waterford GW on publicly owned land under licence from CIE &amp; Mayo GW under permissive access from landowners</li> <li>• Waterford GW runs completely on the CIE line</li> <li>• Mayo GW runs mainly on the rail track but where it caused too much severance it changed to segregated cycleway and cycle lane</li> <li>• Mayo GW - large sections of low volume roads agreed for use (maintains goodwill with farming communities)</li> <li>• Application made under the Roads Act, however the GW is desirable but not strategic and the public perception of a roadway relates to traffic</li> <li>• Inappropriate use of CPO process which causes severance</li> <li>• Inadequate consideration of alternatives (lanes, paths &amp; bog roads)</li> <li>• Route should comprise on-road, off-road, cycleway &amp; greenway</li> </ul>
<p>Edward Fahy</p>	<p>Galway</p>	<p><b>EIAR traffic concerns:</b></p> <ul style="list-style-type: none"> <li>• Proposed junctions use the 85<sup>th</sup> percentile method</li> <li>• Numbers derived from a survey in Sept &amp; Nov 2017 on each of the public roads traversed by the GW (Appendix 3.1)</li> <li>• Survey data does not reflect the peak season (summer)</li> <li>• Query the reliability of data contained in Table 4.14 – Visibility Splay for Public Junctions: Appendix 3.1 Design Report 4.3.9 Junctions &amp; Crossings: Visibility Requirements</li> <li>• P23 of the deign report concluded that based on existing site conditions &amp; traffic surveys, the visibility achieved is considered acceptable</li> <li>• No reference to which authority considers visibility acceptable</li> <li>• TII uses the Design Speed of the local road to assess junctions with cycle</li> </ul>

		<p>ways – which has not been applied to this project</p> <ul style="list-style-type: none"> <li>• The Design Speed should be calculated by survey (TII) and account should be taken of any Alignment Constraints (AC) &amp; Layout Constraints</li> <li>• If this survey is not carried out, then TII supplies a table which sets out the maximum Design Speeds for Mandatory Speed Limits which should be used in place of the survey</li> <li>• Refer to TII DN-GEO-03031 Rural Road Link Design document</li> <li>• S.5.6.3.8 (Visibility at Cycle Route Junctions) states that where the minor road is a cycle route, the required “x” distance on the cycle facility on the approach to a road shall be set out as in Table 5.6 &amp; Fig. 5.18; and the appropriate “y” distance depends on the design speed of the major road</li> <li>• The absolute minimum acceptable “x” distance is 2m</li> <li>• The “y” distance was not calculated using the survey methods stated in DN-GEO-03031 Rural Road Link Design and therefore the mandatory “y” distances should be used</li> <li>• This distance for the 50km/h speed limit is Maximum Design Speed of 60km/h &amp; for 80km/h speed limit is Maximum Design Speed of 85km/h</li> <li>• Question validity of EIAR as the Design Speeds were not used in the calculations &amp; the survey data was gathered out of season</li> <li>• Use of the 85<sup>th</sup> percentile system is a departure from TII standards in Departures from Standards &amp; Specifications. GE-GEN-01005 Oct 2016) which states that all Departures from Standard shall be submitted by or on behalf of the Road Authority (5 x criteria)</li> <li>• No evidence that these departures have been approved by TII</li> <li>• Route selection depends solely on T27 of the Dev. Plan which seeks to promote &amp; facilitate the sustainable re-use of former railway lines for amenity purposes such as cycle routes....to develop a network of green routes though the country – which is the only recognition of a difference between a railway and a greenfield site</li> <li>• No other option was surveyed for better junction safety</li> </ul>
Shane Foran (x 2)	Galway	<ul style="list-style-type: none"> <li>• Support the development of long distance rural cycling routes</li> </ul>

Galway Cycling Campaign		<ul style="list-style-type: none"> <li>• Object to inappropriate CPO process</li> <li>• GW projects have been hugely damaging to the cycling &amp; farmers</li> <li>• GW would set a negative national precedent if conducted incorrectly</li> <li>• No proper consideration of alternatives in EIAR</li> <li>• No consideration of using minor country roads which would require less engineering and have less environmental impacts</li> <li>• Objective 3 of NCPF provides for a national cycle network that may include GWs, disused rail corridors &amp; minor road</li> <li>• Failte Ireland Cycling Strategy proposed use of country roads &amp; lanes</li> <li>• GW supposed to be part of the EuroVelo 1 which mainly comprises low traffic roads, which could be maintained traffic free by the PA</li> <li>• Design does not conform to best practice or relevant design guidance</li> <li>• Particular issues with junction design &amp; the treatment where the route re-joins main roads</li> <li>• GW traffic has to stop/yield to crossing traffic at all junctions regardless of the volume or nature of crossing traffic.</li> <li>• Unacceptable car centred design</li> </ul>
Peter Sweetman	Dublin 6	<ul style="list-style-type: none"> <li>• EIAR &amp; NIS concerns</li> <li>• Appendix 7 (Outline CEMP) sets out key environmental management issues to ensure that the impacts on the environment are minimised during the construction &amp; operation of the development, the CEMP will be developed further at the post-planning and construction stages</li> <li>• Therefore, there would be lacunae and ABP would not be able to find with reasonable scientific certainty that there would be no adverse effects on a protected site (under ECJ C-258/11)</li> </ul>



### APPENDIX 3: SUMMARY OF SUBMISSIONS (ABP-302452-18)

#### OBJECTORS & SUPPORTERS TO & OF CPO

Plot no.	Name	Concerns raised
100		
115 a & b 200 a & b	Michael O'Neill	<b>Support CPO</b> <ul style="list-style-type: none"> <li>• Minor impact on sheep farm</li> <li>• Positive benefits for the area</li> </ul>
150 a - c	Michael Sheehy	<b>Object to CPO:</b> <ul style="list-style-type: none"> <li>• Security</li> <li>• Absence of barrier between GW &amp; driveway</li> <li>• Public liability in event of trespass?</li> <li>• Agreed route does not form part of the CPO</li> <li>• Lands rendered obsolete on either side of GW</li> </ul>
165 a - g	Ciaran Quinlan	<b>Object to CPO:</b> <ul style="list-style-type: none"> <li>• Proximity, inconvenience &amp; intrusion</li> <li>• Realign with public road</li> <li>• Query liability for users who stray onto driveway</li> <li>• Security measures required</li> <li>• Require screening close to house</li> <li>• Access to driveway should not be hindered</li> <li>• Council should provide full indemnity</li> </ul>

200		
220a	Mortimer Moriarty	<b>Support CPO:</b> <ul style="list-style-type: none"> <li>• Upheaval &amp; inconvenience</li> <li>• Major positive benefit to area</li> </ul>
245a	James & Patricia Walsh	<b>Object to CPO:</b> <ul style="list-style-type: none"> <li>• Site infected with Japanese Knotweed &amp; yard recently treated</li> <li>• Inadequate details for future treatment &amp; prevention</li> <li>• Inadequate survey work (failure to identify JK)</li> <li>• EIAR Vol 6, s.3.31 deals with Invasive Species and refers to Appendix 6.9 which does not exist.</li> <li>• Chainage 3000 refers to a direct access to public road where none exists</li> <li>• Maintain the grass verge and erected the fence between Plot 245 a &amp; Keating's Yard</li> </ul>
247a	James & Patricia Walsh	<b>Object to CPO &amp; other general concerns:</b> <ul style="list-style-type: none"> <li>• Right of way, wayleave &amp; legal interest</li> <li>• Severance of access point to marina &amp; farm</li> <li>• GW will impede access &amp; object to closure</li> <li>• Traffic hazard at proposed car park junction with road</li> <li>• No traffic management proposals</li> <li>• Traffic conflict along Marine Walk Road (house, WWTP, IW works compound &amp; GAA pitch)</li> <li>• No traffic survey for Marian Place</li> <li>• TIS (Appendix 9.1) only contains estimates for Quay Street which are not a true reflection of the area</li> <li>• Traffic hazard &amp; inadequate visibility at road junctions (O'Connell, Quay &amp; Bridge streets)</li> <li>• Lack of street details &amp; management plan</li> </ul>

		<ul style="list-style-type: none"> <li>• Previous route proposal diverted GW cyclists into Caherciveen which was preferable &amp; query change in route</li> <li>• Bridge &amp; stream not identified in EIAR</li> <li>• No proposals to cross the stream</li> <li>• Inadequate drainage &amp; flood risk assessment</li> <li>• Flood risk not identified in EIAR</li> <li>• No drainage surveys of calculations for chainage 3950 to 4000 in Appendix 3.9</li> <li>• No flow calculations for chainage 3950 to 4000 in Appendix 3.9</li> <li>• Existing CIE bridge is a PS which should be repaired</li> </ul>
<b>300</b>		
330 a, b & d 331a	Jeremiah Fitzgerald	<b>Object to CPO:</b> <ul style="list-style-type: none"> <li>• Farm severance</li> <li>• Movement of livestock &amp; traffic hazard</li> <li>• Sharp left turn &amp; steep gradient to public road</li> <li>• Traffic hazard in vicinity of main road</li> </ul>
335 a 357 a & b 360 a & c	James Clifford	<b>Object to CPO:</b> <ul style="list-style-type: none"> <li>• Drains indicated on Map F to S of GW do not exist</li> <li>• Flood risk &amp; damage to lands</li> <li>• Plot 335a would not be accessible &amp; landlocked</li> <li>• Severance &amp; fragmentation of farm</li> <li>• Livestock movements hindered</li> <li>• Health &amp; safety issues</li> <li>• Loss of existing livestock shed on Plot 357a &amp; b</li> <li>• Public liability in event of trespass or accident</li> <li>• Biosecurity – invasive &amp; infectious diseases</li> <li>• Unworkable maintenance proposal for GW</li> <li>• Reduction in Dept. of Agriculture payments</li> </ul>

365 a – d 375 a – c	Jerimiah Coffey	<b>Object to CPO:</b> <ul style="list-style-type: none"> <li>• Farm severance</li> <li>• Impact on livestock &amp; machinery movements</li> <li>• Block access</li> <li>• Reduce crop potential &amp; productivity</li> <li>• Alternatives available</li> </ul>
<b>400</b>		
410 a - c	Dennis O'Connor & Carmel Ni Mhorain	<b>Object to CPO &amp; Project:</b> <ul style="list-style-type: none"> <li>• Unnecessary &amp; wasteful exercise</li> <li>• Adverse impact on the environment &amp; wildlife</li> <li>• Alternative routes available along local roads</li> <li>• Run-off will entre watercourses</li> <li>• No consideration of alternatives</li> <li>• Severance of farm landholding</li> <li>• No way to connect machinery &amp; livestock across GW</li> <li>• Public liability &amp; insurance</li> <li>• Existing open drain omitted, run-of &amp; flood risk</li> </ul>
420 a & b 421 a & b	John & Goretti O'Shea	<b>Object to CPO:</b> <ul style="list-style-type: none"> <li>• Severance of farm</li> <li>• No right of way across the GW</li> <li>• Inaccessible &amp; landlocked fields</li> <li>• Impact on productivity &amp; income</li> <li>• Request a right of way across GW</li> <li>• Request underpass &amp; overpass</li> <li>• Request sheep &amp; cattle pens</li> </ul>

423a 426b	Michael Patrick Clifford	<b>Object to CPO:</b> <ul style="list-style-type: none"> <li>• No underpass for movement of wildlife across GW</li> <li>• Impact on beagle hunting</li> </ul>
465 a- e	Mike Garvey	<b>Object to the CPO:</b> <ul style="list-style-type: none"> <li>• Inadequate process</li> <li>• Severance of farm</li> <li>• Alternatives routes would not affect farming</li> <li>• Proximity of GW to sheep pens &amp; dipping tank</li> <li>• Maps do not show sheep pen, tank or water supply</li> <li>• Request an underpass</li> </ul>
470	John J Quirke	<b>Object to CPO:</b> <ul style="list-style-type: none"> <li>• Inadequate process</li> <li>• Farm severance</li> <li>• Property devaluation</li> <li>• Welcome GW</li> </ul>
475 a - c 485 a - c	Michael T Quirke	<b>Object to CPO:</b> <ul style="list-style-type: none"> <li>• Support GW</li> <li>• Inadequate process</li> <li>• Obstruction of access to farm (475 a)</li> </ul>
480 a & b	Patrick Fogarty	<b>Object to CPO:</b> <ul style="list-style-type: none"> <li>• Inadequate process</li> <li>• No consideration of alternatives</li> <li>• Severance of farm</li> <li>• Property devaluation</li> <li>• No right of way across GW</li> <li>• Excessive width of GW</li> <li>• Major impacts on farm &amp; property</li> </ul>

		<ul style="list-style-type: none"> <li>• Privacy &amp; security</li> <li>• Inadequate drainage &amp; fencing proposals</li> <li>• Inadequate ecological survey of lands</li> </ul>
<b>500</b>		
510 a-h	James & Patricia Walsh	<p><b>Object to CPO:</b></p> <ul style="list-style-type: none"> <li>• Farm severance</li> <li>• Disruption to machinery &amp; livestock movements</li> <li>• Major impact on farm activities</li> <li>• Previously agreed bridge missing from application</li> <li>• Health hazard &amp; traffic risk to animals &amp; cyclists</li> <li>• Bridge &amp; gates required</li> <li>• No consideration of alternatives to the railway track</li> </ul> <ul style="list-style-type: none"> <li>• Drainage issues at Plots 510 c, b &amp; e which are located on the track &amp; are affected by run-off</li> <li>• Culvert A074 is located on a busy stream</li> <li>• Compound 12 - no specific drainage plans</li> <li>• Inadequate drainage arrangements</li> <li>• Serious run off from GW &amp; flood risk at farm lands</li> </ul> <ul style="list-style-type: none"> <li>• No EIAR water volumes predictions</li> <li>• Potential ecological damage from run-off</li> <li>• No reference to sika spruce or impact on flood waters on pH</li> <li>• All watercourses drain to Fertha River</li> </ul> <ul style="list-style-type: none"> <li>• Entrance blocked by signs on Plot 510 b</li> <li>• Plans show 2 x junction no.24 on Drg. 318-118</li> <li>• Public liability, financial costs &amp; property devaluation</li> <li>• Excessive width of c.8.6m over 28.2 feet</li> </ul>

		<ul style="list-style-type: none"> <li>• Adverse impacts on flora, fauna &amp; biodiversity</li> <li>• No dates for or details of surveys at Plots 510a &amp; g</li> <li>• Several features omitted along route</li> <li>• Standard gates are not suitable for a sheep farm</li> <li>• Sheep gates are required to contain lambs</li> <li>• No fence proposed at Plot 510a along track</li> <li>• Future fence maintenance required (by condition)</li> <li>• Compound 8 –greenfield site with no gates</li> <li>• No drainage, soil storage or watercourse protection measures</li>   <li>• Adverse impact on flora &amp; fauna</li> <li>• No survey details in EIAR or NIS</li> <li>• Surface water run-off &amp; flood risk</li> <li>• No re-instatement proposals</li> <li>• Buffer zone include in access arrangements</li>   <li>• Plots 10 a &amp; g - 1 x crossing point at J24, 2 x crossing previously existed as level crossings to E &amp; W of farm along with 4 x gates</li> <li>• Reduction in number of crossings will result in hardship</li> <li>• Traffic hazard at exit on to N70</li> <li>• Request several right of way and crossings</li> </ul>
520 a -f	Mary O'Neill & Christy Mc Donnell	<p><b>Object to CPO &amp; Project:</b></p> <ul style="list-style-type: none"> <li>• Severance of farm</li> <li>• Impact on farming activities &amp; machinery movement across GW</li> <li>• Inadequate process</li> <li>• No consideration of alternatives</li> <li>• Adverse impact on site gradients &amp; farm entrances</li> <li>• Inaccuracies in drawings (fences &amp; drains)</li> </ul>

		<ul style="list-style-type: none"> <li>• Steep gradients along GW &amp; chicanes are insufficient</li> <li>• Safety concerns for cyclists &amp; farmers</li> <li>• Significant land take</li> <li>• Inadequate drainage, excessive run-off &amp; flood risk</li> <li>• Inadequate fencing, not stock proof (bulls &amp; cows) &amp; health &amp; safety</li> <li>• Inadequate details for stock movement across GW</li> <li>• Car parking at farm entrance off N70 close to GW</li> <li>• Privacy, security &amp; trespass</li> <li>• Insufficient annual maintenance payments</li> <li>• Excessive width of GW and resultant land take</li> </ul>
522 a	Breda O'Neil - Collins	<p><b>Object to CPO:</b></p> <ul style="list-style-type: none"> <li>• Affect chances of obtaining PP for future house</li> <li>• Security, privacy &amp; drainage issues</li> <li>• Inadequate drainage details &amp; flood risk</li> <li>• Alternative routes proposed but not considered</li> <li>• Inadequate process</li> </ul>
550 a, h & i 550 b, c, d, f, g, j & k	Paul O'Shea	<p><b>Object to CPO:</b></p> <ul style="list-style-type: none"> <li>• Permanent right of way through lands</li> <li>• Access for livestock movement</li> <li>• Access to natural spring (drinking water source)</li> </ul>
570 a, c, e	Morgan Lyne	<p><b>Object to CPO:</b></p> <ul style="list-style-type: none"> <li>• Support GW but object to inadequate CPO process</li> <li>• Co. Co. previously committed to a collaborative process</li> <li>• No consideration of alternatives when consent was not achieved</li> <li>• Alternative routes proposed by landowners were not investigated</li> <li>• Underpasses are essential for farmers</li> <li>• A negotiator should have been appointed</li> </ul>



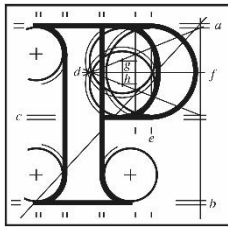
580 a - d	John Joseph O'Connor IRD Foilmore Kells	<b>Support CPO &amp; GW</b> <ul style="list-style-type: none"> <li>• Good to tourism &amp; local area</li> <li>• Revitalise the area</li> <li>• Health &amp; environmental benefits</li> </ul>
<b>600</b>		
620 a - n	Mary Mahoney	<b>Object to CPO:</b> <ul style="list-style-type: none"> <li>• Severance of farm</li> <li>• Impact on access to lands off N70</li> <li>• Steep gradients hinder stock &amp; machinery movements</li> <li>• Proposed junction will be inconvenient &amp; dangerous</li> <li>• Junction located over a culvert - huge volumes of water &amp; flood risk</li> <li>• Impact of livestock on quality of GW</li> <li>• Inadequate drainage</li> <li>• Privacy, security &amp; trespass (shed close to GW)</li> <li>• Alternatives not considered</li> </ul>
655 a - h	Michael J Golden	<b>Object to the CPO:</b> <ul style="list-style-type: none"> <li>• Severance</li> <li>• Inadequate process</li> <li>• Farm severance</li> </ul>
<b>700</b>		
730 a - h	Patrick O'Shea	<b>Object to CPO:</b> <ul style="list-style-type: none"> <li>• Route is not feasible</li> <li>• To close to house &amp; elevated above it</li> <li>• Security &amp; privacy issues</li> <li>• Alternative more scenic route suggested</li> </ul>

755 a	William & Teresa Conway	<b>Object to CPO:</b> <ul style="list-style-type: none"> <li>• Privacy, security &amp; property devaluation</li> <li>• GW passes to the immediate front &amp; side of house</li> <li>• Private right of way has a steep gradient</li> <li>• Traffic risk &amp; safety</li> <li>• Inadequate process</li> </ul>
756 a	John & Pauline Clifford	<b>Object to CPO:</b> <ul style="list-style-type: none"> <li>• Proximity to house &amp; loss of privacy</li> <li>• Traffic risk &amp; hazard at entrance</li> <li>• Privacy &amp; loss of amenity</li> <li>• Trespass &amp; security</li> </ul>
<b>800</b>		
895 a - o	James Dominic Moriarty	<b>Object to CPO:</b> <ul style="list-style-type: none"> <li>• Inadequate process</li> <li>• Proximity to house, privacy &amp; security</li> <li>• Noise disturbance during construction &amp; operation</li> <li>• Farm severance, impact on farm animals &amp; inadequate fencing</li> <li>• Very steep gradients &amp; traffic safety concerns</li> <li>• Health &amp; safety issues</li> <li>• Alternative routes available</li> <li>• Group Water Scheme links not shown on maps</li> </ul>
<b>900</b>		
919 a & b 915 a & b	Thomas Moriarty	<b>Object to CPO:</b> <ul style="list-style-type: none"> <li>• Inadequate process</li> <li>• Farm severance, livestock &amp; machinery movements</li> <li>• Impact on business &amp; disruption</li> </ul>

		<ul style="list-style-type: none"> <li>• Health &amp; safety</li> <li>• Impact on environment (construction &amp; operation)</li> <li>• Visual impacts</li> <li>• Inadequate drainage &amp; flood risk</li> </ul>
960 a & f	John Anthony Moriarty	<p><b>Object to CPO:</b></p> <ul style="list-style-type: none"> <li>• Alternative routes available</li> <li>• Farm severance, livestock &amp; machinery movements</li> <li>• Health &amp; safety</li> <li>• Privacy, trespass &amp; security</li> <li>• Impact on ecology &amp; wildlife</li> </ul>
980 a & l	James Sheahan	<p><b>Object to CPO:</b></p> <ul style="list-style-type: none"> <li>• Inadequate process</li> <li>• Farm severance</li> <li>• Engineering obstacles</li> <li>• Privacy &amp; safety issues</li> <li>• Property devaluation</li> </ul>

## **APPENDIX 4: APPROPRIATE ASSESSMENT**

**Report of Dr Maeve Flynn, Inspectorate Ecologist**



An  
Bord  
Pleanála

# Inspectorate Report - Appropriate Assessment ABP-302450A-18

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<b>Development</b>	South Kerry Greenway
<b>Location</b>	From the townland of Renard (SW of Caherciveen) to the townland of Faha West at Glenbeigh, County Kerry
<b>Planning Authority</b>	Kerry County Council
<b>Type of Application</b>	Approval under Section 51 (2) of the Roads Act (as amended), and Section 216 of the Planning & Development Act, 2000 as amended
<b>Date of site inspection</b>	24 <sup>th</sup> to 27 <sup>th</sup> June 2019
<b>Date of oral hearing completion</b>	22 <sup>nd</sup> November 2019
<b>Inspectorate Ecologist</b>	Dr Maeve Flynn MCIEEM

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## 1.0 Introduction

- 1.1. Kerry County Council is seeking approval from An Bord Pleanála to undertake the development of a c.32 km shared cycle and walkway as a new greenway between Reenard Point to Glenbeigh in South Kerry. The South Kerry Greenway (SKG) would follow the alignment of the now abandoned Southern and Western Railway line for c.18km with the remainder of the route offline on greenfield areas or making use of existing roads, forest tracks and urban paths. A small proportion of the proposed greenway route is partially located within European sites designated Special Conservation Areas (SAC) under the Habitats Directive (92/43/EC) and Special Protection Areas (SPA) under the Birds Directive (2009/147/EC).
- 1.2. A screening report and Natura Impact Statement (NIS) have been prepared by the applicant to inform appropriate assessment under Article 6(3) of the Habitats Directive. The applicant concluded that the proposed development could result in significant effects on five European sites in the absence of mitigation and a NIS was required to inform appropriate assessment. The NIS comprised a focused scientific examination of the potential adverse effects of the development alone, and in combination with other plans and projects, on the conservation objectives of Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC, Iveragh Peninsula SPA, Valencia Harbour/Portmagee Channel SAC, Castlemaine Harbour SPA and Castlemaine Harbour SAC with the potential for significant effects on any other European site excluded at the screening stage. Following a request for further information, a NIS addendum was submitted, and together with submissions and information gathered at the oral hearing, this suite of scientific information is considered in the Appropriate Assessment.
- 1.3. This report for the Board has been prepared in line with the requirements of Sections 177U and 177V of part XAB of the Planning and Development Act 2000 (as amended). This report details:
  - Screening for appropriate assessment of the proposed development; an assessment carried out in view of the best scientific knowledge to determine if

the project individually or in combination with other plans or projects is likely to have a significant effect on a European site(s).

- Appropriate assessment; comprising a complete assessment of all aspects of the proposed development that could affect the conservation objectives of European sites and presents precise and definitive conclusions as to the implications for the overall integrity of those sites. This assessment has been prepared for the Board as competent authority in making a determination as to whether or not the proposed development would adversely affect the integrity of a European site.

## 2.0 Proposed Development

2.1. The proposed development, referred to as the South Kerry Greenway, would comprise a shared cycle/walkway as a new greenway for use by cyclists and pedestrians over 32kms between Reenard point and Glenbeigh in South Kerry. The full extent of the proposed greenway is presented on the planning drawings, in the EIAR and in Section 3.6 of the NIS. Chapter 2 of the Inspectors Report provides an overview of the proposed development.

2.2. The proposed SKG alignment follows the general route of the now abandoned Glenbeigh to Cahersiveen section of the Great Southern & Western Railway (GS&WR) line that previously operated between Killorglin and Valentia Harbour on the Iveragh Peninsula. 18km of the route would use the original railway track alignment, and use will also be made of urban paths, forest roads, and minor diversions on adjacent land. The remainder of the route is offline on greenfield/other and on public roads.

2.3. The proposed SKG route intersects with European sites at 6 locations (along abandoned railway embankment). These intersections are relatively minor in extent in terms of size of the European Sites themselves and are located close to, or along the periphery of SAC/SPA boundaries:

- Intersections 1 and 2 are between Reenard and Cahersiveen where the route is adjacent to the Valencia Harbour/Portmagee Channel SAC and encroaches on the SAC boundary in places where coastal revetment walls require reinstatement and a new timber revetment wall is to be installed.



- West of Gleensk Viaduct, the route intersects with the Iveragh Peninsula SPA for a 600m section above the N70 road.
- Intersections 4 and 5 are at the Drung Hill area where approximately 2.5km of the route transects the Iveragh Peninsula SPA and there is a partial overlap with the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC with c.1km of the route within the SAC boundary.
- In the townland of Coolnaharragill Upper, approximately 300m of the route corridor intersects with the SAC site boundary along an existing local road.

2.4. The majority of the greenway would be five metres in width except at locations where it would use existing laneways or pathways. It would be finished with a macadam surface (3m wide) with up to 1m wide verge at each side and defined by timber stock proof fencing.

2.5. Refurbishment of original railway infrastructure is proposed at Caherciveen Railway Bridge, O'Connell Viaduct (Gleensk) and Drung Hill tunnels.

2.6. New infrastructure requirements would include:

- Renard Revetment Wall (c.170m)
- Underpass under the N70 to SW of Kells Station
- N70 realignment at Caitlin Beaters public house (c.200m)
- Elevated stone gabion walls (x 2) at Drung Hill along N70
- Replace Nimmo's Bridge to connect Drung Tunnels (c.30m)
- Boardwalk at Coolnaharragill (c.100m)

2.7. The proposal includes for 5 car parks and associated toilet/services facilities. Other associated works would include crossings of public and private roads, screening around houses, farm crossings, maintenance and improvement of existing drainage, hedgerow maintenance etc.

2.8. The construction period is estimated to be completed in 54 weeks, broken up into sections with worksites grouped around temporary construction compounds (n24). All construction compounds are outside of European sites.

2.9. The application was accompanied by the following documents:

- Environmental Impact Assessment (EIAR) including technical appendices,
- Natura Impact Statement (NIS),
- Planning Drawings.

2.10. Following a request for further information from the Board, the following were submitted:

- Additional Information Report and Drawings
- Road safety audit and movement management plan
- Coastal erosion risk assessment report
- Peat stability risk assessment report
- Addendum to EIAR, NIS and outline CEMP

2.11. The following documents were submitted at the Oral hearing:

- Errata documents and updated Invasive Species Plan.

## 3.0 Submissions and Observations

### 3.1. Prescribed Bodies

No submissions related to European sites or their conservation objectives were made by the National Parks and Wildlife Service of the Department of Culture, Heritage and the Gaeltacht or any other prescribed body with responsibility for nature conservation issues.

### 3.2. Observations (public):

One submission related to the outline Construction Environment management Plan (oCEMP) and how this may relate to the Board's requirement for reasonable scientific certainty in the appropriate assessment determination.

A number of public submissions were made in relation to general nature and biodiversity issues including the following:

- Design of the SKG
- Impacts on biodiversity
- Loss of trees and hedgerows and corresponding impacts on biodiversity

## 4.0 **Appropriate Assessment**

4.1. **The requirements of Article 6(3)** as related to appropriate assessment of a project under part XAB, sections 177U and 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section. The areas addressed in this section are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive
- Screening the need for appropriate assessment
- The Natura Impact Statement and associated documents
- Appropriate assessment of implications of the proposed development on the integrity each European site

### **Compliance with Articles 6(3) of the EU Habitats Directive:**

4.2. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given.

4.3. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

### **Screening the need for Appropriate Assessment:**

4.4. The first test of Article 6(3) is to establish if the proposed development could result in likely significant effects to a European site. This is considered *stage 1* of the appropriate assessment process i.e. *screening*. The screening stage is intended to be a preliminary examination. If the possibility of significant effects cannot be excluded on the basis of objective information, without extensive investigation or the

application of mitigation, a plan or project should be considered to have a likely significant effect and appropriate assessment carried out.

- 4.5. A *Screening report for Appropriate Assessment* was prepared by the applicant (February 2016) and is included in Appendix 2 of the NIS. The report was informed by desk study, consultation the relevant nature conservation authorities including the National Parks and Wildlife Service and field studies including and specialist surveys for protected plant and animal species. In determining the extent of potential effects of the SKG, the applicant took a precautionary approach in using a 15km radius around the development footprint as a potential zone of influence and thereby included 11 European Sites in the screening exercise. The source-pathway-receptor model of impact prediction was employed.
- 4.6. The full catalogue of qualifying interest features of the SAC sites and special conservation interests of the SPA sites were listed in the screening report and examined in view of the following types of impacts that could result in significant effects on the conservation objectives of those European sites namely:
- Habitat loss
  - Habitat alteration
  - Habitat or species fragmentation
  - Disturbance/displacement of species
  - Water quality
- 4.7. The proposed development intersects directly at various point along the route with three European sites, namely Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC, Valencia Harbour/Portmagee Channel SPA and Iveragh Peninsula SPA. There are further hydrological connections between aspects of the proposed development and Castlemaine Harbour SAC and SPA via the River Behy. In light of the possible direct and indirect impacts identified, the applicant found that the potential for significant effects was likely or could not be excluded for these five European sites. Therefore, it was determined that further assessment was required to establish whether the proposed SKG could adversely affect the integrity of those sites. This assessment is presented in the Natura Impact Statement (NIS) associated with this planning application.

4.8. The possibility of significant effects on the remaining six European sites within the 15km zone was ruled out due to the distance of those sites from the proposed development and lack of plausible ecological connections. The following sites were *screened out* for the need for appropriate assessment by the applicant:

- Lough Yganavan and Lough Nambrackdarrig SAC
- Ballinskelligs Bay and Inny Estuary SAC
- Dingle Peninsula SPA
- Slieve Mish Mountains SAC
- Puffin Island SPA
- Mount Brandon SAC

4.9. I note the date of the Screening Report is February 2016 and thus the assessment predates some more recent Guidance on the application of Article 6 (e.g. *Managing Natura 2000 sites: The provisions of Article 6 of the Habitats Directive*, European Commission, 2018) and case law related to appropriate assessment.

Notwithstanding this, I consider that the scientific information presented in the screening report taken together with reference to the NPWS website, aerial and satellite imagery is more than adequate to undertake Screening for appropriate assessment in line with the provisions of S177U and relevant case law. I consider that the surveys undertaken, and data collected is in line with the requirement for best available scientific information.

4.10. The applicants' approach to screening for appropriate assessment was raised at the oral hearing. This related to the 'test' of likely significant effects. The text provided by the Advocate General Sharpston in Case C-258/11 *Sweetman*, paragraph 47 was referred to as the correct interpretation and I present it here for the Board:

47. It follows that the *possibility* of there being a significant effect on the site will generate the need for an appropriate assessment for the purposes of Article 6(3). The requirement at this stage that the plan or project be likely to have a significant effect is thus a trigger for the obligation to carry out an appropriate assessment. There is no need to *establish* such an effect; it is, as Ireland observes, merely necessary to determine that there *may* be such an effect.

- 4.11. The screening report prepared by the applicant is to *inform* the appropriate assessment process and it is the duty of the Board to ensure that the correct test is applied in the Boards Screening assessment and determination. (Notwithstanding this, I consider that the applicant did correctly identify the likelihood of significant effects). In this regard and for the avoidance of any doubt, I confirm that this screening assessment and determination undertaken for the Board is in line with Case C-258/11 and other relevant case law including Case C-323/17 *People over Wind and Sweetman* whereby measures intended to avoid or reduce the harmful effects of the project are not considered at the screening stage.
- 4.12. At the oral hearing, a request was made for screening reports that were prepared by the applicant in relation to proposed site investigation works to allow for a full and complete assessment of all aspects of the project. Four screening reports were furnished relating to site investigation works comprising of minor works including trial pits and boreholes that Kerry County Council wished to undertake to further inform data on ground conditions etc. These site investigations were not pursued, and Kerry County Council confirmed at the hearing, no longer required. For the avoidance of doubt, I have examined the four reports which screened out the need for appropriate assessment for site investigations however, there is no reliance on these documents in the screening or appropriate assessment process as this element of works is excluded.
- 4.13. At the oral hearing, a question was also raised as to the need to screen for appropriate assessment for individual species listed under Annex II of the Habitats Directive. This issue was raised in relation to the presence of (a low number) of individual adult freshwater pearl mussels recorded in the Behy River, which is not included in the network of European sites in this area. Article 6(3) clearly relates to European sites and not individual species: **Any plan or project likely to have a significant effect on a Natura 2000, either individually or in combination with other plans or projects, shall undergo an Appropriate Assessment to determine its implications for the site.**

Looking in the wider area and to the conservation objectives related to freshwater pearl mussel for the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC, they apply to the Caragh, Currane and Gearhameen freshwater pearl mussel populations only, which are listed on the European

Communities Environmental Objectives (Freshwater Pearl Mussel) Regulations 2009 (Statutory Instrument No. 296 of 2009) with no mention of the Behy River.

As the Freshwater Pearl Mussel is also listed in Annex IV (over 400 species, including many that are also listed in annex II) the strict protection afforded by that directive is applied both within and outside Natura 2000 sites and a full assessment of the proposed development on Freshwater Pearl Mussel in the Behy River is detailed in the Biodiversity Chapter of the EIAR.

- 4.14. Based on an examination of the Screening report for appropriate assessment and supporting information, the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, proximity and functional relationship between the proposed works and the European sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I conclude that the proposed development (alone) may result in significant effects (or such effects cannot be ruled out at this stage) on five European sites and therefore, appropriate assessment is required to determine if adverse effects on site integrity can be ruled out. This determination is aligned with the conclusions of the applicants screening for appropriate assessment. I include a summary of the screening assessment in relation to all 11 European sites considered in Table 1 below.

#### **Screening Determination (for appropriate assessment)**

- 4.15. Following the screening process, it has been determined that appropriate assessment is required as it cannot be excluded on the basis of objective information that the proposed South Kerry Greenway individually or in-combination with other plans or projects will have a significant effect on the following European sites (i.e. there is the *possibility* of significant effect):

- Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (000365)
- Iveragh Peninsula SPA (004154)
- Valencia Harbour/Portmagee Channel SAC (002262)
- Castlemaine Harbour SPA (004029)

- Castlemaine Harbour SAC (000343)

The possibility of significant effects on 6 other European sites considered in screening for appropriate assessment of the South Kerry Greenway (alone or in combination with other plans and projects) has been excluded on the basis of objective information. The following European sites have been screened out for the need for appropriate assessment. Lough Yganavan and Lough Nambrackdarrig SAC

- Ballinskelligs Bay and Inny Estuary SAC
- Dingle Peninsula SPA
- Slieve Mish Mountains SAC
- Puffin Island SPA
- Mount Brandon SAC

Measures intended to reduce or avoid significant effects have not been considered in the screening process.



**Table 1. Appropriate Assessment Screening summary matrix:** A summary of the assessment of *likely significant effects* of the South Kerry Greenway on European Sites

European /Natura 2000 Site ( <a href="http://www.npws.ie">www.npws.ie</a> )	Distance* from proposed development/ Source, pathway, receptor	Possible significant effect (alone)	In combination effects	Screening conclusion
Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (000365)	Approx. 1 km of route is within the SAC and 2km the route is adjacent to the boundary.	Potential for habitat loss/alteration/fragmentation, impacts to water quality and water dependent habitats and disturbance of key species: <b>development may result in significant effects alone.</b>	Possible- requires more detailed analysis.	Possible significant effects cannot be ruled out without further analysis and assessment and the application of mitigation measures- <b>Appropriate assessment required.</b>
Iveragh Peninsula SPA (004154)	Approx. 2.5km of route crosses SPA at separate locations.	Potential for habitat loss/alteration/fragmentation, impacts to water quality and water dependent habitats	Possible- requires more detailed analysis.	Possible significant effects cannot be ruled out without further analysis and assessment and the

European /Natura 2000 Site ( <a href="http://www.npws.ie">www.npws.ie</a> )	Distance* from proposed development/ Source, pathway, receptor	Possible significant effect (alone)	In combination effects	Screening conclusion
		and disturbance of SCI bird species: <b>development may result in significant effects alone.</b>		application of mitigation measures- <b>Appropriate assessment required.</b>
Valencia Harbour/Portmagee Channel SAC (002262)	Approx. 500m+ of route within SAC boundary and route is adjacent to the SAC between Reenard and Caherciveen.	Potential for habitat loss/alteration/fragmentation: <b>development may result in significant effects alone.</b>	Possible- requires more detailed analysis.	Possible significant effects cannot be ruled out without further analysis and assessment and the application of mitigation measures- <b>Appropriate assessment required.</b>
Castlemaine Harbour SPA (004029)	Within 300 m at closest point, contiguous with Iveragh peninsula SPA along coast (from Drung	Potential for impacts to water quality and water dependent habitats and disturbance of SCI bird	Possible- requires more detailed analysis.	Possible significant effects cannot be ruled out without further analysis and assessment and the

European /Natura 2000 Site ( <a href="http://www.npws.ie">www.npws.ie</a> )	Distance* from proposed development/ Source, pathway, receptor	Possible significant effect (alone)	In combination effects	Screening conclusion
	hills area). Within receiving catchment of watercourses including River Behy.	species: <b>development may result in significant effects alone.</b>		application of mitigation measures- <b>Appropriate assessment required.</b>
Castlemaine Harbour SAC (000343)	1.2km to the north west of the proposed SKG Direct connection via river Behy.	Potential for impacts to water quality and water dependent habitats and species: <b>development may result in significant effects alone.</b>	Possible- requires more detailed analysis.	Possible significant effects cannot be ruled out without further analysis and assessment and the application of mitigation measures- <b>Appropriate assessment required.</b>
Lough Yganavan and Nambrackdarrig SAC (000370)	3.9km to the north east No pathway	No possibility of effects due to separation distance from the development and lack of ecological connections.	No possibility of in-combination effects.	Screened out for need for appropriate assessment.

<b>European /Natura 2000 Site</b> <a href="http://www.npws.ie">www.npws.ie</a>	<b>Distance* from proposed development/ Source, pathway, receptor</b>	<b>Possible significant effect (alone)</b>	<b>In combination effects</b>	<b>Screening conclusion</b>
Ballinskelligs Bay and Inny Estuary SAC (000335)	9.5km south east No pathway	No possibility of effects due to the separation distance from the development and lack of meaningful ecological connections.	No possibility of in-combination effects.	Screened out for need for appropriate assessment.
Dingle Peninsula SPA (004153)	10m to north No pathway	No possibility of significant effects due to the separation distance from the development and lack of meaningful ecological connections.	No possibility of in-combination effects.	Screened out for need for appropriate assessment.
Slieve Mish Mountains SAC (002185)	10.7km to north Outside of water catchment area and no other ecological or hydrological	No possibility of effects due to the separation distance from the development and absence of ecological	No possibility of in-combination effects.	Screened out for need for appropriate assessment.

European /Natura 2000 Site ( <a href="http://www.npws.ie">www.npws.ie</a> )	Distance* from proposed development/ Source, pathway, receptor	Possible significant effect (alone)	In combination effects	Screening conclusion
	connections/pathways exist.	connections.		
Puffin Island SPA (004003)	12.3 km south west No pathway	No possibility of effects due to the separation distance from the development. Despite overlap with Iveragh peninsula SPA, no likely meaningful ecological connection between the SCI breeding seabirds and their ecological requirements and proposed development site.	No possibility of in-combination effects.	Screened out for need for appropriate assessment.
Mount Brandon SAC (000375)	14km north No pathway	No possibility of effects due to the separation distance from the development and	No possibility of in-combination effects.	Screened out for need for appropriate assessment.

European /Natura 2000 Site ( <a href="http://www.npws.ie">www.npws.ie</a> )	Distance* from proposed development/ Source, pathway, receptor	Possible significant effect (alone)	In combination effects	Screening conclusion
		absence of ecological connections.		

\*At nearest point

### **Appropriate Assessment of implications of the proposed development**

4.16. The following is an assessment of the implications of the project on the relevant conservation objectives of the European sites using the best available scientific knowledge in the field (NIS). All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are examined and assessed.

I have relied on the following guidance:

- DoEHLG (2009). Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities. Department of the Environment, Heritage and Local Government, National Parks and Wildlife Service. Dublin
- EC (2002) Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC
- EC (2018) Managing Natura 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC

4.17. **Relevant European sites:** The following sites are subject to appropriate assessment.

- Killarney National Park Macgillycuddy's Reeks and Caragh River Catchment SAC
- Iveragh Peninsula SPA
- Valencia Harbour/Portmagee Channel SAC
- Castemaine Harbour SPA
- Castemaine Harbour SAC

A full catalogue of these sites and their Qualifying Interests/Special Conservation Interests are set out in the NIS in tables 33-37. Habitats and species for which direct or indirect impacts were identified for assessment of adverse effects are examined in view of their conservation objectives, including detailed targets and attributes (Section 3 of NIS). This was based on ecological surveys, analysis of distribution

mapping, ecological requirements of individual species and habitats and impact pathways etc. I have examined and evaluated this scientific analysis and provide a summary in tables 2-6 of this report as part of my assessment for the Board. I have also examined the Natura 2000 data forms as relevant and the conservation objectives supporting documents for these sites, available through the NPWS website ([www.npws.ie](http://www.npws.ie)). I am satisfied that in-combination effects have also been considered and adequately assessed in the NIS.

4.18. **Aspects of the proposed development.** The main aspects of the proposed development that could adversely affect the conservation objectives of European sites include;

- Impacts on habitats including Northern Atlantic wet heath with *Erica tetralix*, European dry heaths where their current range intersects with the route corridor of the greenway.
- Direct impacts on species during construction and/or operation of the SKG through mortality and /or disturbance/displacement including Kerry Slug (*Geomalacus maculosus*), Lesser Horseshoe bat (*Rhinolophus hipposideros*) and Otter (*Lutra lutra*) where the distribution of these species is adjacent or within the route corridor of the greenway.
- Impacts to water quality and water dependant habitats including marine and coastal habitats through construction related pollution events and /or operational impacts (surface water/ fowl water management, invasive species).
- Disturbance and or displacement of wintering water birds or breeding birds due to noise and increased human activity during construction and ongoing anthropogenic disturbance throughout the operational phase (visual, light, noise).

4.19. **Tables 2-6** summarise the appropriate assessment and integrity test. The conservation objectives, targets and attributes as relevant to the identified potential adverse effects have been examined and assessed in relation to all aspects of the project (alone and in combination with other plans and projects). Mitigation measures proposed to avoid and reduce impacts to a non-significant level have been



assessed. In terms of possible in-combination effects, plans, existing and ongoing proposed developments were considered along with ongoing activities including aquaculture, sewage treatment plant, agriculture, peat extraction and other amenities. This complete assessment allows for clear, precise and definitive conclusions to be reached in terms of adverse effects on the integrity of European sites.

4.20. Supplemental to the summary tables, key issues that arose through my examination and assessment of the NIS, NIS addendum and the oral hearing are expanded upon in the text below as follows:

- The potential for adverse effects on the conservation objectives of Killarney National Park Macgillycuddy's Reeks and Caragh River Catchment SAC as they relate to maintaining the favourable conservation condition of the Lesser Horseshoe bat and Kerry Slug.
- Clarification of the extent of works related to the SKG within the Valencia Harbour/Portmagee Channel SAC and assessment of potential for adverse effects on the conservation objectives of the site.
- Mitigation and Monitoring.

**Tables 2-6: Summary of Appropriate Assessment of implications of the proposed development on the integrity of European Sites alone and in combination with other plans and projects in view of the sites Conservation Objectives.**

<b>Table 2</b> <b>Killarney National Park Macgillycuddy's Reeks and Caragh River Catchment SAC</b> <b>Key issues</b> <ul style="list-style-type: none"> <li>Habitat modification/ deterioration</li> <li>Disturbance/displacement/ mortality of qualifying interest species</li> </ul> <b>Conservation Objectives, NPWS (2017) : <a href="https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000365.pdf">https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000365.pdf</a></b>					
<b>Summary of Appropriate Assessment</b>					
<b>Conservation Objective To maintain (M) or Restore (R) the favourable conservation condition of the following:</b>	<b>Targets and attributes (summary-as relevant)</b>	<b>Potential adverse effects</b>	<b>Mitigation measures (including monitoring)</b>	<b>In-combination effects</b>	<b>Can adverse effects on integrity be excluded?</b>
Northern Atlantic wet heaths with <i>Erica tetralix</i> R	Habitat area stable or increasing, no decline in distribution, maintain ecosystem function, community diversity, vegetation composition in line with specific indicators etc.	No loss or modification of habitat.	Fire control measures	None	Yes
European dry heaths R		External and existing risk: Given the proximity of the proposed SKG to extensive areas of heather within the SAC there is a risk of fire.			Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on these qualifying interests in view of their conservation objectives.
Kerry slug ( <i>Geomalacus maculosus</i> ) M	Distribution within 1km squares stable, habitat extent (heath/bog with sandstone) stable or increasing, non-native species such as <i>Rhododendron</i> absent or under control.	<u>Note: survey has also identified Kerry Slug outside of range of SAC</u> <u>Construction Phase</u> Removal of habitat due to repair or refurbishment of tunnel structures. Removal of habitat outside of SAC due to construction of SKG. Mortality due to trampling. <u>Operational Phase</u> Mortality due to trampling.	Appointment of Project Ecologist Preconstruction surveys and translocation Exclusion zones Monitoring and Reporting Information Boards	None	Yes  Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on this species in view of the conservation objectives.
Lesser horseshoe bat ( <i>Rhinolophus hipposideros</i> ) M	Targets set for numbers at known and important wintering and summer roost sites, no decline in condition of known	<u>Note: 1 x summer roost is outside of SAC boundary but likely part of wider SAC population</u> <u>Construction Phase</u>	Seasonal timing of works Appointment of Project Ecologist Preconstruction emergence	None	Yes  Adverse effects on site integrity can be excluded

	winter, summer of number of auxiliary roosts. No significant decline in extent of potential foraging habitat, or loss of linear features- no significant loss within 2.5km of qualifying roosts, no significant increase in artificial light adjacent to named roosts or along commuting routes (within 2.5km)	Disturbance or displacement impacts due to use of machinery and human activities adjacent to bat roost during construction phase  <u>Operational Phase</u> Installation of lighting in tunnels	survey at bat roost Limitation on tree felling in proximity to bat roost Use of tunnel lighting designed to avoid impacts on bats  Conservation and enhancement of bat roost		as there is no doubt as to absence of effects on this species in view of the conservation objectives.
Otter ( <i>Lutra lutra</i> ) <b>M</b>	No significant decline in distribution or extent of terrestrial or freshwater habitat. No significant decline in couching or holt sites. No significant decline in fish biomass available, no significant increase in barriers to connectivity.	<u>Construction Phase</u> No direct impacts, no watercourses directly affected. Indirect impacts limited to potential for decrease in water quality due to ingress of construction related pollutants, temporary disturbance of otter if commuting along area affected. <u>Operational Phase</u> No adverse impact envisaged.	Pollution prevention/water quality management plan	None	Yes Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on this species in view of the conservation objectives.
Freshwater Pearl Mussel <i>Margaritifera margaritifera</i> <b>R</b> Marsh Fritillary <i>Euphydryas aurinia</i> <b>R</b> Sea Lamprey <i>Petromyzon marinus</i> <b>M</b> Brook Lamprey <i>Lampetra planeri</i> <b>M</b> River Lamprey <i>Lampetra fluviatilis</i> <b>M</b> Salmon <i>Salmo salar</i> <b>M</b> Killarney Fern <i>Trichomanes speciosum</i> <b>M</b> Slender Naiad <i>Najas flexilis</i> <b>M</b> Killarney Shad <i>Alosa fallax killarneyensis</i> <b>R</b> Oligotrophic waters containing very few minerals of sandy plains ( <i>Littorelletalia uniflorae</i> ) <b>R</b> Oligotrophic to mesotrophic standing waters with vegetation	<b>These qualifying interest species and habitats are outside of the range of any possible impact of the SKG and are not considered further in the assessment.</b>  This was informed by ecological survey and reference to the distribution as detailed in best available scientific information from NPWS publications and databases.	N/A	N/A	N/A	Yes  Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on these qualifying interests in view of their conservation objectives- All occurring outside of any possible range of influence of the proposed development.

<p>of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i> <b>R</b>  Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation <b>M</b>  Alpine and Boreal heaths <b>R</b>  <i>Juniperus communis</i> formations on heaths or calcareous grasslands <b>M</b>  <i>Calaminarian grasslands of the Violetalia calaminariae</i> <b>M</b>  Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) <b>R</b>  Blanket bogs (* if active bog) <b>R</b>  Depressions on peat substrates of the <i>Rhynchosporion</i> <b>R</b>  Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles <b>R</b>  Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnionincanae</i>, <i>Salicion albae</i>)*<b>R</b>  <i>Taxus baccata</i> woods of the British Isles* <b>R</b></p>					
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**Overall conclusion: Integrity test**  
Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of Killarney National Park Macgillycuddy's Reeks and Caragh River Catchment SAC in view of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.

Note that monitoring is included as best practice and does not imply any uncertainty regarding adverse effects or the effectiveness of any mitigation measures.

**Table 3**  
**Iveragh Peninsula SPA (004154)**

**Key issues**

- Disturbance to SCI species (distribution and human activities)

Conservation Objectives (NPWS 2018): [https://www.npws.ie/sites/default/files/protected-sites/conservation\\_objectives/CO004154.pdf](https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004154.pdf)

Conservation Objective	Targets and attributes (as relevant)	Summary of Appropriate Assessment			Can adverse effects on integrity be excluded?
		Potential adverse effects	Mitigation measures	In-combination effects	
<p><b>To maintain the favourable conservation condition of the following resident breeding birds:</b></p> <p>Fulmar (<i>Fulmarus glacialis</i>) Peregrine (<i>Falco peregrinus</i>) Kittiwake (<i>Rissa tridactyla</i>) Guillemot (<i>Uria aalge</i>) Chough (<i>Pyrrhocorax pyrrhocorax</i>)</p>	<p>Site specific Targets and attributes not set. Based on other SPA the following can be expected to apply:</p> <p>Long term population trend stable or increasing</p> <p>No significant decrease in the numbers or range of areas used (other than that occurring from natural patterns of variation)</p>	<p>The SKG intersects with a small proportion of this large SPA site at 2 locations along the N70 between Kells and Mountain stage (approx. 2.5km of the route). Located away from coastal cliffs, the route does not impact directly on breeding or foraging habitat for SCI species and adverse effects will not occur during construction or operation. This is supported by wintering and breeding bird surveys undertaken by the applicant. Chough is only SCI species which feeds on grassland, however given the evidence presented it is clear that no adverse effects on this species from the construction or operation of the greenway along the abandoned railway embankment at this location will occur. A precautionary approach has been adopted with regards the potential for construction related pollutants to affect coastal habitats.</p>	<p>Pollution prevention/water quality management plan:</p> <p>Measures designed to control and eliminate the point and diffuse pollution sources identified and to prevent the potential adverse water quality impacts will be implemented.</p>	<p>None</p>	<p>Yes</p> <p>Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on these species in view of the conservation objectives.</p>

**Overall conclusion: Integrity test**  
 Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of the Iveragh Peninsula SPA in view of the conservation objectives for this site. No reasonable scientific doubt remains as to the absence of such effects.

**Table 4**  
**Valencia Harbour/Portmagee Channel SAC (002262)**  
**Key issue: • Habitat loss/ modification/ deterioration**  
 Conservation Objectives (NPWS 2012): [https://www.npws.ie/sites/default/files/protected-sites/conservation\\_objectives/CO002262.pdf](https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002262.pdf)

Conservation Objective: to maintain the favourable conservation condition of the following habitats:	Targets and attributes (as relevant)	Summary of Appropriate Assessment			Can adverse effects on integrity be excluded?
		Potential adverse effects	Mitigation measures	In-combination effects	
Mudflats and sandflats not covered by seawater at low tide	Permanent area is stable or increasing (123ha) Conserve community types in natural condition including intertidal sand with nematodes and polychaetes community and medium to fine sand with <i>Nephtys cirrosa</i> and <i>Spiophanes bombyx</i>	<u>Potential adverse effects</u> Physical works associated with the reinstatement / building of revetment walls along sections adjacent to/ within the Sac boundary. Ecological connection through the Ferta River and other minor watercourses that within catchment discharging to Valencia Harbour.  <u>Construction Phase</u> No impacts on habitat area or distribution  Potential degrading of habitat by means of ingress of pollutants or sediments. Disturbance or displacement of typical species by means of impairment of water quality or pollution of sediments. <u>Operational Phase</u> No adverse impact envisaged.	Pollution prevention/water quality management plan:  Measures designed to control and eliminate the point and diffuse pollution sources identified and to prevent the potential adverse water quality impacts will be implemented.	None	Yes  Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on these qualifying interest habitats in view of their conservation objectives.
Large shallow inlets and bays	Permanent area is stable or increasing (269ha), maintain the extend and community structure and distribution of the maërl and <i>Zostera</i> dominated communities and the <i>Edwardsia delapiae</i> associated community. Conserve sediment communities in natural	<u>As above</u>	As above	None	

	condition				
Reefs	Distribution and permanent area is stable or increasing, Conserve community types in natural condition including <b>Fucus, dominated intertidal</b> , laminaria dominated and echinoderm dominated reef communities (as mapped by NPWS)	<u>Construction Phase</u> No permanent loss of Reef habitat (fucus dominated intertidal) Disturbance of intertidal possible during reinstatement of revetment walls Disturbance or displacement of typical species by means of impairment of water quality.  <u>Operational Phase</u> No adverse impact envisaged.	All works to be undertaken from landward side above HWM  Pollution prevention as above.	None	
<p><b>Overall conclusion: Integrity test</b>            Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of Valencia Harbour/Portmagee Channel SAC in view of the conservation objectives of those sites:</p> <p>No reasonable scientific doubt remains as to the absence of such effects.</p>					

**Table 5**  
**Castlemaine Harbour SPA (004029)**

**Key issue:**

- Disturbance to SCI species – ex-situ effects
- Indirect effects on wetland /coastal habitats due to ingress of construction related pollutants

Conservation Objectives (NPWS 2011): [https://www.npws.ie/sites/default/files/protected-sites/conservation\\_objectives/CO004029.pdf](https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004029.pdf)

<b>Summary of Appropriate Assessment</b>					
<b>Conservation Objective</b>	<b>Targets and attributes</b> (as relevant)	<b>Potential adverse effects</b>	<b>Mitigation measures</b>	<b>In-combination effects</b>	<b>Can adverse effects on integrity be excluded?</b>
<p><b>To maintain the favourable conservation condition of the following bird species (wintering with the exception of Chough-non-breeding)</b></p> <p>Red-throated Diver (<i>Gavia stellata</i>)            Cormorant (<i>Phalacrocorax carbo</i>)            Light-bellied Brent Goose (<i>Branta bernicla hrota</i>)            Wigeon (<i>Anas penelope</i>)            Mallard (<i>Anas platyrhynchos</i>)            Pintail (<i>Anas acuta</i>)            Scaup (<i>Aythya marila</i>)            Common Scoter (<i>Melanitta nigra</i>)            Oystercatcher (<i>Haematopus ostralegus</i>)            Ringed Plover (<i>Charadrius hiaticula</i>)            Sanderling (<i>Calidris alba</i>)            Bar-tailed Godwit (<i>Limosa lapponica</i>)            Redshank (<i>Tringa totanus</i>)            Greenshank (<i>Tringa</i>)</p>	<p>Long term <b>population trend</b> is stable or increasing</p> <p><b>Distribution:</b> No significant decrease in the numbers or range of areas used by waterbird species other than that occurring from natural variation.</p>	<p>No direct impacts on the population or distribution of these species.</p> <p>The SKG is linked to the SPA hydrologically via streams and the Behy river discharging into Castlemaine Harbour and the SPA boundary is contiguous with the Iveragh Peninsula SPA along the coast near the Drung Hills area.</p> <p>Located outside of the SPA, the route does not impact directly or indirectly on foraging or roosting habitat for SCI species and adverse effects will not occur during construction or operation.</p> <p>This is supported by wintering and bird surveys undertaken by the applicant.</p> <p>A precautionary approach has been adopted with regards the potential for construction related pollutants to affect coastal habitats.</p>	<p>Pollution prevention/water quality management plan:</p> <p>Measures designed to control and eliminate the point and diffuse pollution sources identified and to prevent the potential adverse water quality impacts will be implemented.</p>	<p>None predicted</p>	<p>Yes</p> <p>Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on the special conservation interest bird species or wetland habitat in view of the conservation objectives.</p>



<i>nebularia)</i> Turnstone ( <i>Arenaria  interpres</i> )  Chough ( <i>Pyrrhocorax  pyrrhocorax</i> )					
Wetlands	The permanent area occupied by the wetland habitat should be stable and not significantly less than the areas of 7472, 3983 and 322 hectares for subtidal, intertidal, and supratidal habitats respectively.	No impacts on habitat area as the SKG is entirely outside of the SPA.  A precautionary approach has been adopted with regards the potential for construction related pollutants to affect coastal habitats. Note that water quality is not a conservation objective in this instance.	As above	As above	As above
<p><b>Overall conclusion: Integrity test</b>  Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of Castlemaine Harbour SPA in view of the conservation objectives of the site.</p> <p>No reasonable scientific doubt remains as to the absence of such effects.</p>					

**Table 6**  
**Castlemaine Harbour SAC (000343)**

**Key issues:**

- Indirect impacts on wetland habitats from construction and operational related pollutants
- Disturbance to SCI species (ex-situ)

Conservation Objectives (NPWS 2011): [https://www.npws.ie/sites/default/files/protected-sites/conservation\\_objectives/CO000343.pdf](https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000343.pdf)

		Summary of Appropriate Assessment			
Conservation Objective	Targets and attributes (as relevant)	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Conservation Objective To maintain (M) or Restore (R) the favourable conservation condition of the following:		Two car parks namely the Glenbeigh Trail Head Car Park and the Glenbeigh Quarry Car Park proposed at the trail head at Glenbeigh are situated in proximity to the River Behy which drains to Rossbehy Creek and the Castlemaine Harbour SAC approximately 800m downstream.  No direct impacts and loss/fragmentation of habitats possible. <u>Potential for adverse effects limited to construction/ operational pollution.</u>			
Estuaries (M)	Permanent area stable or increasing (5396ha), sediment community types maintained in natural condition.	Proximity of SAC to eastern end of proposed route. Direct link via the Behy to the SAC.  Precautionary approach taken as it is unlikely that given the tidal cycle and volumes of water exchanged in this estuarine area that significant effects could arise to affect the conservation objectives of these habitats.	Pollution prevention/water quality management plan:  Measures designed to control and eliminate the point and diffuse pollution sources identified and to prevent the potential adverse water quality impacts will be implemented.	None predicted	Yes  Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on these habitats in view of the conservation objectives.
Mudflats and sandflats no covered by seawater at low tide (M)	Permanent area stable or increasing (4287ha), maintain extent of Zostera dominated community, sediment community types maintained in natural condition.	Only indirect effects of any significant pollution (unlikely) event could reasonably affect these estuarine habitats.			

Salicornia and other annuals colonising mud and sand (M)	Area stable or increasing (based on mapped areas, NPWS), no decline in habitat distribution of these habitats, maintain natural sediment circulation, physical and vegetation structure and composition, no significant expansion of Spartina.	As above Habitats present in the Rossbehy Saltmarsh.	As above Management of sanitary waste from public toilets (to be collected and moved off site for treatment at licensed facility).	As Above	Yes Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on these habitats in view of the conservation objectives.
Atlantic salt meadows (M)		Precautionary approach taken as it is unlikely that given the tidal cycle that significant effects could arise to affect the conservation objectives of these habitats.			
Mediterranean salt meadows (M)		Only indirect effects of any significant pollution (unlikely) event could reasonably affect these estuarine habitats.			
Otter (M)	No significant decline in distribution. No significant decline in area / extent of terrestrial, marine habitat or freshwater habitat, no decline in couch or holt sites, no significant decline in fish biomass available, no barriers to connectivity	<u>Construction Phase</u> No direct impacts, no watercourses directly affected. Indirect impacts limited to potential for decrease in water quality due to ingress of construction related pollutants, temporary disturbance of otter if commuting along area affected <u>Operational Phase</u> No adverse impact envisaged	As above	As above	Yes Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on Otter in view of the conservation objectives for this species.
Sea lamprey <i>Petromyzon marinus</i> (M) River lamprey <i>Lampetra fluviatilis</i> (M) Atlantic salmon ( <i>Salmo salar</i> ) (only in fresh water) (M) Annual vegetation of drift lines (M) Perennial vegetation of stony banks (M) Salicornia and other annuals colonizing mud and sand (M) Petalwort <i>Petalophyllum ralfsii</i> Embryonic shifting dunes (M) Shifting dunes along the shoreline with <i>Ammophila</i> (M)	<b>These qualifying interest species and habitats are outside of the range of any possible impact of the SKG and are not considered further in the assessment.</b>	N/A	N/A	N/A	Yes Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on these habitats and species in view of the conservation objectives- All occurring outside of any possible range of influence of the proposed development.

<p>* Fixed coastal dunes with herbaceous vegetation ("grey dunes") <b>(M)</b>  Dunes with <i>Salix repens ssp. argentea</i> (<i>Salix arenariae</i>) <b>(M)</b>  Humid dune slacks (M)  *Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) <b>R</b></p>					
<p><b>Overall conclusion: Integrity test</b>  Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of Castlemaine Harbour SAC in view of the conservation objectives of the site.</p> <p>No reasonable scientific doubt remains as to the absence of such effects.</p>					

## **Killarney National Park Macgillycuddy's Reeks and Caragh River Catchment SAC**

4.21. This SAC covers a very large area and is designated for numerous habitat types and species. The SKG crosses directly through an area within the boundary of the SAC for approximately 1km on the lower slopes of Drung Hill along the N70 and the route is adjacent to the SAC boundary for a further 2km in this area. At this location the route is along the abandoned railway embankment and includes railway structures comprising three stone arch tunnels. The proposed works for the Drung Hill gabion wall will take place between Ch. 24,300 to Ch. 25,390 and are outside the SAC boundary. The gabion baskets will be constructed from road level from the southern verge of the N70 upwards. A further 300m of the route is within the SAC in the townland of Coolnaharragill Upper but this section is entirely on an existing pathway and no intervention works are required.

### **4.22. Habitat modification**

4.23. The assessment of potential adverse effects of the SKG is confined to the conservation objectives to restore the favourable conservation condition of Annex I habitats Northern Atlantic wet heath with *Erica tetralix* and European dry heaths as initial examination showed the range of these habitats intersects with the route corridor of the greenway. All other habitats for which the site is designated are outside of the range of possible impact from the project and there is no doubt as to the absence of effects on those qualifying habitats (See summary table 2).

4.24. Ecological survey showed that while neither habitat was recorded along the route corridor, habitats types with links to these Annex I habitat were recorded adjacent to the footprint of the SKG. Assessment of the proposed works against the attributes and targets set for the conservation objectives of maintaining these habitats types in favourable conservation condition shows clearly that there will be no adverse effects as no decline in habitat area or distribution within the SAC will occur and the ecosystem functions, community diversity, vegetation composition and structure etc will not be affected.

### **4.25. Disturbance of Key Species**

4.26. The key species considered in this section are Lesser Horseshoe bat and Kerry Slug.

- 4.27. The potential for adverse effects on the conservation objective relate to the maintenance of the favourable conservation condition of Otter has been excluded. As no works will be conducted within the terrestrial or freshwater habitats within the SAC that support the resident population of otter, impacts on the distribution of the species within the SAC, their supporting habitats or food resources are not envisaged and any possible disturbance to foraging or commuting individuals would be temporary and not significant.
- 4.28. **Kerry Slug (*G. maculosus*)**
- 4.29. As the route crosses through a 1km section of the SAC selected for this species, the potential for adverse effects was assessed in detail in the NIS. Extensive surveys for Kerry slug were undertaken by the applicants Ecology team (2014, 2016 and 2018) using best practice methods and under licence where required and new records for this species has added to the scientific knowledge. In 2014, the survey recorded the species on exposed boulders near the North Tunnel of the Drung Hills in close proximity to the SAC. I am satisfied that a full assessment of potential effects has been undertaken against attributes and targets set in the conservation objectives for this species (see Table 20 NIS). The overall distribution of the species within the SAC as defined by the conservation objectives will not be affected. The attribute and target relating to the extent of area of heath/bog with sandstone outcrops within the SAC will not be affected. The potential for impacts on limited areas of sandstone bedrock at the Drung Tunnels has been assessed and mitigation measures designed to avoid impacts. Therefore, in terms of the conservation objectives set for the Kerry Slug, I am satisfied that adverse effects can be excluded.
- 4.30. There was some discussion at the oral hearing related to this species. The likely widespread distribution of the species both within and outside of the SAC is acknowledged in the conservation objectives and given the crepuscular nature of the species and challenges in survey, I am satisfied that the approach taken by the Ecologists appointed by Kerry County Council has been appropriate and in terms of survey effort and impact assessment in the EIAR and NIS.
- 4.31. In close proximity but outside the SAC boundary, the installation of the stone gabion wall along the Drung Hills area will cause the loss of suitable habitat (sandstone bedrock) for this species. These possible ex-situ effects are examined in detail in

the EIAR as this area is outside of the SAC, but it is also assessed in the NIS as this habitat likely supports *G. maculosus*. As part of the mitigation measures, there is a proposal to treat the stone gabion installation with a yogurt-based mixture to encourage the growth of lichen and moss on the introduced stone (confirmed sandstone in-line with the prevailing geology). This method is aimed at increasing the natural rate of lichen and moss colonisation on new/introduced rock surfaces which would be of benefit to Kerry Slug (occurring outside of the SAC boundary) in the long term. I note that this is still a relatively slow process and it can take upwards of 10 years to have an appreciable effect. While I acknowledge the novel approach to the mitigation measure aimed at enhancing lichen growth, I do not place reliance on this to avoid adverse effects on the Kerry Slug (ex-situ) and am satisfied that based on the evidence provided, including mitigation measures such as the appointment of an ecologist, preconstruction survey and translocation, exclusion zones that no residual adverse effects remain.

4.32. The potential for mortality of individuals of this species both within and outside of the SAC due to movement of machinery and workers during construction works and from the eventual operation of SKG has been assessed as not being of significance to the Kerry slug population. The risk is relatively low as like many slugs, *G. maculosus* is a crepuscular animal and it takes refuge in crevices in rocks or under the bark of trees during the day, however, diurnal activity has been recorded during or after rain. Notwithstanding this, I consider the mitigation measures proposed including the provision of information boards will ensure that adverse effects are prevented.

4.33. **Lesser Horseshoe bat - (*R. hipposideros*)**

4.34. A series of bat surveys were undertaken for the purpose of impact assessment for the SKG. The stone arch railway tunnels at Drung Hill were found to be unsuitable for wintering hibernation or summer roost sites for this species. A derelict building located outside but adjacent to the SAC was found to host a summer roost for 35 Lesser Horse bats (LHB) in 2017. This building was assessed as a satellite summer roost for the SAC population of Lesser Horseshoe bat and is unconfirmed as maternity roost. While initially identified for demolition to facilitate the SKG, the route has been amended slightly to preserve the building and measures proposed to enhance it as a roost for this species. There was considerable discussion about this

building and its suitability to act as both a summer and winter roost site at the oral hearing. Potential impacts and mitigation measures have been based on the building's suitability as a summer roost site only and the NIS concluded that with the application of mitigation measures, adverse effects on this species could be excluded in view of the attributes and targets set out in the conservation objectives.

4.35. Mitigation measures proposed follow the mitigation hierarchy with avoidance measures the primary tool employed. Disruptive and noisy works, including rock breaking to facilitate the routing of the SKG around the building are scheduled for the winter period when the bats have vacated and moved to winter roost sites. Based on that rationale, the actual levels of noise that may arise from such activities was not assessed against the sensitivity of LHB to such effects.

4.36. An emergence survey will be undertaken in advance of these works to ensure no bats are present and the roost inspected. This is standard approach in terms of bat mitigation. However, validity of this approach was questioned at the oral hearing with regard to the certainty that could be attributed to the fact that the building was not suitable as a winter hibernation site and that the bats would not be present.

4.37. I refer the Board to text taken from the Conservation Objectives supporting document- lesser horseshoe bat (*Rhinolophus hipposideros*) NPWS, January 2018.

Suitable sites in winter generally witness low levels of disturbance and have high humidity and stable temperatures. These conditions are typically met in underground structures such as souterrains, cellars, tunnels, ice houses and natural caves (including those selected as habitat 8130 'Caves not open to the public').

4.38. It was the view of the Ecologists acting as expert witness at the oral hearing that the building could not be considered a suitable winter hibernation roost as it did not fulfil the criteria outlined above. Evidence was presented from the Vincent Wildlife Trust (VWT-a bat conservation organisation) of a number of the Trusts reserves in Kerry that are used as both a summer and winter roost sites, thus proving that the species can use structures other than caves and underground structures.

Saving energy is a major priority for all bats in winter and they achieve this by lowering their normal body temperature of 35°C to that of the underground site; the



lesser horseshoe bat prefers sites with an ambient temperature in the region of 8°C and a range of underground structures provide this stable temperature environment.

The bat reserves in Kerry quoted from the VWT relate to houses *where lesser horseshoe bats may be found hibernating in the ground floor rooms of the summer roosts during mild winters, probably because the ambient temperature does not fall below that preferred for hibernation in this part of the country.*

<https://www.vincentwildlife.ie/species/lesser-horseshoe-bat>

The evidence provided in the NIS, bat survey reports and pictures of the building in question clearly demonstrate that the house does not fulfil the criteria for a stable winter hibernation site and I have no reasonable doubt as to the scientific evidence provided by the applicants Ecologists in this regard. I also note that a visit to the house in question 29<sup>th</sup> November 2017 in the company of a NPWS local ranger, all bats had vacated the building.

- 4.39. Based on the above, I am certain that this house is not suitable as a winter roost and provided the timing of works is undertaken in line with the mitigation measure detailed, there is no reasonable scientific doubt as to the effectiveness of these measures in preventing adverse effects to this population of LHB.
- 4.40. In addition to the measures designed to avoid impacts on this summer roost site, there is an additional proposal to enhance the house further as a summer roost. This would be done over the winter in consultation (and under license) with the NPWS and Bat Conservation Ireland with the view to optimising the roost and facilitating the set up a webcam to be used as an educational tool. Despite the recorded presence of bats, the overall suitability of the house is considered low due to exposure, risk of disturbance and light influence, for example, the house is lacking windows, with window spaces boarded up with wood panels. This is a welcome initiative in terms of conservation and the promotion of biodiversity however, I am not reliant on these enhancement measures in reaching a determination with regards absence of adverse effects on the LHB.
- 4.41. Based on my assessment of the NIS, supporting documents and evidence presented at the oral hearing, I am satisfied that the proposed development will not adversely affect the Lesser Horseshoe Bat in terms of its conservation objectives related to

roost sites (summer or winter) extent of foraging habitat, linear features or light pollution and no reasonable scientific doubt remains as the absence of such effects.

### **Valencia Harbour/Portmagee Channel SAC**

- 4.42. Following application of the findings of the coastal erosion report in the NIS addendum submitted in April 2018 and at the oral hearing, it was confirmed that coastal works required between Reenard Point and Caherciveen overlap marginally with the edge of the Valencia Harbour/Portmagee Channel SAC at two locations. Having reviewed the scientific information presented, I am satisfied that there will be no permanent loss of Reef habitat (specifically *Fucus* dominated intertidal reef community complex as mapped by NPWS along this stretch of coastline) and that as works will be undertaken from the landward side, above the high water mark that disturbance of the habitat will also be avoided.
- 4.43. The coastal works consist of the reinstatement of revetment walls and the installation of new wooden revetments along this stretch of coastline are required to prevent the undermining of the soils along the shoreline and their collapse onto the foreshore as is evident at locations along this stretch. These measures are not comparable to coastal protection for soft sediment systems such as dune systems for example, where the continuous cycling of sediments is crucial for habitat structure and function.
- 4.44. The proposed coastal works will not undermine the conservation objectives for the SAC and there is no doubt as to the absence of adverse effects on the habitats for which the site is designated. Pollution control measures have been considered and assessed as effective in ensuring that no indirect impacts will affect the habitats or component community types present in the SAC.

### **In-combination effects**

- 4.45. Having examined and assessed the project alone and in combination with plans and projects as presented in the NIS, I accept that due to the limited scale and duration of the works, that the construction and completion of the permanent walk and cycleway will not constitute a significant additional loading on the ecological carrying

capacity of area or the complex of habitats that are required to maintain the conservation objectives of any of the ecological receptors considered in the NIS. Taking account of the scope, scale, nature, size and location of the project and the sensitivities of the ecological receptors, there is very limited potential for synergistic interaction, between the SKG and the projects, plans and activities considered in the preceding sections that could result in cumulative or in-combination impacts.

### **Mitigation and Monitoring**

- 4.46. All mitigation measures proposed have been examined, evaluated and assessed as being in line with current best practice. The measures have been described in detail providing evidence of how adverse effects will be avoided or reduced to non-significant levels. The measures include the appointment of a project ecologist for the duration of the construction phase of the scheme and appropriate timeframes for the implementation of certain measures (outside of sensitive seasons for species/ species groups). Monitoring is to be implemented for certain measures. There is no doubt as to the effectiveness of these measures or their ease of implementation.
- 4.47. These measures will become an integral part of the specification of the project and listed as a condition should the Board decide to grant permission for the SKG.
- 4.48. It has become standard practice to include an outline CEMP with applications. The outline CEMP is a **tool** for the effective integration and implementation of the fully assessed mitigation measures. This allows for a smooth handover to the eventual contractor of all scheduled mitigation measures. The final CEMP will be developed by integrating the specified and conditioned measures. A detailed construction methodology report has also been prepared further reinforcing the detail that has been considered in the effective implementation of mitigation measures. There is no uncertainty as to the application or effectiveness of the mitigation measures which will be conditioned should the Board decide to grant planning for the South Kerry Greenway. The outline CEMP is simply a tool listing and demonstrating how the mitigation measures will be implemented.
- 4.49. Monitoring measures are proposed in line with best practice and do not reflect any uncertainty with regard the application of likely success of mitigation measures.

## **Site Integrity**

4.50. The integrity of sites designated SAC or SPA involves their constitutive characteristics and ecological functions.

Following appropriate assessment of all aspects of the proposed development (alone and in combination with other plans and projects), which I consider to have been done in view of the best scientific knowledge, adverse effects on Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC Iveragh Peninsula SPA, Valencia Harbour/Portmagee Channel SAC, Castlemaine Harbour SPA and Castlemaine Harbour SAC sites can be excluded based on the following rationale:

- Following mitigation, none of the habitat types or species for which the sites have been designated will be significantly affected.
- The SKG will not cause delays in achieving the conservation objectives of any of the European sites or interrupt progress towards achieving those objectives.
- The SKG will not interfere with the ecological structure, function or ecological processes of any of the European sites.
- The SKG will not reduce the area of key habitats or the population of key species or the balance between key species.
- The SKG will not result in fragmentation of habitats or species and will not result in the loss or reduction of key features supporting those sites.

## **5.0 Appropriate Assessment Conclusion**

The Development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended. Having carried out screening for appropriate assessment, it was concluded that the proposed South Kerry Greenway project may give rise to significant effects on Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC, Iveragh Peninsula SPA Valencia Harbour/Portmagee Channel SAC Castlemaine Harbour SPA and Castlemaine Harbour SAC. Consequently, an appropriate assessment was

required of the implications of the project on the qualifying features of those sites considering their conservation objectives. The possibility for significant effects was excluded for any other European site.

Following an appropriate assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC Iveragh Peninsula SPA, Valencia Harbour/Portmagee Channel SAC, Castlemaine Harbour SPA or Castlemaine Harbour SAC in view of the Conservation Objectives of those European sites. No reasonable scientific doubt remains as to the absence of such effects.

This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation and ecological monitoring measures and the application of these measures by way of condition.
- Detailed assessment of in-combination effects with other plans and projects including historical projects, current proposals, existing activities and future plans.
- The proposed South Kerry Greenway will not cause delays in achieving the conservation objectives of any of the European sites or interrupt progress towards achieving those objectives.



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Dr Maeve Flynn MCIEEM  
Inspectorate Ecologist

27<sup>th</sup> April 2020