



An
Bord
Pleanála

Inspector's Report
ABP 306192-19
ABP 306196-19

Development

N70 Sneem to Blackwater Bridge
(Ankail to Doon) Road Project and
Compulsory Purchase Order, 2019

Applicant

Kerry County Council

Date of Site Inspection

04/03/20

Date of Oral Hearing

17/11/20

Inspector

Pauline Fitzpatrick

Contents

1.0 Introduction.....	4
2.0 Proposed Development	5
2.2. The Scheme.....	5
2.3. The Need for the Scheme	8
2.4. Predicted Outcome	9
3.0 Policy Context.....	9
3.1. National Policy	9
3.2. Regional Policy	10
3.3. Local Policy	12
4.0 Submissions from Prescribed Bodies on Proposed Road Development	14
5.0 Local Authority’s Response to Prescribed Bodies’ Submissions	14
6.0 Objections/Submissions relating to Proposed Road Development.....	16
7.0 Compulsory Purchase Order	16
7.1. Documentation Submitted.....	16
7.2. Objections to the Compulsory Purchase Order	17
8.0 Oral Hearing	19
9.0 Planning Assessment	19
10.0 Environmental Impact Assessment	31
10.1. Introduction	31
10.2. Population and Human Health	35
10.3. Biodiversity	38
10.4. Land and Soil.....	47
10.5. Water	50
10.6. Air and Climate	53

10.7.	Material Assets	55
10.8.	Cultural Heritage	58
10.9.	Landscape	60
10.10.	Interaction of the Above and Cumulative Impacts	63
10.11.	Reasoned Conclusion on the Significant Effects	64
11.0	Appropriate Assessment	67
11.4.	Stage 1 – Screening	68
11.6.	Appropriate Assessment.....	76
11.7.	Appropriate Assessment – Conclusion	99
12.0	Compulsory Purchase Order.....	99
13.0	Recommendation	104
13.2.	Schedule 1 - Application for Approval of Proposed Road Development	104
13.3.	Schedule 2 - Compulsory Purchase Order	110
Appendix 1	– Summary of Oral Hearing.....	111

1.0 Introduction

- 1.1. Kerry County Council is seeking confirmation of a compulsory purchase order authorising compulsory acquisition of lands entitled ***Kerry County Council N70 Sneem to Blackwater Bridge (Ankail to Doon) Road Project Compulsory Purchase Order of 2019***. The Order was made pursuant to the powers conferred on the local authority by section 76 of the Housing Act, 1966, and the Third Schedule thereto, extended by Section 10 of the Local Government (No.2) Act 1960 (substituted by Section 86 of the Housing Act, 1966) and as amended and extended by the Planning and Development Acts 2000 to 2019, the Roads Acts 1993 to 2015 and the Local Government Act 1925 to 2019 .
- 1.2. In addition, Kerry County Council is seeking approval for the proposed road development (PRD) under section 51 of the Roads Act 1993, as amended, and Section 177AE of the Planning and Development Act 2000, as amended, in accordance with plans and particulars, including an environmental impact assessment report and natura impact statement, lodged with An Bord Pleanála on 18th day of December 2019.
- 1.3. Prior to the preparation of the applications Kerry County Council sought a direction from the Board as to whether an EIA was required (ref.no. PL08.HD0036). In December 2015 the Board determined that an EIA (and the preparation of an EIS (now EIAR)) was required. The Order noted that the Board had particular regard to *the environmental and landscape sensitivity of the receiving environment in the vicinity of the proposed improvement works, and the potential for impacts arising, with particular reference to European Sites in the vicinity, the proposed encroachment into Lough Fadda and the Rural Secondary Special Amenity designation of the area as set out in the Kerry County Development Plan 2015-2021*.
- 1.4. Kerry County Council also sought a direction from the Board as to whether a NIS should be prepared for the PRD (ref. no. PL08.JN0012). In December 2015 the Board directed that a NIS was required. The Order noted that the Board had regard to:
 - (c) *the location of the subject site in close proximity to European Sites, namely:*
 - I. *Kenmare River Special Area of Conservation (site code 002158)*

- II. *Blackwater River (Kerry) Special Area of Conservation (site code 002173)*
- III. *Old Domestic Building Askive Wood Special Area of Conservation (site code 002098)*
- IV. *Old Domestic Building, Dromore Wood Special Area of Conservation (site codes 00353)*

(d) the potential for indirect impacts to arise from the proposed road improvements in view of the conservation objectives for these European Sites.

2.0 Proposed Development

- 2.1.1. The N70 national secondary road is c.143km long and connects Tralee to Kenmare around the Iveragh Peninsula via a series of villages and towns including Milltown, Killorglin, Glenbeigh, Cahersiveen, Waterville and Sneem. It connects with the N21 and N22 national primary routes at Tralee. The route also connects with the N72 national secondary at Killorglin and the N71 national secondary at Kenmare.
- 2.1.2. The route is the principal means of access around the Iveragh Peninsula. The route is in an area of scenic beauty and a significant proportion of it (135km) consists of The Ring of Kerry tourist route. It also forms part of the Wild Atlantic Way.
- 2.1.3. The proposed road development (PRD) pertains to a 4.53 km stretch of road between the townlands of Ankail (which is approx. 4.8km to the east of Sneem village) and Doon (approx. 4km to the west of Blackwater Bridge and c. 17.5km west of Kenmare).

2.2. The Scheme

Overview

- 2.2.1. The PRD entails the on-line widening/realignment along the said 4.53km of road to provide a Type 3 Single Carriageway Road with a shared use, two-way cycle/pedestrian facility on the northern verge. It incorporates the already widened sections of road in the townlands of Tahilla and Derreennamucklagh which equate to c.1.41km. This leaves 3.12km of road as yet unimproved.

2.2.2. The design has been undertaken in compliance with the requirements of the DMRB for a Type 3 Single Carriageway with a capacity of 5000 AADT. Its cross section comprises a 3 metre lane in each direction in addition to 0.5 hard strip and 2.5 metre verge to each side. A two way cycle track on the northern side alters the exact extent of the hard strip and verge on this side. The cycle lane is to be generally 2 metres wide reducing to 1.750 metres along two stretches between CH121,600 and CH121,810 and between CH122,720 and CH123,200.

2.2.3. The overall desirable cross section is 13.5 metres with the narrowest point being 10.4 metres at Tahilla Bridge. A series of design departures for the project within the existing corridor have been sought and approved by TII. These departures include horizontal, vertical, sightline and verge width elements.

2.2.4. The PRD also includes:

- Layout and sightline improvements at 10 no. side road junctions.
- Surface Water drainage system comprising of:
 - 8.7km of surface water channels/drains (on both sides where required)
 - 4.5km of interceptor ditches to intercept run-off from adjoining lands
 - 6 no. outfall locations (with petrol interceptors)
- Safety Barriers
- Road signage and markings

CH 120,800 – CH 122,400

2.2.5. The new road commences at the start of an existing S-shaped reverse curve at CH 120,800 and will continue as a realigned straighter section of road transitioning between the start of the S-bend where the paved width is 5.1 metres to a point where the road is straight and has a paved width of 7 metres at CH 121,300. As a result of this realignment the existing N70 between CH 121,025 and CH 121,300 will become redundant. The redundant road will be removed and the old roadway will be topsoiled and seeded.

2.2.6. The road continues generally straight until it enters a second reverse curve which commences before Tahilla and continues through the settlement. The improvements are largely online along this stretch removing a number of curves. The new

realigned straightened road traverses variously between the northern and southern sides of the existing N70.

2.2.7. There are 9 no. existing private access points with 3 no. minor road junctions on this section of road.

CH 122,400 to CH 123,925

2.2.8. From CH122,730 the cross-section width of the road platform reduces to 10.4 metres as it crosses the existing Tahilla River Bridge. An alternative junction location for the Creeveen junction opposite St. Patrick's Church is to be provided 85 metres to the east of its current location to provide for safer sightlines. A formal car park area serving the church is to be provided to replace the informal provision at the existing junction. A crossing point will be provided in front of the church connecting to the car park.

2.2.9. The Kerry Way waymarked route is to be formalised in the vicinity of the car park and will be via a wooden walkway over a vegetation filter area that is to be provided as a mitigation measure for protection of freshwater pearl mussel population within the Tahilla River to which the scheme will drain.

2.2.10. Between CH122,900 and CH123,500 the proposed road will utilise the previously widened N70 carriageway by retrofitting the Type 3 Single Carriageway Road with a shared use two way cycle facility.

2.2.11. Between CH 123,830 and CH 123, 925 there are a number of constraints including:

- Pinch point arising from Lough Fadda (north) and residential property with mature trees (south).
- Proximity of the Kenmare River SAC boundary to the south.
- Area of habitat potentially suitable for Annex 1 species Kerry Slug.

2.2.12. The design solution entails the infilling of a small area of Lough Fadda. The infill footprint is c. 55 metre in length with an area of 440 m² and infill volume of approx. 660m³. The cross section of the proposed road at this location (CH 123, 830) will reduce to 11.7 metres.

2.2.13. Over and above the new junction alignment within Tahilla 3 no. public road junctions are to be upgraded.

CH 123,925 to CH 125,331

Up to CH 124,967 the proposed road alignment will use the previously widened N70 platform by retrofitting the Type 3 Single Carriageway Road with a shared use two way cycle/pedestrian facility.

A layby is to be constructed by Lough Fadda at CH 124,060.

Between CH124,300 and CH125,331 a cross-section width of 13 metres is proposed with a reduced verge width to minimise land take to the south.

There are 2 no. road junctions and 3 no. private accesses which will be retained.

It will tie in, in a tapered manner from the 13 metre cross section to an existing pavement width of 7 metres at CH 125,330.

Construction

- 2.2.14. It is anticipated that the PRD will be undertaken as a single continuous construction phase.

2.3. The Need for the Scheme

- 2.3.1. The existing road width is sub-standard for 68% of its length with the typical road width between 5 and 6 metres. The roads authority had undertaken two road widening projects in the townlands of Tahilla and Derreennamucklagh which are within the extent of the current project. These projects measured 650m and 760m respectively and are 450 metres apart.
- 2.3.2. The road does not meet current geometric design standards and the horizontal alignment is exceptionally poor in a number of locations. Locally the paved width reduces to 4.5 metre and these locations are not wide enough to allow for two large vehicles travelling in opposite directions to pass without evasive action. There are numerous existing curves of radius less than 90 metres which is outside the design bands for 85kph design speed. Overtaking is restricted which leads to driver frustration. Stopping sight distance is minimal, particularly on low radius curves where high road boundaries abut the road edge. Whilst resurfaced the pavement has poor structural condition.

- 2.3.3. Between Ankaill and Doon there are 32 no. direct accesses (field and domestic) and 10 no. priority junctions. Sightlines at the junctions are generally substandard.
- 2.3.4. In 2016 the estimated Annual Average Daily Traffic Flow on the relevant section of the N70 was 1495 vehicles. The posted speed limit is 80 kph.

2.4. Predicted Outcome

- Provide a road that is fit for purpose and consistent with contemporary standards so as to promote the growth and economic development of the region.
- To improve road safety and reduce the risk of collisions through the provision of a consistent alignment with improved forward visibility and overtaking opportunities.
- To remedy the substandard width of the existing road.
- To reduce road traffic accidents by providing a safer road layout.
- To facilitate the development and growth of tourism in the area, which is of key economic importance, through the development of a cycleway.
- To reduce travel times and provide an improved level of service on the N70 so as to reduce the effect of the peripherality of the area which is a potential impediment to economic development.
- To provide improved connectivity between Sneem and Kenmare.

3.0 Policy Context

3.1. National Policy

National Planning Framework

- 3.1.1. The following are noted with respect to the Southern Region:
- 3.1.2. Measures to support the integrated development of remoter parts of this region, particularly rural peninsular areas and towns on its western seaboard, including the ongoing investment in the transport and communications area, particularly in the roll-out of the national broadband scheme and further promotion and development of attractions to capitalise on underutilised potential in the tourism and local enterprise areas.

- 3.1.3. Integrated planning, management and development of the areas traversed by the Wild Atlantic Way to maximise both the quality and integrity of the visitor experience and the added benefit in economic terms, especially for rural and local communities.
- 3.1.4. *National Policy Objective 27* – ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.

Project Ireland 2040: National Development Plan 2018-2027

- 3.1.5. *National Strategic Outcome 2* – There are sensitive areas where their environmental and tourism value mean that major new alignments are neither feasible nor appropriate. On those routes, there will be targeted improvements to address bottlenecks and enhance safety, for example, the N59 in Mayo on the Wild Atlantic Way and the N26 linking Ballina to the N5.
- 3.1.6. Tourism - Measures will be delivered to support further regional investment in the existing experience brands, the Wild Atlantic Way and Ireland's Ancient East, and a new brand for the Midlands region

Smarter Travel, Ireland's First National Cycle Policy Framework 2009

- 3.1.7. Transportation infrastructural design needs to be cycling friendly with safe, direct, coherent, attractive and comfortable routes. It supports the provision of dedicated, signed rural cycling networks, building on Failte Ireland's 2007 Strategy.
- 3.1.8. The Framework encourages the use of hard shoulders and other areas contiguous to roads for cycling. In terms of upgrading national roads proposals should not impact negatively on the safety or perceived safety of the roadways for cyclists.

3.2. Regional Policy

Regional Spatial & Economic Strategy for the Southern Region

- 3.2.1. *RPO 53 Tourism* - It is an objective to:
 - a. Enhance provision of tourism and leisure amenity to cater for increased population in the region including recreation, entertainment, cultural, catering, accommodation, transport and water infrastructure;

- c. Sustainably develop the road network and public transport services and facilities for improved visitor access, longer dwell times due to improved connectivity to ports and airports and tourism growth;
- d. Sustainably develop walking and cycling trails opening greater accessibility to the marine and countryside environment by sustainable modes and promote the sustainable designation and delivery of Greenway and Blueway Corridors.

3.2.2. *RPO 166 Investment in Strategic Inter Regional Multi-Modal Connectivity to Metropolitan Areas and Economic Corridors* - It is an objective to:

- a. Achieve and maintain the sustainable development of infrastructure that strengthens the quality of inter-regional connectivity between the metropolitan areas of Cork, Limerick-Shannon and Waterford to each other and to other regions on the Atlantic Economic Corridor, extended Dublin-Belfast Eastern Corridor and to ports and airports.
- c. Maintain the efficiency and safety of the existing national primary and secondary roads network by targeted transport demand management and infrastructure improvements.
- d. Facilities for sustainable transport are supported in strengthening the quality of inter-regional connectivity.

3.2.3. *RPO 167 - Part (B) Other Projects*. Under this RPO, for identified strategic road network improvements not included in the current NDP for the period 2018-2027, RSES seeks that:

- Government's current priorities remain in accordance with National Development Plan 2018- 2027 priorities only.
- Improvements to national roads identified at a regional and local level will be done in consultation with and subject to agreement with TII in accordance with current project appraisal, environment and planning procedures.

3.2.4. *RPO 173 Tourism Corridors* - It is an objective to invest in the sustainable development of infrastructure and service improvements on the transport networks along our region's key tourism corridors, subject to robust feasibility studies to reduce impacts on the environment and required appraisal, planning and

environmental assessment processes, including the Wild Atlantic Way, Ireland's Ancient East and Ireland's Hidden Heartland Corridors.

3.2.5. *RPO 174 - Walking and Cycling* The following walking and cycling objectives are supported and will guide investment subject to the required appraisal:

- Delivery of high-quality, safe, cycle route network across the region and cycling environments (applicable to cities, towns and villages) with provision for segregated cycle tracks.
- Development of a safe cycling infrastructure to cater for the needs of all groups of cyclists, especially new cyclists, school children, elderly etc.
- A cycle network that is coherent, continuous and safe, particularly when going through busy junctions.

3.3. Local Policy

Kerry County Development Plan 2015-2021

- 3.3.1. *Objective T-4* Protect, conserve and, where appropriate, enhance through the enforcement of the objectives and development standards of this Plan, the natural, built and cultural heritage features that form the basis of the County's tourism industry, including biodiversity, areas of important landscape, coastal scenery, areas of geological and scientific interest, historic buildings, archaeological sites and monuments and the traditional form and general appearance of towns and villages.
- 3.3.2. *Objective T-5* Promote the sustainable development of tourist related infrastructure such as transport, access, appropriate facilities and high-quality tourist accommodation, in appropriate locations where proposals are in accordance with the provisions of this Plan.
- 3.3.3. *Objective RD-4* Provide or facilitate the sustainable provision of all infrastructure projects set out in Tables 7.1 a/b and 7.2, with priority given to infrastructure serving the Linked Hub towns and Key Towns.
- 3.3.4. As per *Table 7.1a* - N70 Ring of Kerry is listed as a Priority Roads Infrastructure Project.

- 3.3.5. *Objective RD-5* Facilitate the sustainable provision of the necessary infrastructure at appropriate locations, required to promote the sustainable economic and social development of the County.
- 3.3.6. *Objective RD-6* Ensure that all objectives and any development will not have significant adverse effects on the built natural or cultural heritage, residential or visual amenity.
- 3.3.7. *Objective RD-19* Support sustainable improvements to the existing National Road network including road schemes and by-passes outlined in Table 7.1a/b.
- 3.3.8. *Objective RD-28* 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, A Sustainable Transport Future 2009-2020”.
- 3.3.9. The PRD is largely within an area designated as being Secondary Special Amenity. Such areas are sensitive to development. Development must be designed to minimise the effect of the landscape.
- 3.3.10. There are views/prospects to the south towards Kenmare Bay on the eastern portion of the route from Tahilla to Doon listed for protection.

Cahersiveen, Waterville and Sneem Functional Areas Local Area Plan 2013-2019

Section 4B – Sneem LAP Rural Area

- 3.3.11. *Ru-1* Provide for balanced growth throughout the area by promoting the strengthening of rural communities and provide the infrastructure to facilitate job creation and diversification in these areas in a sustainable manner.
- 3.3.12. *Ru-EE-2* Provide the infrastructure and support for the sustainable development and expansion of employment opportunities, including indigenous knowledge based industries.

4.0 Submissions from Prescribed Bodies on Proposed Road Development

4.1. Geological Survey of Ireland

No comment.

4.2. Department of Culture, Heritage and the Gaeltacht

It has no issues concerning impacts on adjacent designated sites subject to mitigation being clearly and effectively implemented.

The PRD includes areas utilised by the following protected species and species of conservation value:

- Lesser horseshoe bat – a condition is recommended to address works in the vicinity of the Derreenamucklagh roost site.
- Freshwater pearl mussel – further information recommended.

5.0 Local Authority's Response to Prescribed Bodies' Submissions

The comment from GSI noted.

5.1. With respect to the submission from the Department of Culture, Heritage and the Gaeltacht the response states:

- Mitigation measures in respect of Kenmare River cSAC and Old Domestic Building Dromore Wood cSAC are set out in Tables 9.35 and 9.36 and section 9.7.1.9 of the EIAR and section 6 of the NIS.
- The contractor will be contractually obliged to implement the mitigation measures which relate to protection of these sites.
- Before works commence the appointed contractor will be required to prepare a Construction Environmental Management Plan (CEMP). As referenced in section 6.1.4 of the NIS the Contractor will also consult with the NPWS and IFI in relation to the final detail of the CEMP.
- An Environmental Clerk of Works will be appointed for the construction phase. The ECoW will be supported by a bat specialist at relevant times during the

construction phase, to ensure effective implementation of mitigation measures specified for bat protection.

- Kerry County Council has no objection the recommended condition pertaining to Lesser Horseshoe Bat.
- References at pages 3-16 and 7-38 of the EIAR to the vegetated filter areas not being required for suitable water quality levels refers to water quality standards consistent with the TII publication 'Road Drainage and Water Environment (DN-DNG-03065)(and the EU Water Quality Framework Directive) rather than quality levels to ensure protection of Freshwater pearl mussel specifically. This conclusion is based on the assessment of the impact of the proposed project on the quality of receiving waters which was detailed in the Hydrology and Drainage chapter of the EIAR and carried out in line with the methods presented in the said TII document.
- Section 8.5.1.1 sets out mitigation measures for reduction and prevention of suspended solids pollution. It states that to protect freshwater pearl mussel, total suspended solids in discharges to all watercourses within the Tahilla River catchment will not exceed levels which would cause significant impacts to downstream populations of freshwater pearl mussel. The control of suspended solids in the surface water discharging to the Tahilla River will be assured by limiting the concentration of suspended solids in the surface water discharging to the Tahilla River to a maximum of 10mg/l. In response to this requirement sediment control measures in the form of a vegetated filter area are incorporated in the project proposals.
- Following completion Kerry County Council will be responsible for maintaining a program of regular cleaning, maintenance and inspection of the surface water runoff treatment system and monitoring of suspended solids concentrations in the Tahilla River for at least a year after completion to ensure compliance with maximum suspended solids concentration levels.
- The Department of Culture, Heritage and the Gaeltacht did not request that any particular feature be used for pollution or erosion control.

6.0 **Objections/Submissions relating to Proposed Road Development**

None

Note: The Board is advised that Mr. Riepe's submission in objection to the CPO raises a number of issues which pertain to the principle and purpose of the PRD. The submission is summarised in section 7.2 below.

7.0 **Compulsory Purchase Order**

7.1. **Documentation Submitted**

7.1.1. The CPO submitted to the Board on 13/12/19 is titled **N70 Sneem to Blackwater Bridge (Ankail to Doon) Road Project Compulsory Purchase Order of 2019**. It is accompanied by:

1. Chief Executive's Order dated 04/12/19.
2. Memorandum from Director of Services Roads, Transportation and Marine to Chief Executive dated 28/11/19
3. Report from Acting Senior Planner to Projects Engineer, National Road Design Office dated 27/11/19
4. Report from Acting Senior Engineer to Director of Services Roads, Transportation and Marine dated 27/11/19
5. Schedule which consists of three parts. The 1st is blank as no dwelling(s) are proposed to be acquired. The 2nd details the lands being acquired. The 3rd details the public right of way proposed to be extinguished.
6. 3 no. officially sealed deposit maps:-

The full extent of the lands required for the scheme are shown outlined in red and coloured grey on the deposited maps. The lands to be acquired temporarily are outlined in red and coloured blue. The location of the public right of way proposed to be extinguished as part of the scheme is indicated between the lines coloured green.
7. Copies of newspaper notice dated 11/12/19

8. Copies of CPO notice served on effected property owners, occupiers and lessees together with record of registered post.

7.1.2. The **Acting Senior Planner** in his report states that the proposed road development is in accordance with the Kerry County Development Plan and, in particular, objectives RD-4, RD-5, Rd-6, RD-8, RD-13, RD-14, RD-19 and RD-28. It is also in accordance with the Cahersiveen, Waterville and Sneem Functional Areas LAP, in particular objectives Ru-1 and Ru-EE-2 as set out in Section 4B (the Sneem Rural Area section of the Plan). The proposal is in accordance with the proper planning and sustainable development of the area. It gives effect to and facilitates the implementation of the said County Development Plan and LAP.

7.1.3. The **Acting Senior Engineer** in his report considered national, regional and local policy provisions in support of the project. All of the lands contained in the Schedule are necessary, sufficient and suitable for the proposed road project to which the CPO relates. The acquisition of the lands would, in his opinion -

- Facilitate the acquisition of the lands within a reasonable timescale;
- Permit Kerry County Council to plan the road construction programme for the project in the knowledge that the land required will be available;
- Permit Kerry County Council to secure title to the lands referred to;
- Facilitate the implementation of national, regional and local policy.

7.1.4. The **Director of Services Roads, Transportation and Marine** concurs with the recommendation of the Acting Senior Engineer to acquire the lands required for the proposed road project by CPO.

7.2. **Objections to the Compulsory Purchase Order**

One objection remains at the date of writing this report.

7.2.1. **Claus-Wilhelm Riepe (submission on his behalf by James O’Sullivan Solicitor).**

The objection can be summarised as follows:

Project in General

- The proposed works will permanently damage the charm and character of the scenic route. It would be counterproductive to the important role the Ring of Kerry has for tourism in the South Kerry region and Irish tourism as a whole.
- The heritage and attractiveness of the Ring of Kerry must be treated with special regard and delicacy.
- It can be assumed that there are plans to develop more sections of the road in the future in the same manner. Failure to unveil such plans would suggest that the roads authority is seeking to avoid wider discussion.
- Due to the topography and terrain and its scenic properties it is neither desirable, feasible or possible to bring the N70/Ring of Kerry to EU road traffic speed standards. The road should be reclassified as a regional road of outstanding scenic beauty and tourism importance. This should not mean that the Road Authority abandon plans and efforts to widen the road, improve its surface and/or add a lane for cyclists and walkers.
- The EIAR does not present any statistics to support its claim that the new road design will improve the safety on the N70.
- This area will become a higher speed section. Currently, due to its geometry the maximum possible speed is approx. 50km/hr. Delivering higher traffic speeds will endanger public safety. Speed limits are often disregarded by errant drivers.
- In the context of climate change and Ireland not attaining its transport related carbon emissions objectives it is disputed that high vehicle speeds are necessary, safer or desirable for the Ring of Kerry.
- The EIAR is deficient. It fails to address and assess the likely negative consequences of the intended higher vehicle speeds on road safety, noise emissions and wildlife protection.
- It is an unnecessary cost. The funds would be better spent elsewhere.

Site Specific Issues

- The proposed alignment will leave the existing historic road line entirely to build a new straight road across his land and through a glacier-polished solid rock ridge.
- It would leave the only public roadside entrance to his land exposed and vulnerable to future high speed traffic.
- Exiting his property would entail first crossing the two way cycling track while at the same time looking for oncoming traffic with an unchanged short line of sight in a westerly direction.
- His offer to voluntarily give up a stretch of his land adjacent to the existing road was rejected.
- He was not invited to the public consultation.

8.0 Oral Hearing

An oral hearing on the objection to the CPO was held remotely via Microsoft TEAMS on 17th November, 2020. A summary of the hearing is attached in Appendix 1 attached to this report.

9.0 Planning Assessment

9.1. Need for the Project

N70 – Context

- 9.1.1. The N70 is approx. 143 km long and connects Tralee to Kenmare via a series of villages including Milltown, Killorglin, Glenbeigh, Cahersiveen, Waterville and Sneem. It is important locally as it provides the principal means of access on the Iveragh Peninsula whilst, at a national level, it has a significant role in providing access to one of the key tourist areas in the country with the majority of the route consisting of The Ring of Kerry. It also forms part of the Wild Atlantic Way.
- 9.1.2. The ***National Secondary Roads Needs Study 2011*** whilst not currently active is a useful reference document and provides context for the PRD. The objective of the study was to assess each secondary route corridor and to identify sections that fail to

achieve acceptable network performance. The road is identified as being poor in terms of width and alignment. This severely limits the overtaking opportunities which are typically constrained by the horizontal and/or vertical alignment, which, in turn, is constrained by the topography of the area. There are limited forward visibilities over the poorer parts of this route which indicates a lack of quality overtaking opportunities. The accident data suggests accidents regularly occur along the route (particularly between Tralee and Waterville). At the time of publication (2011) the carriageway lane widths are assessed to be < 3m wide for 72% of the route and < 3.5m wide for 87% of the route. The pavement condition indicators suggested that the pavement condition was moderately poor. The road was noted to pass through an area of outstanding natural beauty with parts of the route located in very environmentally sensitive areas. The report 'red flagged' all sections of the route in terms of environment issues arising. Whilst a number of localised improvement works have been carried out since the document's publication which would revise the above figures downwards (ie. Kilderry bends between Milltown and Killorglin) I consider that the description therein remains largely valid.

Existing Conditions along Section of N70 Subject of Application

- 9.1.3. The section of the road subject of this application comprises of 4.53 km extending from the townland of Ankail approx. 4.8km east of Sneem to the townland of Doon approx. 4.5km west of Blackwater Bridge and 17.5 km west of Kenmare. The area is rural in character, albeit the road passes through the settlement of Tahilla which comprises of a church and a number of houses with a primary school c. 400 metres to the north accessed from local road L-4049. Land use in the area is predominantly agriculture.
- 9.1.4. Two sections of the road have been subject of previous improvements works between 2005 and 2009, namely c.650 metres between Tahilla and Lough Fadda and c. 760 metres in Derreennamucklagh, both which entailed widening and realignment. The alignments conform to the required TII standards with the width of the carriageway varying between 7.5m and 8m. There is no specific provision for pedestrians or cyclists. Widening at Tahilla Bridge was also carried out.
- 9.1.5. The remaining sections of the road at 3.12km equate to 69 % of the project length and they are not dissimilar in width and alignment to other sections of the N70 both

to the east and west. There is no dispute that they do not meet current geometric and cross section standards. Along these sections the carriageway width is less than 6 metres for approx. 83% and less than 5m for approx. 37% of its length, reducing to 4.5 m in places, which is not wide enough for two large vehicles to pass. There are no hard shoulders with minimal grass verges with further constraints arising from the stone walls and tree lined ditches in close proximity to the pavement. The horizontal alignment is poor with successive reverse curves which impact on sightlines and swept paths while the deficient vertical alignment impacts on driver comfort. The pavement condition is also poor in stretches. Overtaking is severely restricted with minimal stopping sight distance. The posted speed limit is 80kph however, due to the constraints as detailed above, vehicle speeds are generally lower.

- 9.1.6. There are approx.18 residential properties located along the route, some of which are in close proximity to the existing carriageway. In total there are 32 no. direct accesses (field and domestic) in addition to 10 junctions.

Traffic Levels and Accident Rates

- 9.1.7. In 2016 the estimated Annual Average Daily Traffic Flow on the relevant section of the N70 was 1495 vehicles. The predicted AADT figures for 2022 and 2037 based on low, medium and high growth are set out in Table 3-3 of the EIAR with the 2037 figure calculated for the high growth scenario being 1798. As such, for a national secondary road the traffic volumes are very low.
- 9.1.8. As per the revised details provided by the applicant at the CPO hearing 17 no. reported accidents were recorded for the section of the road between 2014 and 2019. 15 no. were recorded on the unimproved sections of the road. 9 no. were single vehicle accidents and 5 no. were 'side swipe' or 'head on' collisions. The remaining accident involved a cyclist leaving the road. 2no. resulted in serious injury.

Need for the Project - Conclusion

- 9.1.9. It is reasonable to conclude that the section of the N70 before the Board for consideration is substandard in engineering terms and that upgrading of the road will improve alignment, sight distances, access arrangements etc. From this perspective, the principle of its promotion as a section of road meriting improvement

is warranted. I would suggest, however, that such a case could be made for extensive sections of the N70 in view of its current conditions which fall materially short of current standards. I would also submit that it is how the extent of the improvements will function both in their own right and in the context of further, future improvement works, if any, on the N70 that need to be considered before it can be determined that the proposed development is acceptable.

9.2. Policy Context, Extent of Works and Function of Road

- 9.2.1. Chapter 2 of the EIAR sets out the policy context in support of the proposal detailing what are considered to be the relevant provisions at national, regional and local level which support the need for the proposed development.

National Context

- 9.2.2. At the outset I note that reference is made to the *National Secondary Roads Needs Study 2011* in section 2.1.4.2 of the EIAR. As noted above whilst not currently active it is a useful reference document and provides context for the PRD. The objective of the study was to assess each secondary route corridor and identify sections that fail to achieve acceptable network performance (relating to accidents, environment and journey times) and which should be addressed if at all possible. It is noted that the study did not assess landscape or visual quality in terms of identifying constraints arising.
- 9.2.3. The report concludes that the N70 needs to be upgraded. 6 no. discrete sections were identified as priority 1 with the remainder in priority 2 including Sneem to Kenmare of which the PRD forms part. Such priority 2 schemes were not recommended for immediate entry to the programme of improvements which were being taken forward by the NRA but could be seen as longer-term improvements. In the shorter term the report recommended that consideration be given to more localised improvements and remedial measures to address existing major deficiencies (such as sections with a history of road accidents) and/or deficiencies in width or alignment.
- 9.2.4. In response to government *Smarter Travel* policy, consideration was given to the merits of rural national secondary roads improvement scheme options that would include a footpath and cycleway. This was carried out as an add-on to the initial identification and appraisal of the improvement schemes. Table 9.3 of the Study

shows the schemes for which it seemed likely that walking and cycling facilities would be economically justified. The section of the N70 between Sneem and Kenmare is listed therein.

- 9.2.5. In terms of national policy and the *National Planning Framework* (NPF) no specific reference is made to the N70. I submit that National Strategic Outcomes 2 and 3 referenced by the applicant, in advocating for enhanced regional accessibility and supporting strengthened rural economies and communities, are general in nature and can be applied in a myriad of ways to support development. I submit that this is also applicable to National Policy Objectives 26 and 27 which address cycle and pedestrian accessibility. Again the objectives are general in tenor.
- 9.2.6. I further note that *Project Ireland 2040: National Development Plan 2018-2027* does not specifically reference the N70 in terms of improvements in the context of regional connectivity and is not listed either for planning/design/construction or for pre-appraisal/planning 2018-2027. The plan acknowledges that in sensitive areas where the environmental and tourism value area are of importance targeted improvements to address bottlenecks and enhance safety would be appropriate in the realisation of National Strategic Objective 2 of the NPF rather than major new alignments. The N70 is not given as an example with those cited being the N59 in Mayo on the Wild Atlantic Way and the N26 linking Ballina to the N5.

Regional Context

- 9.2.7. Since the preparation of the EIAR the *Regional Spatial and Economic Strategy for the Southern Region 2019-2031* has been adopted. It provides for a broad framework for development with the overarching purpose to support the National Development Plan and National Planning Framework. Again, no specific reference is made to the N70 with Regional Policy Objective 166c seeking to maintain the efficiency and safety of the existing national primary and secondary roads network by targeted transport demand management and infrastructure improvements. I also note that RPO 173 (which pertains to tourism corridors of which the PRD forms part), seeks to invest in the sustainable development of infrastructure and service improvements on the transport networks along key tourism corridors, subject to robust feasibility studies to reduce impacts on the environment and required appraisal, planning and environmental assessment processes.

Local Context

- 9.2.8. The importance of the N70 in terms of accessibility and servicing of both the urban and rural areas on the Iveragh Peninsula is acknowledged. The current *Kerry County Development Plan* specifically supports and prioritises works to the Ring of Kerry part of the N70 as set out in Table 7.1a, which is further endorsed by objectives RD-04 and RD-19. The provision of cycle and pedestrian facilities are also supported by development plan objectives. I would bring to the Board's attention that the schemes listed in Table 7.1a largely pertain to discrete projects along sections of the national primary and secondary road network in the county including Kilderry Bends which is on the N70. The basis for the primacy of the projects and inclusion in the table is unclear with no evident correlation to the prioritisation of projects in the above referenced NRA 2011 National Secondary Roads needs study. I would also submit that the reference to the 'N70 – Ring of Kerry' in the table runs counter to the specificity of the other referenced projects and lacks clarity as to what is intended in terms of the nature and extent of the works envisaged along the route. As noted previously almost the entirety of the N70 comprises the Ring of Kerry tourist route (135km).
- 9.2.9. In terms of the *Cahersiveen, Waterville and Sneem Functional Areas LAP* no specific reference is made to the PRD and, as in the case of other objectives at national and regional level, objectives Ru-1 and Ru-EE-2 which seek to provide for balanced growth and provide the infrastructure and support for the sustainable development and expansion of employment opportunities are general in tenor and can be appropriately applied in a myriad of ways to support development
- 9.2.10. As per pg. 2-12 of the EIAR it is stated that TII and Kerry County Council recognise the current substandard nature of parts of the N70 and, accordingly, the current proposal seeks to address this as part of an overall phased approach to the long term improvement of the N70. It is further stated that in the longer term segregated cycling facilities will become part of a more comprehensive segregated pedestrian/cycle path along the length of the N70 (pg. 2-15). However, absolutely no detail has been provided as to the said phased approach, whether there is an overall strategy for improvements on the N70, or the longer term plans for a more comprehensive segregated pedestrian/cycle path(s) as envisaged.

9.2.11. I note that Mr. Walsh in response to questions at the CPO hearing stated that c.15km of the N70 are in various stages of design/plan preparation. Specific reference is made to the N70 Brackagh Road Project which comprises of 1.2km of improvements between Caherdaniel and Castlecove which was advanced through the Part VIII process. In line with the necessary design requirements a cycle lane is to be provided. Mr. Walsh informed the hearing that there are no current plans for improvement works on the N70 to the west or east of the PRD.

9.2.12. On the basis of the above and the detail provided in support of the application there does not appear to be an overall strategy setting out the orderly and planned approach to the N70 improvements and the basis for prioritisation of certain sections over others, especially in view of the fact that large sections of the route fall short of the current design requirements as highlighted in the 2011 National Secondary Road Needs Study. I submit that such detail is considered appropriate to provide context and to allow for the proper assessment of the proposal so as to ensure the efficient use of resources and to provide for sustainable development. The consequences of proceeding without an overall strategy could effectively result in the sporadic and haphazard provision of works to a specification as required by relevant design standards in remote locations. I will address this in further detail below.

Extent of Works

9.2.13. The proposed road cross section is to comprise a Type 3 single carriageway in accordance with TII standards (*document DN-GEO-03031*) and represents the minimum standard for a national road with the required provision of facilities for vulnerable road users. This entails a 3 metre lane in each direction with a 0.5 metre hard strip and 2.5 metre grass verge. A two way segregated cycle track in the north verge is to be provided. The Board is advised that the background to the consideration of cycling options and reasons for the preferred arrangement is provided in the *Assessment of Cycling Facilities – Working Paper* provided in Appendix 4B of the EIAR.

9.2.14. The PRD largely provides for on-line widening/realignment of the existing road, save for a section in the vicinity of the CPO objector's property, and will also entail the 'retrofitting' of the previously improved sections. The desirable width of the proposed layout is 13.5 metres with the narrowest point being 10.4 metres at Tahilla Bridge.

The development will also provide for junction improvements including the relocation of the L4049 junction at Tahilla allowing for improved sight lines and a more optimum arrangement for the church car park. A series of design departures for the project within the existing corridor have been sought and approved by TII. These departures include horizontal, vertical, sightline and verge width elements. The project also entails a surface water drainage system, safety barriers and road signage and markings. The existing posted speed limit of 80kph is to be retained. The applicant considers the proposal to comprise a proportionate intervention in that the cross section is the minimum permissible for a national road providing for vulnerable users, whilst minimising the acquisition of lands and associated impacts.

- 9.2.15. It is evident from the necessary compliance with TII standards, albeit with certain relaxations and departures, that a corridor of between 11 and 13.5 metres would be typical for the scheme over most of the route. The implications of imposing such a proposal into a rural area along an established road with established roadside boundaries is clear. Whilst the applicant is endeavouring to restrict encroachment to one side, only, I submit that the works will likely have a profound effect on the established enclosed nature of the corridor and character of the road with very limited road verge, bounded largely by mature deciduous and evergreen trees and shrubs. The ability to retain such features while applying the necessary design standards is obviously not an option with only 46% of existing boundaries to be retained. The effects of the scheme as proposed on amenity and landscape will be considered later in this assessment.
- 9.2.16. As noted previously the existing section of road is deficient in engineering terms and although a case is made in terms of improving connectivity for businesses and residents, the scheme in its own right, cannot be considered to deliver any meaningful gains in terms of time savings etc. Whilst serving an important function in terms of accessibility on the Iveragh Peninsula the AADT figure is low, calculated to be in the region of between 1500 and 1600 for the opening year of 2022 and, even at the high forecast growth levels for the 2037 design year, will be less than 2000. These figures take account of the seasonal increases associated with the peak tourism months. I refer the Board to section 5.4.2 of the EIAR which sets out the applicant's methodology in this regard. The Board is also advised that the applicant availed of the opportunity to provide updated figures in terms of accident data at the

oral hearing on the CPO relative to those provided in Table 5-2 of the EIAR. Whilst the recorded accidents over a 5 year period are noted there is nothing to suggest that they are markedly higher than recorded at other locations on the N70 to highlight it a most unsafe stretch of public roadway.

- 9.2.17. As noted previously there are no current plans for road improvements to either side of the current project. The stretch of road does not start/finish in any settlement with Sneem c. 4.8 km to the west. The section of the N70 between the PRD and the settlement is comparable in width and alignment to that being improved. The N70 to the east of the PRD is also comparable in width, albeit with a straighter carriageway for a distance of c.1.4 km.
- 9.2.18. In support of the PRD emphasis is placed on the improvements to the pedestrian and cycling environment afforded by the scheme. Reference is made to the *Smarter Travel National Cycle Network Scoping Study 2010* following the First National Cycle Policy Framework 2009 which envisioned a cycle network which would allow users to cycle between the main urban areas throughout the country with the network to cover all parts of the country and align with tourism and economic development. The said report also identifies how this national route will link/correlate with the proposed Failte Ireland Network. This includes linkage to an identified Failte Ireland route around the N70, N71 and N72 from Killarney to Kenmare which is identified as a coastal and long distance cycle route. I also note that the *Kerry Tourism Strategy* (adopted by Kerry County Council) has an objective to develop a long distance cycling route along the Wild Atlantic Way.
- 9.2.19. Whilst it is contended that the proposal will support the said objectives no plans are, as yet, available in terms of how the above stated objectives are to be realised and, therefore, must be viewed as aspirational at this juncture.
- 9.2.20. I note that the Ring of Kerry cycle route does not traverse this section of the existing N70 as it is diverted inland at Sneem and utilises the R568 before re-joining the N70 at Blackwater Bridge. The said route is 216km in length of which 74km is on the N70 with the other 143km on other local/regional roads. The proposed cycling provision will therefore not connect to same. In addition, whilst the PRD intersects with the Kerry Way waymarked long distance walking route in Tahilla there are no plans for road improvements to the west providing connection into Sneem or to the east, with

the environment in both directions reverting to a restricted alignment with minimal/no verges.

- 9.2.21. Therefore, the scenario arising from the proposed configuration is that cyclists/pedestrians travelling in a westerly direction will be required, at some juncture, to cross the national secondary road to avail of the segregated facility and then repeat the manoeuvre at the other end; in both instances in the vicinity where the road reverts to the original alignment. This undoubtedly raises concerns in terms of safety. As to how this is an appropriate solution in terms of providing for vulnerable road users, especially where the 80 kph speed limit applies, is unclear.
- 9.2.22. On this basis I submit that the proposal, without any concrete plans for future improvement works to which it will tie into or connection to cycle path/trail/pedestrian route(s), would provide little benefit. The minor positive in the provision of segregated facilities were they to be used will, in my opinion, be outweighed by the negative in terms of conflicting movements. Such segregation could also give rise to motorist perception that cyclists/pedestrians do not have to be accommodated on other sections of the road where segregated facilities are not available, thereby heightening the potential for hazard. Thus, whilst the arrangement ticks the box in terms of needs of all road users, its relative isolation will result in a level of infrastructure which will, at best, be redundant and, at the worst, create a hazardous situation in terms pedestrians/cyclists crossing a national secondary road.
- 9.2.23. In the absence of any proposals for improvement works which the PRD would tie into and in the of absence a strategy or, at a minimum, an indication of intent for the planned schedule of improvements to the N70 which will ensure the efficient use of scarce resources whilst maximising the benefit to all road users, I submit that the proposal constitutes a disorderly form of development and will create a significant catalyst for the justification and advancement of comparable schemes in remote locations and the preponderance of a disjointed and haphazard approach to improvements on the N70 to specified Type 3 carriageway standards.

Function of the Road

- 9.2.24. I submit that there is a certain tension in terms of the objectives both for the development of the N70 as a means of access and connectivity on the Iveragh peninsula and objectives in terms of tourism as set out in the *County Development*

Plan and the *County Kerry Tourism Strategy and Action Plan 2016 – 2022* which was adopted by the County Council. Objective T-29 of the development plan seeks to protect and promote the Wild Atlantic Way tourism initiative whilst the tourism strategy, in recognising the need to improve road access to allow for the future growth potential of the product, acknowledges that the physical infrastructure forms an integral part of the tourism package and has a direct bearing on the visitor's experience. I also note that the *Regional Spatial & Economic Strategy for the Southern Region* in objective RPO 173 seeks to support the investment in the sustainable development of infrastructure and service improvements on the transport networks along key tourism corridors, subject to robust feasibility studies (to reduce impacts on the environment) and required appraisal, planning and environmental assessment processes. The applicant also makes reference to the *Wild Atlantic Way Operational Programme 2015-2019* in which a number of actions are detailed. Action 1 proposes the identification of stretches of the existing route which are causing difficulties for visitors and whether any changes to the route need to be made. As yet this survey has not been done. I also note that action 4 advocates co-operation with other agencies to improve on the existing level of infrastructure and facilities for walking, cycling and water based activities along the Wild Atlantic Way whilst action 5 seeks to promote the existing opportunities for visitors to experience it by bike, on foot and on the water in an integrated manner.

9.2.25. I am of the opinion that any future strategy and assessment of improvement works to the N70 cannot be considered within the vacuum of engineering design requirements and that the potential impact on the character of the road and its function in terms of a tourism route would be required. As noted previously the *National Secondary Road Needs Study 2011* did not assess landscape and visual quality in terms of identifying constraints arising. It also predated the launch of the Wild Atlantic Way (officially launched in 2014). The said Wild Atlantic Way and indeed the Ring of Kerry can be considered to be of local, regional and national importance in terms of tourism infrastructure.

9.2.26. I submit that as the road is a tourist route it is part of the tourist experience and cannot be assessed as a means of conveying persons from one point to another, only. The general character of this road epitomised by the tree lines, hedgerows, woodland edges, etc and movement between enclosed stretches to those that afford

expansive views is what gives the route its special appeal. Road widening projects comparable to that subject of this application, whilst seeking to retain the route corridor but requiring a materially increased width, removes the established context of the route replacing its frame with new treatment, frequently with a degree of uniformity resulting in the loss of the innate quality of the road which gives it its scenic quality. Such works distort the character of the road and will affect the quality of the tourist experience. In my opinion this is exemplified by the improved sections within the PRD which are to be retrofitted.

9.2.27. The EIAR does give due consideration to the impact of the works on the tourist route acknowledging that the landscape character is considered to be of high importance and is considered to have a high sensitivity to change. It predicts that the impacts will be localised minor to moderate (see section 13.5.6). As the PRD comprises a small section of the said tourist route, only, I would accept the conclusions that the impact of the proposed works, in their own right, can be considered to have minor/moderate impact on the innate character. However, the potential cumulative impacts of such schemes, in my opinion, requires assessment.

9.2.28. On this basis I submit that the wider question that needs to be determined is the level of importance to be attributed to the road as a tourist route and part of the County's tourism infrastructure and the level of intervention that is considered acceptable in the context of this role and function. The applicant envisages that the proposal as building on the recent investment on the N70 Ring of Kerry route with a view to improving the route to a consistent and modern standard. However such intervention to attain such a consistent standard may be detrimental to its innate character.

Conclusion

9.2.29. In the absence of any proposals for improvement works which the PRD would tie into and in the absence of a strategy or indeed indication of intent for the planned schedule of improvements to the N70 which will ensure the efficient use of scarce resources whilst maximising the benefit to all road users, I submit that the proposal constitutes a disorderly form of development and will create a significant catalyst for the justification and advancement of comparable schemes in remote locations and the preponderance of a disjointed and haphazard approach to improvements on the

N70. In addition such a strategy cannot be considered in terms of engineering requirements, alone, with a more wholistic approach required to be adopted. Due cognisance must also be had to the role of the road as a tourist route and an intrinsic component of the area's tourism infrastructure. Rather than the blanket application of Type 3 carriageway standards (albeit with departures) perhaps there may be opportunities for more targeted localised improvements such as widening of the carriageway where it is seriously deficient and junction layout improvements.

9.2.30. In addition, the provision of such an isolated piece of infrastructure for non-motorised users which does not commence or finish in a settlement or connect to other cycling or walking routes cannot be considered to be an appropriate form of development and could, in effect, replace the existing dangerous situation with a suboptimum solution which, itself, could give rise to conflicting movements and traffic hazard.

9.2.31. On this basis I recommend that approval for the PRD be refused.

10.0 Environmental Impact Assessment

10.1. Introduction

10.1.1. This section of the report comprises an environmental impact assessment of the proposed development. A number of the matters to be considered have already been addressed in the Planning Assessment above. This section of the report should therefore be read, where necessary, in conjunction with relevant sections of the Planning Assessment.

10.1.2. Both the 2014 amended EIA Directive (Directive 2014/52/EU) and the European Union (Planning and Development)(Environmental Impact Assessment) Regulations 2018 are applicable.

Content and Structure of EIAR

10.1.3. The EIAR consists of 5 volumes, grouped as follows:

Volume 1: Non-Technical Summary

Volume 2 : Main Report

Volume 3: Natura Impact Statement

Volume 4: Appendices

Volume 5: Drawings and Figures

- 10.1.4. In accordance with Article 5 and Annex IV of the EU Directive, the EIAR provides a description of the project comprising information on the site, design, size and other relevant features. It 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 considers the interaction between the factors referred to in points (a) to (d). It provides an adequate description of forecasting methods and evidence used to identify and assess the significant effects on the environment. It also provides a description of measures envisaged to avoid, prevent or reduce and, if possible, offset likely significant adverse effects. The mitigation measures are presented in each chapter and are summarised in Chapter 17 of the EIAR. Where proposed, monitoring arrangements are also outlined. No difficulties were encountered in compiling the required information.
- 10.1.5. I am satisfied that the information provided is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment. I am also satisfied that the information contained in the EIAR complies with the provisions of Articles 3, 5 and Annex (IV) of EU Directive 2014/52/EU amending Directive 2011/92/EU and Article 94 of the Planning and Development Regulations 2000, as amended.
- 10.1.6. I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality. I note the qualifications and expertise of the persons involved in the preparation of the EIAR are set out Table 1.2.
- 10.1.7. I am satisfied that the information provided in the EIAR is sufficiently up to date and is adequate for the purposes of the environmental impact assessment to be undertaken.
- 10.1.8. 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.

A summary of the submissions made by the applicant and prescribed bodies have been set out in section 6 of this report. I note that Mr. Riepe in his objection to the CPO raised a number of issues with respect to the PRD which are relevant to the EIA and are summarised in section 7.2 above. The main issues raised specific to EIA can be summarised as follows:

- Impacts to human beings having regard to noise and disturbance during construction phase
- Impacts to biodiversity during construction and operational phases.
- Impacts to water quality during construction and operational phases.
- Impact on material assets arising from acquisition of land.

These issues are addressed below under the relevant headings and, as appropriate, in the reasoned conclusions and recommendation.

Consultations

- 10.1.9. Details of the consultations entered into by the applicant as part of the preparation of the project are set out in 1.4 of the EIAR dating back to the initial consultation undertaken during the EIS Screening Process in 2015 and entailing a public consultation day, contact with prescribed bodies and direct landowner engagement. I note that the PRD was subject to public notification. A summary of the results of the submissions made by prescribed bodies has been set out at Section 4 of this report.
- 10.1.10. I note that Mr. Riepe in his objection to the CPO states that he was not properly notified of the project in the pre-planning stages with specific reference made to the non-statutory public consultation undertaken by Kerry County Council in 2017. It appears that the invitation extended to Mr. Riepe was via an out of date contact address. This is acknowledged by the applicant. Details of other consultations had with Mr. Riepe are detailed in section 6 of the submission made by Mr. Donovan to the oral hearing. In the absence of the failure to secure agreement Mr, Riepe has lodged his objection.
- 10.1.11. I consider that the requirements in terms of consultation have been adequately met by the applicant.

Vulnerability to Risk of Major Accidents and/or Disaster

10.1.12. With regard to the effects of the project on the environment arising from its vulnerability to risks of major accidents and/or disasters, this matter is addressed in section 1.5 of the EIAR. It is concluded that there is no significant risk of accidents on the new road alignment or accidents involving spillage. I note that there are no Seveso Sites in the area.

Alternatives

10.1.13. Article 5 (1) (d) of the 2014 EIA Directive requires:

“(d) a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment;”

10.1.14. Annex (iv) (Information for the EIAR) provides more detail on ‘reasonable alternatives’:

“2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for electing the chosen option, including a comparison of the environmental effects.”

10.1.15. I accept that alternatives considered may be geographically constrained due to the nature of the proposal, itself, as in the current case which largely entails an online upgrade project. On this basis the consideration of alternatives focussed within the terms of the project proposal is acceptable. An overview of the key constraints both environmental and manmade which influenced the identification of the study area which, in turn, influenced the alternative routes and/or design options are set out. An offline road improvement was discounted on the basis of the potential environmental impacts and costs involved. In terms of the online options alternatives considered included the do-nothing option, a do minimum option entailing overlay and online widening. Options to address the constraints at Kenmare River SAC/Lough Fadda and Tahilla Junction were also considered with adequate detail provided on each.

10.1.16. On this basis I am satisfied that the requirements of the Directive in terms of consideration of alternatives have been discharged.

10.2. **Population and Human Health**

10.2.1. As would be expected the likely effects of the PRD on human beings and health are addressed under several of the headings of this environmental impact assessment and, as such, should be considered as a whole. Of particular relevance, in my opinion, are issues arising from socio-economic impacts, noise, air quality, water, visual impact and severance. I propose to address the latter four subjects in subsequent sections below. Chapter 11 of the EIAR deals with noise and vibration. Chapter 14 deals with population, human health and land-take.

Receiving Environment

10.2.2. The general area is characterised by a mix of agricultural land-uses with housing dispersed throughout, some located in close proximity to the current alignment. The route passes through the settlement of Tahilla which comprises of a church and a number of houses. The N70 is part of the Ring of Kerry and Wild Atlantic Way tourist routes. The area around the site is lightly populated with a low population density. Save for the settlement of Tahilla the nearest settlement providing services is Sneem c. 4.8km to the west.

10.2.3. In a 'do nothing scenario' the existing substandard road conditions would prevail.

Predicted Effects

10.2.4. Construction Phase

- The construction will provide employment with a maximum of 35 people during peak construction. There will be spin off benefits to the local economy. Thus it is envisaged the project will have positive direct and indirect economic impacts.
- The construction period will have temporary negative impact on population arising from increased noise, dust, activity and general nuisance and delays for road users to facilitate the works.

10.2.5. Operational Phase

- Increase in noise levels to nearest sensitive receptors. Measured noise levels for the existing road exceed the TII design goal of day-evening-night 60dB L_{den} at a distance of 20 metres from the nearside carriageway. The nearest property to the existing road alignment is located at a distance of 10 metres from the existing centreline.
- Improvements to the road standard and access arrangements will have positive impact on connectivity and road safety.
- Health benefits arising from increase opportunity for cycling and walking.

Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment

- Phasing and sequencing of construction works will provide for the maintenance of two-way traffic.
- Preparation of Construction Traffic Management Plan.
- Mitigation measures to ensure that NRA (now TII) 2004 noise and vibration guidance limits are achieved.
- Use of a low noise surface along the full length. With mitigation the predicted noise level reduces to the 60 dB L_{den} design goal at 36 metres from the carriageway. For properties closer to the proposed carriageway the predicted noise level with mitigation in place will be lower than in both the baseline and the do something scenarios. Following TII Guidelines there is no further requirement for mitigation at these properties.

Residual Impacts

- 10.2.6. With mitigation measures in place there will be slight, short term negative impacts during the construction phase. Access to all properties is to be maintained throughout.
- 10.2.7. The improvements will have a moderate-significant positive, long terms residual effect arising from improved safety and the quality of the route. Positive residual effects will arise from the improved car parking arrangement serving St. Patrick's Church and new lay-by at Lough Fadda.

- 10.2.8. Predicted noise levels will be lower than the existing baseline scenario.
- 10.2.9. I note that Mr. Riepe in his written submission on the CPO raised concerns regarding the accuracy of the noise impacts. I consider this to be of relevance in terms of this EIA. As noted, the survey work was carried out in February which is not representative of the peak traffic volumes experienced in July and August. Mr. O'Donovan in his submission to the oral hearing notes that the traffic figures in February, are approx. 40% those of the peak months. A 40% change in traffic equates to a 1.5dBA change. A worst case scenario model used a traffic speed of 100 kph. The posted speed is due to remain the same at 80 kph. The measured baseline levels are 5-6dB lower than predicted levels indicating a conservative approach was used in the assessment. Mr. Donovan also noted that TII guidelines limit the consideration of low noise surfaces to 2.5dB(A) whereas products available now exceed this reduction by 2-3 dB(A). I also note that the predicted increase in AADT figures to the design year of 2037, even within the high growth scenario, are modest from a current figure of 1,562 to 1,798. In terms of the construction phase a series of mitigation measures are detailed to reduce noise and vibration during the construction phase
- 10.2.10. I consider that sufficient information has been provided by the applicant to support its conclusions that the assessment and mitigation measures proposed fully account for any traffic noise impacts and provide a noise reduction when compared with the do nothing scenario.
- 10.2.11. Mr. Riepe also raised concerns regarding human behaviour and higher speeds. As noted, the posted speed limit to be retained at 80kph. The applicant states that the provision of consistent alignment will reduce driver confusion and error and will reduce driver frustration.

Population and Human Health – Conclusion

- 10.2.12. I have considered all of documentation and submissions made in relation to population and human health. I consider that there is an overlap with my planning assessment in section 9.2 above. I submit that the provision of the infrastructure to specified requirements including segregated provision for non-motorised users at a remote location which does not commence or finish in a settlement or connect to other cycling or walking routes cannot be considered to be appropriate form of

development and could, in effect, replace the existing substandard road with a suboptimum solution which, itself, could give rise to the potential for conflicting movements and traffic hazard. I am not satisfied that this impact has been adequately addressed and that it could be addressed through suitable conditions.

10.3. **Biodiversity**

10.3.1. Chapters 8 and 9 address aquatic and terrestrial biodiversity. The applicant's response to the Department of Culture, Heritage and the Gaeltacht (Heritage is now under the auspices of the Department of Housing, Local Government and Heritage) is also applicable. In addition, a NIS accompanies the application. I refer the Board to section 11 of this report and the appropriate assessment therein. There is also an overlap with land, soil and water which are addressed below. I recommend that the relevant sections be read in conjunction with each other.

10.3.2. In a 'do nothing scenario' the existing environment would remain unchanged. Save for a limited section of the existing N70 the absence of a formal road drainage system will continue.

Existing Environment

10.3.3. The area of the PRD is as described previously. The central part of the project is directly adjacent to the Kenmare River SAC with the existing road and the PRD overlapping the boundary at one location. There are a further 12 SACs, 1 SPA and 1 NHA within 15 km of the site.

Terrestrial Ecology

10.3.4. The following surveyed habitats have links to Annex 1 Habitats:

- Dry siliceous heath located to the south of the existing N70 within Kenmare River SAC at Derreennamucklagh which corresponds with Annex I habitat European Dry Heaths. the area of Annex 1 habitat is located to the south of the N70 at Derreennamucklagh.
- Lowland blanket bog in the vicinity of Lough Fadda which corresponds with Annex 1 Habitat Blanket Bog (*if active bog).
- Semi-natural oak-birch-holly woodland habitat occurs in parcels in Tahilla, Derreennamucklagh and Doon.

- 10.3.5. Kerry Slug surveys were conducted in 2016 and 2018. Suitable slug habitat was identified in 9 areas along the PRD.
- 10.3.6. The area is identified as having high quality habitat for bats and strong connectivity to other suitable habitats in the wider landscape.
- 10.3.7. Lesser Horseshoe Bat, which is a species protected under the Habitats Directive, was recorded to be widespread in the study area. Of particular import is the bat roost identified in the derelict house c. 27 metres to the north of the existing N70 at Derreennamucklagh which is considered to be of international importance being a maternity roost of 115. An abandoned dwelling to the west of Tahilla crossroads was also identified and which likely functions as a satellite roost. A 3rd potential roost is also present in Doon where a relatively high level of activity was recorded.
- 10.3.8. Daubenton's bat, whiskered bat, Leisler's bat, common pipistrelle, brown long eared bat were all recorded foraging and commuting in the immediate area. The latter three species are likely to be from the colonies known to be roosting at St.Patrick's Church nearby.
- 10.3.9. No evidence of badger was found.
- 10.3.10. In terms of Otter it is likely the species forage at all the loughs within the study area and use Tahilla River for foraging and commuting.
- 10.3.11. Grey Wagtail which is a bird species of High Conservation Concern was identified during the breeding bird surveys. 4 no. amber listed species were recorded, 3 of which were considered to be probably/possibly breeding – Robin, Mistle Thrush and Starling. The Swallow constitutes the 4th species and was considered to be non-breeding.
- 10.3.12. Invasive species Japanese Knotweed, Rhododendron and Cherry Laurel, Giant Rhubarb and Himalayan Honeysuckle were identified in the study area.

Aquatic Ecology

- 10.3.13. The Tahilla River and four other small watercourses drain directly to the sea.
- 10.3.14. A survey of Freshwater Pearl Mussel was completed on a 600 metre stretch of the Tahilla River from its mouth at Bunnow (Coongar Harbour) up to its confluence of the Derreennamucklagh Stream. A population of Freshwater Pearl Mussel is present in the Tahilla River. Although habitat quality was assessed as good evidence of

excessive siltation and eutrophication indicated this part of the river is currently not adequate to support successful recruitment of juveniles. The large population found to be present is a non-breeding aging population with no juveniles present. The river is considered to be of national importance.

- 10.3.15. On the basis of habitat and water quality it is concluded that the river is likely to support a substantial population of salmonid fish and, in particular, to serve as a significant spawning and nursery area of migratory salmonids.
- 10.3.16. Derreenamucklagh Stream which is a tributary of the Tahilla River is likely to have a small population of trout.
- 10.3.17. Lough Fadda is a small lake c. 700 metres long and c. 100 metres wide at its widest point. 13 macrophyte species and 28 invertebrate taxa were recorded, none of which are recorded as rare or threatened. These are indicative of oligotrophic conditions. It is a stocked rainbow trout fishery which also has small rudd and eels.
- 10.3.18. Derreenrickard, Tahilla and Gortaclea Loughs are natural small lake habitats with well developed marginal flora.

Potential Effects

- 10.3.19. I refer the Board to section 11 and appropriate assessment with respect to potential effects of the PRD on European Sites.

10.3.20. Construction Phase

- Potential loss of habitat supporting protected species and negative impacts arising from air pollution and dust deposition.
- Removal of hedgerow/treelines, scrub and woodlands and use of lighting could result in disturbance/displacement of lesser horseshoe bats.
- 1.17 hectares of oak woodland is to be removed of which c 0.5 hectares supports Kerry Slug. It will be necessary to remove Kerry Slug from impacted habitats.
- Potential for destruction of bat roosts, otter holts and bird nesting sites.
- Potential for disturbance of animals by reason of noise, vibration and lighting and increase in human activity.
- Construction of barriers to wildlife movement.

- Potential run off of silt, nutrients and other pollutants. This gives rise to the potential for indirect impacts on water quality with consequent adverse impacts on aquatic and semi-aquatic flora and fauna.
- Indirect spread of invasive species.

10.3.21. Operational Phase

- Removal of hedgerows/treelines scrub and woodland and use of lighting could result in disturbance/displacement of bat species
- New alignment posing a barrier to wildlife movement.
- Fragmentation of habitats from PRD.
- Disturbance of species
- Pollution of watercourses with contaminated water draining from the upgraded road and impact on aquatic species and habitats.
- Hydrological impact due to changes in the flow rates of streams/rivers arising from the rate and amount of surface water runoff from the site.
- Potential for alteration in the drainage of peatland habitats to degrade suitable Kerry Slug habitat
- Area of Lough Fadda to be infilled. The proposed encroachment affects c. 55 metres of existing shoreline with an infill volume of approx. 800 m³ and the permanent loss of 400m³ of shallow littoral habitat with its associated flora and fauna and of the trees and shrubs which fringe the lake shore at this location and effect on fish life by reason of impact on macroinvertebrates living in and on the habitat.
- Habitat fragmentation and obstruction to upstream movement of fish due to construction of culverts or bridge aprons etc.
- Increased potential for collision of species with road traffic.

Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment

10.3.22. Construction Phase

- Ecological Clerk of Works to be retained.

- The area and duration of the construction works will be kept to a minimum.
- Best practice pollution control measures to be incorporated into the Construction Management Plan including measures to protect water quality (settlement ponds and silt traps) and control of noise and vibration.
- Silt curtains will be used in the infilling of the south-western shore of Lough Fadda.
- Measures to be taken in terms of buffer zones to be maintained should badger setts be identified within 50 metres of the proposed works area with restriction of activities within 50 metres of active setts during the breeding season.
- In the event of Otter holts being identified in proximity to the proposed works area mitigation measures include buffer zones, control of activities and fencing of prohibited working area.
- Provision of mammal underpass adjacent to existing culvert which conveys the Lough Fadda outlet stream.
- In terms of invasive species best practice to be adopted with an Outline Invasive Alien Species Management Plan prepared (Appendix 9G).
- Clearance of vegetation etc outside bird nesting season.
- Freshwater Pearl Mussel
 - In addition to the drainage network to be installed as part of the proposed development 2 no. vegetation filter areas (wide shallow swale type areas) will be provided at Tahilla prior to outfall to the river. The limits which will be applied to all discharges to surface waters and/or to receiving waters will be established in consultation with the NPWS. Subject to the requirements of NPWS within the catchment of the Tahilla River no discharge, either directly to the Tahilla River or to a watercourse which drains to the Tahilla River, will result in a suspended solids concentration in excess of 10 mg/l in the Tahilla River. Instream works will be avoided with a method statement to be prepared and agreed in advance with IFI and NPWS.

- A biological and chemical monitoring system is to be put in place on the Tahilla River and on its tributary the Derreennanav Stream.
- Bats:
 - The loss of foraging habitat as a result of hedgerow, treeline and woodland removal will be mitigated by landscaping treatment including retention and reinforcement of crossing point over the road at CH125200 used by lesser horseshoe bats in proximity to the roost identified in the derelict property.
 - Installation of temporary fencing during construction to replace lost connecting features. To inform siting of such fencing bat surveys are to be undertaken pre-construction at three locations. Any existing features identified as preferred crossing points and scheduled for removal will be retained until the last moment and a portable artificial crossing structure put alongside it prior to its removal so as to ensure there is no gap across the construction site at night.
 - Pre-construction survey of all trees for potential roost features. A derogation licence to be sought for any trees with roosts required to be felled. Installation of bat boxes a minimum of 6 months in advance of removal of existing potential roosting sites.
 - The Lesser Horseshoe Bat roosts at Derreennamucklagh and Tahilla will be demarcated and access prohibited. Removal of vegetation within 100 metres of the roost to be supervised by bat specialist. Additional specific screening planting to be provided to south of the roost at Derreennamucklagh and north of that at Tahilla. Timing of works outside of the main breeding and hibernation seasons as appropriate.
 - Appropriate lighting and orientation of lighting at Tahilla crossroads which will be activated only when there are events at the church.
- Kerry Slug
 - Individual slugs and features which may contain Kerry Slug within the footprint of the works to be translocated to adjacent lands which are known to contain existing populations of the species.

- Use of suitable sized vegetated buffer or other such method to be retained around Kerry Slug habitat such that site clearance will not alter the humidity or shelter and the retained vegetation is protected from wind throw. A pre-construction survey will be undertaken to provide a baseline population estimate assessment which will also allow for the quantifying of the level of impact experienced.
- Protective fencing to be erected between road works and areas of suitable Kerry Slug not affected by the works.
- In terms of the protection of habitat to be retained the drainage system will entail a sealed system in order to ensure minimal alteration to the existing hydrological conditions of the surrounding area which contains habitat of the Kerry Slug. The sealed pipe as opposed to an open grassland channel, will minimise excessive drainage or drying of the adjoining habitat and to maintain groundwater conditions of the habitat as close as possible to the existing.

Operational Phase

- Incorporation of SuDs methods including constructed wetlands and grassed channels.
- Petrol/oil interceptors to be located at all outfalls to watercourses.
- The SUDs system to be installed for surface waters draining to the two proposed discharge points on the Tahilla will be a combination of constructed wetland, hydrocarbon interceptor and grassed surface water channels, where practicable, and designed to ensure maximum suspended solids concentration of 10 mg/l in the discharges. It will be designed with a cut-off system to enable any serious spillage to be contained within the drainage system.
- The drainage system to the Tahilla River is to be designed with sufficient attenuation capacity to ensure that no significant increase in peak stream/river flows is caused by the PRD.
- Road drainage designed to minimise the potential impact on the hydrological conditions of the surrounding area and receiving watercourses including use

of 1.8km of sealed pipe at the eastern end of the scheme in the vicinity of the suitable and confirmed Kerry Slug.

- Existing tree line on the southern shore of Lough Fadda to be replicated using native species.
- Where culverts are extended beneath the N70 the length shall be kept to a minimum and will match the existing profile, capacity and invert levels insofar as possible and should culverts be required to be replaced best practice measures will be used to prevent the obstruction to upstream movement of fish and other aquatic fauna.

Residual Effects

- 10.3.23. The design of the proposal has taken the ecology of the existing environment into consideration. The only potential impact that cannot be mitigated is the loss of littoral and shoreline lake habitat at Lough Fadda. The loss of habitat is classified as of minor local significance.
- 10.3.24. The proposed road alignment has been designed to avoid confirmed Kerry Slug habitat insofar as possible. However small incursions will be required and these are detailed within the Survey Reports of 2016 and 2019 in Appendices 9D and 9E of the EIAR. A derogation licence for the works has been obtained with a methodology for undertaking the works set out in the licence application and agreed to and conditioned by the NPWS (copy of the licence provided in Appendix 9F). There will be a lag in the suitability of new woodland planting for the species. Once the habitat is suitably mature the species will colonise. It is concluded that residual impacts will be 'not significant'
- 10.3.25. There is potential for short term negative impact on bats while the landscaping planting establishes and matures. Subject to effective implementation of the mitigation measures and monitoring and in view of the existing widespread network of hedgerows in the wider landscape the impacts are not considered to be significant. Thus residual impact on bats will be 'not significant'. The Department of Culture, Heritage and the Gaeltacht in its submission recommends conditions requiring notification of any works within 100 metres of the Derreenamucklagh roost site with a weekly report with photographs to be sent to the NPWS. In addition

monitoring of the roost and numbers utilising it is required during and after the construction period. The applicant has no objection to same.

10.3.26. The proposal will potentially have a significant positive impact on the Tahilla River and population of Freshwater Pearl Mussel. The existing uncontrolled drainage from the N70 to the Tahilla River will be replaced by SuDs which will ensure a high level of pollutant removal from road runoff. The Department in its submission stated that it did not request that any particular feature be used for pollution or erosion control and stated that the scientific reasoning for the applicant's proposals to install polishing grass swales to either side of the bridge at Tahilla and rip rap proposed for erosion control at the discharge points would be useful. In response the applicant states that whilst the measures are not required to achieve suitable water quality levels they are proposed as a conservative and best practice approach to ensure the control of suspended solids in the surface water discharging to the Tahilla River is limited to a maximum of 10mg/l.

10.3.27. I note that Mr. Riepe in his written submission on the CPO raised concerns regarding wildlife mortality. I consider this to be of relevance in terms of this EIA. The issue has been identified as a potential impact in section 9.6.2 of the EIAR. In terms of otter and the altered conditions at Lough Fadda a mammal underpass adjacent to the existing culvert which conveys the Lough Fadda outlet stream is proposed. In addition due consideration has been given to the severance of a commuting route of the Lesser Horseshoe Bat with mitigation measures proposed to address same. No further impacts on wildlife due to collisions are anticipated.

Biodiversity – conclusion

10.3.28. I have considered all of the documentation and written submissions made in relation to Biodiversity. While it is acknowledged that residual impacts to Lough Fadda cannot be mitigated it would not constitute unacceptable detrimental effects on the biodiversity value of the area such as to warrant a recommendation of refusal on such grounds.

10.3.29. I am satisfied that any potential impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed

development would not have any unacceptable direct, indirect or cumulative effects in terms of biodiversity.

10.4. Land and Soil

10.4.1. Land and Soil are dealt with in Chapter 7 of the EIAR.

Existing Environment

10.4.2. The study area is located within the Munster Basin. The road is underlain by rocks from the Upper Devonian Old Head Sandstone Formation. The route lies within the Beara Sneem Groundwater Body. The study area is predominantly on a Locally Important Aquifer with the aquifer vulnerability classed as E (Extreme) and X (Extreme- Rock at or near surface) over much of the study area. There is no limestone bedrock mapped within the study area with no karst features. The higher ground is composed of shallow rock or outcrop with areas of blanket peat with glacial till found at lower elevations. There are a number of private wells in the vicinity.

10.4.3. In the Do-Nothing Scenario the existing road will remain. It is anticipated that the existing land uses adjoining would continue.

Potential Effects

10.4.4. Construction Phase

- The main impact during construction is the excavation of large volumes of soil and the use of large volumes of aggregate. The overall earthworks balance excluding topsoil shows a general surplus of nearly 20,000m³.

Cut Volume (m³)	Fill Volume (m³)	Balance (m³)
42,960	23,100	+19,860

- Based on results of preliminary ground investigation it is estimated that 20% of the cut volume will be suitable for material re-use. In summary
 - Acceptable material won 8600 m³
 - Unacceptable material 34,360m³
 - Acceptable material to import 14,500m³

- Potential impacts relating to soil excavation, movement and reuse of material including disturbance to groundwater flow in the shallow subsoil if encountered and strain to existing subsoil structure as a result of loading and reloading during excavation works.
- Soil erosion and slope instability
- Uncontrolled discharge of surface water runoff and accidental spillages.
- Potential dewatering in areas of cut to facilitate the vertical alignment which will temporarily lower the shallow water table via pumping.

10.4.5. *Operational Phase*

- Embankment settlement and slope instability of the constructed embankments and cut slopes.
- Changes to aquifer vulnerability arising from excavation and removal of overburden material from E (Extreme) to X (Extreme - Rock at or close to surface) and from H (High) to E (Extreme) in a number of locations. The locations are set out in section 7.5.2.2.1 and Table 7.9 of the EIAR.
- Major cuttings have the potential to alter the natural groundwater flow patterns and thereby dewater groundwater wells.
- Carriageway surface water runoff.
- Accidental spillages.

Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment

10.4.6. *Construction Phase*

- Compliance with best practice measures to be detailed in the Construction Environmental Management Plan (CEMP).
- Soil management plan to form part of CEMP. Mitigation measures detailed for sediment erosion prevention and stabilisation techniques.
- Daily monitoring of slope stability at locations set out in Table 7.7.
- Measures to protect surface waters including during infill of Lough Fadda to be as set out in section 10.5 below.

- Reuse of excavated cuttings and use of local quarry overburden material.
- Specific mitigation measures relating to the management of hydrocarbons and to prevent accidental spillages are listed including provision of bunded storage areas. Spill kits, containment measures and emergency procedures also detailed.
- Protection of aquifers in accordance with TII publication Drainage Design for National Roads Schemes – Sustainable Drainage Options 2014.
- Groundwater level monitoring programme on a weekly basis for 6 months pre-construction and daily during construction. Should construction works impact on either the levels or quality of water in the private well at Tahilla an alternative temporary water supply to be provided.

10.4.7. Operational Phase

- Daily monitoring of slope stability at locations set out in Table 7.7. for 3 months post construction.
- Weekly groundwater level monitoring programme for 3 months post construction. Should there be interruption to supply to the well at Tahilla measures such as drilling deeper in the existing well or providing a replacement well will be employed.
- Minimal disturbance to existing groundwater drainage pattern in sections of route adjacent to habitat identified as potentially suitable for Kerry Slug. This is to be done by separating the road design from the existing land drainage through the use of sealed pipework in these localised areas.

Residual Effects

10.4.8. Taking into consideration the proposed mitigation measures no significant residual impact is anticipated.

Land and Soil - Conclusion

10.4.9. I have considered all the documentation in respect of land and soil. I am satisfied that any potential impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed

development would not have any unacceptable direct, indirect or cumulative effects in terms of land and soil.

10.5. **Water**

10.5.1. Chapter 6 of the EIAR refers to hydrology and drainage with the applicant's response to the submission from the Department of Culture Heritage and the Gaeltacht also of relevance.

Existing Environment

10.5.2. There are number of waterbodies within the vicinity. These are Gortaclea Lough, Tahilla River, Tahilla Lough, Derreenamucklagh and Derreenanav Streams (which are tributaries of Tahilla River), Lough Fadda, Lough Fadda outflow stream, Derreenrickard Lough and Derreenrickard Lough outflow stream.

10.5.3. Water quality monitoring for Tahilla River is recorded as Good Status.

10.5.4. The Rossdohan/Tahilla public group water scheme serves an area to the south of the N70. There are 5 no. properties that take their water from Lough Fadda. All are supplied from a single intake point with 1 no. of the residences having a further separate intake and supply pipe. There is planning permission for a further dwelling which would take its water supply from the Lough Fadda Private Group Scheme.

10.5.5. There is a limited section of the existing N70 within the extent of the proposed upgrades which is served by a formal road drainage system. Filter drains have been provided at each side of the existing road from the centre of Lough Fadda to the eastern end of the lake. The filter drains discharge run-off to the Lough Fadda outlet. An existing culvert conveys outflow from Lough Fadda under the N70 to a ditch which discharges to Coongar Harbour. For the rest of the section of the N70 surface water runoff from the existing road flows untreated to adjacent lands and watercourses which ultimately discharge to Kenmare Bay. Some of these flows are accommodated in existing stone and concrete culverts of various sizes crossing beneath the existing N70.

10.5.6. In a 'Do Nothing' scenario the existing road will remain in situ with limited surface water treatment prior to discharge to receiving waters.

Predicted Effects

10.5.7. Construction Phase

- Accidental spillage arising from construction activities.
- Sediment loading to watercourses and Lough Fadda.
- Works to be undertaken at Lough Fadda will render the water source to be unusable as a potable supply for a period during construction.

10.5.8. Operational Phase

- Overloading of existing watercourses should the rate of discharge from the road exceeds that of the receiving waters.
- Quality of run-off and potential for pollutants associated with traffic movements.

Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment

10.5.9. Construction Phase

- Compliance with best practice measures to be detailed in Construction Environmental Management Plan (CEMP) including measures in terms of storage of materials, procedures should accidental spillage(s) occur and sediment control measures including discharge to settlement ponds; limitation on movements and marked exclusion zones.
- Specific control measures for Lough Fadda include use of silt curtains, excavation and placing of embankment by long reach plant on the bank/edge of lake; precasting of RC kentledge slabs and off site application of epoxy waterproofing
- Alternative water supply to be provided during works at Lough Fadda and for settling period thereafter. Replacement of water intake and supply pipe crossing beneath the N70.

10.5.10. Operational Phase

- Incorporation of comprehensive surface water drainage system. The capacities of the surface water drainage network has been designed to the TII publication DN-

DNG-03022 Drainage Systems for National Roads which stipulate the requirements for the incorporation of specified allowances for climate change in rainfall calculations. Drainage design to allow for climate change to allow for an increase of 20% in flow rates. The system will entail a combination of grassed surface water channels, concrete surface water channels and sealed pipe systems (kerb and gully) to collect and convey surface water run-off from the proposed road. These will be provided in the verges on each side of the proposed road. In limited places they will be required on one side of the road only. Shallow vegetation filter areas will also be incorporated into the overall drainage solution at Tahilla prior to outfall to Tahilla River as an additional protection measure given the presence of a freshwater pearl mussel population downriver of the proposed outfalls at Tahilla.

- Grassed surface water channels are used throughout the scheme wherever possible. These are not provided in the outfall 6 catchment where a sealed system is to be provided in order to ensure minimal alteration to the existing hydrological conditions of the surrounding area which contains habitat of the Annex 1 species the Kerry Slug. The sealed pipe as opposed to an open grassland channel will minimise excessive drainage or drying of the adjoining habitat and to maintain groundwater conditions of the habitat as close as possible to the existing. There will be some loss of surface water runoff from the road surface to this adjoining habitat.
- No new culverts are proposed but existing culverts will require extension in length in order to traverse the proposed wider road.

Residual Impacts

- 10.5.11. The residual significance of the impacts is expected to be low taking account of mitigation measures. The disruption to water supply sources is likely to be for a short period only. Provision of a formal surface water drainage system which attenuates and treats surface water run-off to an acceptable level will result in an overall improvement to the quality of run-off from the stretch of road being upgraded.

Water – Conclusion

- 10.5.12. I have considered all of the written submissions made in relation to Water. I am satisfied that any potential impacts would be avoided, managed and mitigated by the

measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions including monitoring conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects in terms water.

10.6. Air and Climate

Air Quality and Climate are addressed in Chapter 10 of the EIAR.

Existing Environment

10.6.1. The site of the PRD is a rural location where the predominant land use is agriculture and where there is an absence of industry of any significant pollutant generating activity. The PRD is located in Zone D for air quality. No site specific baseline monitoring was undertaken as the EPA monitoring network is deemed representative. This is in line with the NRA Guidelines 2011 which state that site specific baseline monitoring is not required where the pollutant concentrations are well below the air quality standards/limit values as is the case in Zone D. The results of the baseline air quality monitoring and data from the Zone D EPA National Air Quality Monitoring Programme are presented for the main traffic pollutants of concern (oxides of oxygen and particulate matter).

10.6.2. In a 'Do Nothing' scenario local air quality and the micro climate will remain unchanged.

Potential Effects

10.6.3. Construction Phase

- Potential impacts from exhaust emissions from construction vehicles and plant.
- Dust emissions and its impacts on local residents and the community.
- Impact of NO_x on sensitive ecosystems.
- Emissions with the potential to cause climate change which include carbon dioxide will arise from site materials used in the construction as well as vehicles used for deliveries.

Operational Phase

- Increase in traffic volumes. Increase in total greenhouse gas emissions.

10.6.4. *Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment*

- Mitigation measures for the control of dust during the construction phase including preparation of Dust Minimisation Plan.
- Dust monitoring to be carried out at sensitive receptors.
- Local sourcing of construction materials, preparation of Traffic Management Plan and good construction practice to minimise CO₂ emissions.
- Preparation of a Construction and Environmental Management Plan which will require implementation of an Energy Management System for the duration of the works.
- Location of construction compound as far as practicable from any sensitive receptors.

Residual Effects

10.6.5. Subject to the mitigation measures for the construction period no significant effects on air quality are expected from the development.

10.6.6. Greenhouse gas emissions during construction will result in a permanent slight adverse impact. The levels of traffic increase estimated will be realised even in the absence of the PRD. The predicted impact is the same as for the do-nothing scenarios and is deemed negligible. The predicted increase in NO₂ and particulate matter are classed as imperceptible and the predicted air quality impacts for receptors in the area classed as negligible.

10.6.7. In terms of impact of NO_x on sensitive ecosystems, the nearest is Kenmare River SAC which adjoins the PRD. The results of the modelling undertaken for construction traffic indicates that levels of NO_x of the order of 12ug/m³ which is well below the NO_x limit for the protection of vegetation of 30ug/m³.

10.6.8. The predicted nitrogen level onto the SAC as a result of the PRD indicate levels of 0.89kg (N)/ha/year. These levels are less than 10% of the critical load of 10-20kg (N)/ha/year set out in the NRA (TII) Guidelines for Dry Heath habitat.

Air Quality and Climate - Conclusion

10.6.9. I have considered all the documentation in respect of air quality and climate. Whilst I acknowledge that there may be some impacts to local residents and the local community during the construction of the project, given the inherent temporary duration and impact of the proposed construction works, coupled with measures to ensure best practice site management and dust minimisation, I am satisfied that any potential effect would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the mitigation measures and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects in terms of air quality and climate.

10.7. Material Assets

10.7.1. Material Assets is addressed in chapters 14 and 15 of the EIAR. Chapter 5 addresses Traffic and Transportation. The Board is advised that there is an overlap with my assessment in sections 9 and 12 of this report and I recommend that they read in tandem.

Existing Environment

10.7.2. The general area is characterised by a mix of agricultural land-uses with housing dispersed throughout, some located in close proximity to the current alignment. The route passes through the settlement of Tahilla which comprises of a church and a number of houses. The N70 is part of the Ring of Kerry and Wild Atlantic Way tourist routes. The PRD intersects the Kerry Way waymarked walking route in Tahilla. The road skirts Lough Fadda which is a stocked trout fishery. The lands affected by the PRD are primarily under grass with dry stock being the main activity. Existing road boundaries are, for the most part, in close proximity to the carriageway.

10.7.3. A number of utility providers have installations within the scheme extents including water, telecoms and electrical. Lough Fadda provides water to 5 no. properties.

10.7.4. In a 'Do Nothing' scenario the existing road will remain in situ.

Predicted Impacts

10.7.5. Roads and Traffic

- The construction phase will result in an increase in HGVs transporting material to and from the site, as well as LGVs and vehicles used by workers.

Agricultural and Non-Agricultural Property

- The CPO provides for the acquisition of 11.4989 ha. of lands from 46 property owners or groups of owners. Roadbed accounts for 5.3963 hectares or approx. 47% of the total acquisition. 0.44 hectares is proposed for temporary acquisition to provide a construction site compound, for the treatment of invasive species and for the construction of boundaries and entrances. The lands will be returned to the respective landowners on completion of the project.
- The PRD will require the extinguishment of 1no. public right of way over approx. 120 metres of local road L-4049 at its junction with the N70 at Tahilla.
- Noise, dust and disturbance during construction period and potential impact on agricultural land and livestock.
- Permanent local rerouting of the Kerry Way at Tahilla.
- Reduction in area of Lough Fadda.

Utilities, Aggregate Resources and Waste

- Disruption in services during the construction phase.
- Water quality of Lough Fadda which is source of water supply for a number of dwellings could potentially be affected by sediment and possible sources of pollution during construction.
- The PRD will require approx. 14,500m³ of rock material to be imported to site.
- To accommodate the new road alignment and surfacing much of the existing road will result in waste generation due to breaking up of redundant paving. Although to run at grade there will be a certain level of cut and fill will also provide waste which may not be reused on site. It is estimated that 29,260m³ of surplus cut material will require management off site.

Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment

- The route alignment and land take requirements have been selected to ensure minimum land take. Land take to be dealt with by way of financial compensation as per the CPO process.
- The TII/NRA's Code of Practice Guide to Process and Code of Practice for National Road Project Planning and Acquisition of Property for National Roads will be adhered to with respect to all lands potentially impacted by the proposed works. Land to be acquired temporarily to be reinstated to pre-construction condition unless otherwise agreed with the landowner
- Provision of replacement formal car parking area opposite St. Patrick's Church in Tahilla
- Provision of lay-by area at Lough Fadda. Works to be timed to be undertaken outside of the peak tourism season.
- Signage and crossing provisions for diverted Kerry Way walking route.
- Preparation of a Construction Waste Management Plan. All waste activities will be subject to best practice waste handling procedures. Materials will be reused where possible.
- Utility diversions will be undertaken in consultation with the respective services providers and to minimise interruption to supply.
- Works methodology to be prepared in advance of works at Tahilla Bridge to protect the watermains and to ensure that water supply is maintained. An alternative water supply will be provided during construction works and for a settling period thereafter at Lough Fadda. The water intake and supply pipe beneath the N70 is to be replaced.

Residual Effects

- 10.7.6. The construction will lead to additional construction traffic which will need to use the existing road network. By adhering to the site Traffic Management Plan the additional traffic is anticipated to have a direct short term negative impact on the road network and its users.

- 10.7.7. The acquisition of the agricultural and non-agricultural land is a permanent effect.
- 10.7.8. The landtake at Lough Fadda will not change the overall use of the lake for amenity purposes.

Material Assets – Conclusion

- 10.7.9. Severance of land is an unavoidable consequence of the off-line development and alterations to individual properties will occur. Whilst not wishing to undermine or underestimate the concerns expressed regarding the inconvenience and disruption that will be generated the extent of the acquisition proposed would be necessary for the realisation of the PRD to TII standards.
- 10.7.10. I have considered the documentation in relation to material assets. Notwithstanding the conclusion reached in respect of the inability of proposed measures to fully mitigate the impact on land holdings and acquisition it is considered that the residual impacts following mitigation would not justify a refusal of planning permission.
- 10.7.11. I consider that there is an overlap with my assessment as to the acceptability of the PRD as set out in section 9 in which I conclude that the absence of any proposals for improvement works which the PRD would tie into and absence of a strategy or indication of intent for the planned schedule of improvements to the N70 which will ensure the efficient use of scarce resources whilst maximising the benefit to all road users are material deficiencies. On this basis I consider that the proposal constitutes a disorderly form of development and will create a significant catalyst for the justification and advancement of comparable schemes in remote locations and the preponderance of a disjointed and haphazard approach to improvements on the N70. I am also of the opinion that such a strategy cannot be considered in terms of engineering requirements alone with a more wholistic approach required to be adopted. Due cognisance must be had to the function of the road as a tourism route and a component of the County's tourism infrastructure.

10.8. Cultural Heritage

Cultural Heritage is addressed in Chapter 12 of the EIAR.

Existing Environment

10.8.1. There are no national monuments in the vicinity of the site with no RMP/SMR sites within the 100 metre study area centred on the road project. In addition there are no Protected Structures, NIAH sites or ACA's within the study area. A non-invasive field inspection was carried out in addition to an underwater survey in Lough Fadda. A number of undesignated features of local cultural heritage significance were identified within the study area including two areas of archaeological potential at Loughs Tahilla and Fadda, 3 no. buildings within Tahilla which date to the second half of the 19th century, three townland boundaries, a section of the Kerry Way walking route and the ruins of a pre 1840s vernacular house in Derreenamucklagh townland. An underwater survey of Lough Fadda did not identify anything of archaeological significance.

In a 'Do Nothing' scenario the existing road any unidentified/undisturbed features will remain in situ.

Potential Effects

10.8.2. There will be no direct impacts on UNESCO, National Monuments, RMP/SMR sites, or Protected Structures. The project is largely online therefore the potential for impact on previously undisturbed lands is low. Where the sections of the road are to traverse areas of undeveloped land there is potential to impact on unrecorded sub-surface features that may exist.

10.8.3. It is anticipated that all archaeological issues will be resolved to the satisfaction of the National Monuments Service in advance of construction, therefore there will be no potential direct impact during operation.

Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment

10.8.4. Pre- construction archaeological test trenching and surveys in the area impacted by localised realignment sections and at two pipe outfalls at Tahilla Bridge, in addition to archaeological monitoring of the proposed works to Lough Fadda, will be undertaken in compliance with national policy guidelines and statutory provisions for the protection of cultural heritage. All impact issues will be resolved at pre-construction and construction stages and, therefore, there will be no potential impacts at operational stage. No mitigation measures will be required during decommissioning.

Residual Effects

10.8.5. No residual effects are envisaged as all issues will be resolved at the pre-construction and construction stages.

Cultural Heritage - Conclusion

10.8.6. I have considered all of the documentation in respect of Cultural Heritage. I am satisfied that any potential impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects in terms of Cultural Heritage.

10.9. Landscape

10.9.1. Landscape is addressed in Chapter 13 of the EIAR. There is an overlap with the planning assessment in section 9.2 above and I recommend that the sections be read in tandem.

Existing Environment

10.9.2. The road traverses an area identified as being of Secondary Scenic Amenity Importance in the current County Development Plan with listed views and prospects of Kenmare Bay designated on the eastern most section. The majority of the route is enclosed by mixed broadleaved and coniferous woodland, scrub, and shrub planting, roadside vegetation and boundary hedgerows associated with scattered residential properties. Views of the surrounding landscape are restricted by this enclosed environment save for the eastern part of the road where views over Kenmare Bay are available. As noted previously it forms part of the Ring of Kerry and the Wild Atlantic Way which are considered to have a high sensitivity to change. The section of the route is not prominent in views from the wider landscape due to the enclosing nature of the intervening vegetation and localised changes in topography. The site is within the Coastal Fringe Landscape Character with the Upland Landscape Character to the north. Both are considered to have a high sensitivity to change.

10.9.3. 8 viewpoints were assessed as an aid to the visual impact assessment, the location of which are detailed on Figure 13.1 in Volume 5 of the EIAR and described in

Section 13.5.7 of Volume 1. I consider that the locations chosen are representative and are acceptable.

10.9.4. In a 'Do Nothing' scenario the existing landscape and visual character will remain unchanged.

Potential Effects

Construction Phase

10.9.5. The works are anticipated to take 18 months. Works will entail removal of existing vegetation, ground remodelling including embankments and cuttings, and storage of materials. The predicted magnitude of impact during the construction phase is considered localised, minor to moderate, direct, adverse effects but are not considered significant as the construction phase operations are temporary in duration.

Operational Phase

10.9.6. The substantive effect is the imposition of new features within the landscape. The new road alignment with embankments cuttings and junctions that will locally alter the landscape permanently. Whilst the road project follows a similar corridor to the existing N70 it will be perceived as a new feature in the landscape. The existing N70 does not form a prominent feature in the wider landscape, however locally it is prominent. The PRD generally follows the local levels of the existing N70, however there are localised sections of the project which will become more prominent in the landscape where the profile of the new road is raised above local topography to form embankments. Remaining portions of the route are affected by formation of cuttings, many of which occur along the northern edge of the project and which will be locally prominent. It is predicted that the PRD will not be widely prominent due to the surrounding enclosing vegetation and localised changes in topography. The predicted landscape impacts are considered to be locally minor to moderate, direct, adverse and permanent.

10.9.7. In terms of the long distance routes of the Ring of Kerry and the Wild Atlantic Way the proposal will affect only a small section of same with the impacts arising considered to be localised minor to moderate.

10.9.8. Summary details of visual impacts on the 8 representative viewpoint locations during construction and operational phases are set out in Table 13-8. The impacts during the operational phase are stated to range between minor to adverse but not significant. In terms of residential visual impact assessment 44 no. properties which are within 250 metres of the PRD were assessed the locations of which are delineated on Figures 13.3 to 13.7 in Volume 5. 22 no. properties in the vicinity are anticipated to have minor to moderate adverse visual impact, 9 no. minor adverse visual impact and 13 will have no impact.

Features and measures to avoid, prevent, reduce or offset likely significant adverse effects on the environment

10.9.9. The proposed mitigation measures and planting proposals are based on the NRA publication A Guide to Landscape Treatments for National Road Schemes in Ireland (2006). Landscape and visual mitigation measures are predominantly in the form of roadside screen planting comprising of native species and treatment of areas of redundant road corridor. Specific landscape mitigation measures are details in Table 13-11 and Figures LA0001 to LA0003.

Residual Effects

10.9.10. In terms of landscape permanent residual effects would arise mainly from localised changes in topography particularly where new cut and fill is implemented as these new features will be seen at variance with the natural topography in the vicinity of the improvements.

10.9.11. I note that Mr. Riepe in his submission on the CPO raised concerns regarding the impact of the PRD on the character of the road. I consider this to be of relevance in terms of this EIA. I refer the Board to my assessment in section 9 above as to the nature of the road as a tourist route and the potential for cumulative impacts should comparable works be carried out along the N70. The said Wild Atlantic Way and indeed the Ring of Kerry of which the PRD forms part are both of local, regional and national importance in terms of tourism infrastructure. I submit that as the road is a tourist route it is part of the tourist experience. Road widening projects comparable to that subject of this application, whilst seeking to retain the route corridor but requiring a materially increased width, removes the established context of the route replacing its frame with new treatment, frequently with a degree of uniformity

resulting in the loss of the innate quality of the road which gives it its scenic quality. Such works distort the character of the road and will affect the quality of the tourist experience. As the PRD comprises a small section of the said tourist route, I would accept the conclusions that the impact of the proposed works in their own right can be considered to have a minor/moderate impact on the innate character. However the potential cumulative impacts of such schemes, in my opinion, requires assessment.

10.9.12. Following mitigation the degree of impact at the nearest properties would be minor and not significant.

Landscape – Conclusion

10.9.13. I have considered all of the documentation in respect of Landscape. In terms of the PRD, as a discrete project, I am satisfied that any potential impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions.

10.10. Interaction of the Above and Cumulative Impacts

10.10.1. Cumulative impacts were assessed in each chapter of the EIAR and are summarised in section 16.3. I have considered the interrelationships between factors and whether these may, as a whole, affect the environment, even though the effects may be acceptable when considered on an individual basis. Tables 16-2 and 16-2 of the EIAR provides a matrix of the impact interactions during the construction and operational phases. In my assessment of each environmental topic, I have considered the likelihood of significant effects arising as a consequence of interrelationship between factors. Most interactions e.g. the impact of noise and air quality on the population and human health are addressed under individual topic headings.

10.10.2. The potential arises for population and human health to interact with all of the other factors (biodiversity, land, soil, water, air and climate, material assets, cultural heritage and the landscape). Biodiversity could impact on land, soil, water, air and climate. The details of all other interrelationships are set out in Chapter 16 which I have considered.

10.10.3. In terms of cumulative impacts previous and current developments for which planning has been received along the N70 project which comprise of small scale development including dwellings, dwelling extensions and ancillary works are considered. It can be concluded that there is no potential for additional cumulative impacts arising from the development when taken in combination with any other known plans or projects. It can also be concluded that no significant effects are likely to arise from interactions between any of the various environmental factors in terms of the physical infrastructure proposed.

10.11. Reasoned Conclusion on the Significant Effects

Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the applicant, and the submission from prescribed bodies in the course of the application it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows. Where appropriate the relevant mitigation measures as referenced in the EIAR.

- **Population and Human Health**

- Adverse impacts from noise and dust may arise from construction activities. A suite of mitigation measures to manage noise during the construction phase are set out in sections 10.5.1, 11.6.1 and 11.6.2 and as summarised in sections 17.8 and 17.9 of the EIAR.
- In terms of the operational phase the proposed development would have a positive impact in that the scheme is to be constructed with a low noise surface which will have a 1.5dB(A) reduction in road traffic noise at all locations from the current baseline situation.
- Positive effects in terms of the increased benefits in terms of reduction in vehicular hazard.

- **Water**

- Potential adverse impacts arising from risk of pollution of ground and surface water during the construction and operational phases. The impacts would be mitigated by measures within a Construction Erosion

and Sediment Control Plan and adherence to best practice construction measures and incorporation of appropriate drainage facilities as set out in sections 6.6.1.3 to 6.6.1.4 and commitments 1 to 15 in Section 17.4 of the EIAR. The proposed drainage arrangements will provide for an improvement on the current regime which currently drains to the local receiving waters by runoff and groundwater flow.

- Lough Fadda is a source of water supply for 5 no. properties to the south. Construction works will disrupt this supply. An alternative supply will be required during the duration of construction works at the lough. Monitoring during and post construction will be undertaken to ensure adequate supply and quality.

- **Biodiversity**

- Construction activity has the potential to impact negatively on lesser horseshoe bat roosts. The removal of hedgerow/treelines, scrub and woodlands and use of lighting could result in disturbance/displacement. Mitigation measures are set out in sections 9.7.1.9 and commitment No.9 of section 17.7 of the EIAR
- The proposal will result in loss of habitat supporting Kerry slug. It will be necessary to remove Kerry Slug from impacted habitats. Individual slugs and features which may contain Kerry Slug within the footprint of the works will be translocated to adjacent lands which are known to contain existing populations of the species. Mitigation measures are set out in Section 9.7.1.6 and commitment no. 6 of Section 17.7 of the EIAR.
- Freshwater Pearl Mussel in Tahilla River has the potential to be impacted negatively by water quality changes. Mitigation measures are detailed in sections 8.5.2.1 to 8.5.2.5 and commitments 1 to 20 of section 17.6 of the EIAR.
- The proposal could facilitate the indirect spread of invasive species. An Invasive Alien Species Management Plan is to be prepared.

- Permanent loss of a small portion of Lough Fadda which will be infilled to accommodate the proposed road development. This loss cannot be mitigated.
- **Material Assets**
 - The proposed development would give rise to significant impacts on Material Assets and Land arising from the compulsory acquisition of land to allow for the development. The TII/NRA's Code of Practice Guide to Process and Code of Practice for National Road Project Planning and Acquisition of Property for National Roads will be adhered to and the mitigation measures with regard to timing of works, consultation with property owners, restoration of access, boundary treatment, drainage and services will be carried out.
- **Landscape**
 - Visual Impacts will arise from the PRD. Landscape mitigation proposals shall take account of the approaches and principles set out in A Guide to Landscape Treatments for National Road Schemes in Ireland with planting and landscaping to be carried out in accordance with the mitigation measures set out in sections 13.6.1. and 13.6.2 and detailed in Table 17.11.

It is considered that subject to the implementation of the mitigation measures referred to above and as detailed throughout the chapters of the EIAR including Chapter 17 Summary of Mitigation Measures the effects on the environment of the proposed development in the vicinity, would be acceptable in respect of the delivery of the physical infrastructure and any associated direct impacts.

However the provision of such an isolated piece of infrastructure, including segregated facilities for vulnerable road users, which does not commence or finish in a settlement or connect to other cycling or walking routes, could have an adverse impact in terms of pedestrian/cyclist safety and could result in the replacement of an existing substandard road with a suboptimum solution which, itself, could give rise to conflicting movements and traffic hazard and consequent adverse impact on **population and human health**. In addition, in the absence of any proposals for improvement works which the PRD would tie into and absence of a strategy for the

planned schedule of improvements to the N70 which has due regard of the function of the road as part of the area's tourism infrastructure and which will ensure the efficient use of scarce resources whilst maximising the benefit to all road users, it is considered that the proposal constitutes a disorderly form of development and will create a significant catalyst for the justification and advancement of comparable schemes in remote locations and the preponderance of a disjointed and haphazard approach to improvements on the N70 with consequent adverse impacts on the N70 as a **material asset**.

Overall, I cannot be fully satisfied that the proposed development would not have any unacceptable effects on the environment.

11.0 **Appropriate Assessment**

11.1. **Background**

11.1.1. The Board is advised that in 2015 pursuant to article 250(3) of the Planning and Development Regulations 2001, as amended, Kerry County Council sought a direction from the Board as to whether or not a NIS should be prepared for the PRD. The Board in its Direction (ref. PL08.JN0012) identified 4 no. European Sites as being potentially impacted by the development. The said sites are the same as the 4 no. sites identified in the screening report which accompanied the request.

11.2. **Compliance with Articles 6(3) of the EU Habitats Directive**

11.2.1. 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.

11.2.2. The application is accompanied by a Natura Impact Statement (NIS). It contains a description of the proposed development, the project site and the surrounding area.

It contains a Stage 1 Screening Assessment in Appendix A. It outlines the methodology used for assessing potential impacts on the habitats and species within the European Sites that have the potential to be affected by the proposed development. It predicts the potential impacts for the sites and their conservation objectives, it suggests mitigation measures, assesses in-combination effects with other plans and projects and it identifies any residual effects on the European site and their conservation objectives.

11.2.3. Having reviewed the NIS and the supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions, clearly identifies the potential impacts, and uses best scientific information and knowledge. Details of mitigation measures are provided. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development.

11.2.4. 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).

11.3. **Brief Description of the Development**

The proposed development is as described in section 2 above. In summary the PRD entails the on-line widening/realignment along 4.53km of road to provide a Type 3 Single Carriageway Road with a shared use, two-way cycle/pedestrian facility on the northern verge. It includes sightline improvements at side road junctions, installation of surface water drainage system, safety barriers and road signage and markings

Submission and Observations

I note that no 3rd party observations were received. A submission was received from the Department of Arts, Heritage and the Gaeltacht.

11.4. **Stage 1 – Screening**

11.4.1. A Screening report for Appropriate Assessment was prepared by the applicant and is included in Appendix A of the NIS. In determining the extent of potential effects of the PRD, the applicant took a precautionary approach in using a 15km radius around the development footprint as a potential zone of influence and thereby included 14

European Sites in the screening exercise. The source-pathway-receptor model of impact prediction was employed.

11.4.2. The full catalogue of qualifying interest features of the SAC sites and special conservation interests of the SPA site 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

11.4.3. The Kenmare River SAC lies within close proximity to southern boundary of the road at 3 places:

- At Tahilla running south-westwards from Tahilla Bridge along the western bank of the Tahilla River. At this location the proposed road works are adjacent to the SAC but do not overlap with the SAC.
- Southern side of the existing N70 just to the east of Tahilla (old Post Office site) for a distance of approx. 250 metres. The SAC extends into the existing N70 carriageway for approx. 2-3 metres. The proposed road project maintains the existing boundary with the SAC as the current road. Thus the proposal does not infringe any further into the SAC as the existing scenario. SAC habitat is not directly impacted while the existing boundary is retained.
- Opposite the western end of Lough Fadda. The boundary of the SAC lies to the south of, but does not overlap with, the road alignment at this location for a distance of approx. 75 metres.

11.4.4. There is a further hydrological connection between aspects of the proposed development and Blackwater River (Kerry) SAC.

11.4.5. Due to the number of Lesser Horseshoe Bat roosting sites in relative proximity of the PRD, possible indirect impacts on Old Domestic Building Askive Wood SAC and Old Domestic Building Dromore Wood SAC cannot be ruled.

- 11.4.6. The screening report determined that further assessment was required to establish whether the proposed PRD could adversely affect the integrity of those 4 sites. The possibility of significant effects on the remaining 9 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.
- 11.4.7. The Board is advised that while Drongawn Lough SAC was screened out, it was subsequently included in the NIS. I note that the site c.1km to the south-west of PRD and has a hydrological connection to the European Site.
- 11.4.8. 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 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. I include a summary of the screening assessment in relation to all 14 European sites considered in Table 11-1 below.

11.5. Appropriate Assessment Screening Determination

- 11.5.1. 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 PRD 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):
1. Kenmare River SAC (site code 002158)
 2. Drongawn Lough SAC (site code 02187)
 3. Blackwater River SAC (site code 002173)
 4. Old Domestic Building Askive Wood SAC (site code 002098)
 5. Old Domestic Building Dromore Wood SAC (site code 00353)
- 11.5.2. The possibility of significant effects on the following 9 European sites considered in screening for appropriate assessment of the PRD (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.

1. Cloonee and Inchiquin Lough, Uragh Wood SAC (site code 001342)
2. Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (site Code 000365)
3. Caha Mountains SAC (site code 00093)
4. Maulagowna Bog SAC (site code 001881)
5. Glanmore Bog SAC (site code 001879)
6. Cleanderry Wood SAC (site code 001043)
7. Mucksna Wood SAC (site code 001371)
8. Glengariff Harbour and Woodland SAC (site code 00090)
9. Eirk Bog SPA (site codes 004108)

11.5.3. Measures intended to reduce or avoid significant effects have not been considered in the screening process.

Table 11-1 : AA Screening Summary Matrix

European /Natura 2000 Site www.npws.ie	Distance from proposed development/ Source, pathway, receptor	Possible significant effect (alone)	In combination effects	Screening conclusion
Kenmare River SAC (site code 002158)	<p>Existing N70 overlaps the SAC for a distance of 2-3 metres.</p> <p>The SAC directly adjoins the PRD to the south.</p> <p>Connection via Tahilla River, Lough Fadda outflow stream, Derreenrickard Lough outflow stream, Gortaclea Lough inflow stream and drainage outfalls.</p>	<p>Potential for habitat loss/alteration/fragmentation, impacts to water quality and water dependent habitats and disturbance of key species: development may result in significant effects alone.</p>	<p>Possible- requires more detailed analysis.</p>	<p>Possible significant effects cannot be ruled out without further analysis and assessment and the application of mitigation measures- Appropriate assessment required.</p>
Drongawn Lough SAC (site code 02187)	<p>c.1km to the south-west of PRD</p> <p>Connection via Gortaclea Lough Inflow Stream which flows into Gortaclea Lough.</p>	<p>Potential for impacts to water quality and water dependent habitats:</p>	<p>Possible- requires more detailed analysis.</p>	<p>Possible significant effects cannot be ruled out without further analysis and assessment and the application of mitigation</p>

	Tahilla River drains Gortaclea Lough into Kenmare River SAV and in turn Drongawn Lough	development may result in significant effects alone.		measures- Appropriate assessment required.
Old Domestic Building, Askive Wood SAC (site code 002098)	c.1km to the west of PRD. Lesser Horseshoe Bat present in PRD. Connectivity via woodland habitats or linear features	In view of the proximity of the PRD to the designated site disturbance/displacement of the qualifying interest could arise: development may result in significant effects alone.	Possible- requires more detailed analysis.	Possible significant effects cannot be ruled out without further analysis and assessment and the application of mitigation measures- Appropriate assessment required.
Blackwater River SAC (site code 002173)	2.2km to the north of the PRD Connection via Tahilla River, Lough Fadda outflow stream, Derreenrickard Lough outflow stream, Gortaclea Lough inflow stream and drainage outfalls.	Potential for impacts to water quality and water dependent habitats and disturbance of key species: development may result in significant effects alone.	Possible- requires more detailed analysis.	Possible significant effects cannot be ruled out without further analysis and assessment and the application of mitigation measures- Appropriate assessment required.
Cloonee and Inchiquin Lough, Uragh Wood SAC (site code 001342)	c.3km to the south of the PRD No pathway	No possibility of effects due to the separation distance from the development and absence of ecological connections.	No possibility of in-combination effects.	Screened out for need for appropriate assessment.

Old Domestic Building, Dromore Wood SAC (site code 00353)	c.4.8km to the north-east of PRD Lesser Horseshoe Bat present in PRD. Connectivity via woodland habitats or linear features	In view of the proximity of the PRD to the designated site disturbance/displacement of the qualifying interest could arise: development may result in significant effects alone.	Possible- requires more detailed analysis.	Possible significant effects cannot be ruled out without further analysis and assessment and the application of mitigation measures- Appropriate assessment required.
Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (site Code 000365)	c. 6km to the north of PRD No pathway	No possibility of effects due to the separation distance from the development and absence of ecological connections.	No possibility of in-combination effects.	Screened out for need for appropriate assessment.
Caha Mountains SAC (site code 00093)	c.8km the south of PRD No pathway	No possibility of effects due to the separation distance from the development and absence of ecological connections.	No possibility of in-combination effects.	Screened out for need for appropriate assessment.
Maulagowna Bog SAC (site code 001881)	c.9km to the west of the PRD No pathway	No possibility of effects due to the separation distance from the development and absence of ecological connections.	No possibility of in-combination effects.	Screened out for need for appropriate assessment.
Glanmore Bog SAC (site code 001879)	c.10km to the south of the PRD No pathway	No possibility of effects due to the separation distance from the development and absence of ecological connections.	No possibility of in-combination effects.	Screened out for need for appropriate assessment.

Cleanderry Wood SAC (site code 001043)	c.11 km to the west of the PRD No pathway	No possibility of effects due to the separation distance from the development and absence of ecological connections.	No possibility of in-combination effects.	Screened out for need for appropriate assessment.
Mucksna Wood SAC (site code 001371)	c.13 km to the east of the PRD No pathway	No possibility of effects due to the separation distance from the development and absence of ecological connections.	No possibility of in-combination effects.	Screened out for need for appropriate assessment.
Glengariff Harbour and Woodland SAC (site code 00090)	c.14 km to the south-east of the PRD No pathway	No possibility of effects due to the separation distance from the development and absence of ecological connections.	No possibility of in-combination effects.	Screened out for need for appropriate assessment.
Eirk Bog SPA (site codes 004108)	c.14 km to the north- east of the PRD	No possibility of effects due to the separation distance from the development and absence of ecological connections.	No possibility of in-combination effects.	Screened out for need for appropriate assessment.

11.6. **Appropriate Assessment**

The Natura Impact Statement

- 11.6.1. As noted above, the application included a NIS (RPS, November 2019) which examines and assesses potential adverse effects of the proposed development on 5 no. designated European Sites.
- 11.6.2. The NIS is stated as having been informed by best practice guidance for such assessments, a desktop and literature study, including NPWS databases, the synopses, Natura 2000 Data Forms and conservation objectives and EPA mapping, and habitat and species surveys.
- 11.6.3. Section 5 of the NIS contains an assessment of the potential impacts of the PRD on the identified European Sites and in-combination effects, while Section 6 sets out a series of mitigation measures.
- 11.6.4. The NIS concluded that there will be no significant effects to the integrity of the designated sites.
- 11.6.5. Having reviewed the NIS, all supporting documentation and submissions, I am satisfied that the information allows for a complete assessment of any adverse effects of the proposed development on the conservation objectives of the abovementioned European sites alone, or in combination with other plans and projects.

Appropriate Assessment of Implications of the Proposed Development.

- 11.6.6. 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. 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.

11.6.7. **Relevant European sites:**

The following sites are subject to appropriate assessment.

1. Kenmare River SAC (site code 002158)
2. Drongawn Lough SAC (site code 002187)
3. Blackwater River SAC (site code 002173)
4. Old Domestic Building Askive Wood SAC (site code 002098)
5. Old Domestic Building Dromore Wood SAC (site code 00353)

11.6.8. A full catalogue of these sites and their Qualifying Interests/Special Conservation Interests are set out in the NIS in Tables 3-2 to 3-14. 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 5 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 11-2 to 11-6 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). I am satisfied that in-combination effects have also been considered and adequately assessed in the NIS.

Aspects of the proposed development.

11.6.9. The main aspects of the proposed development that could adversely affect the conservation objectives of European sites include;

- Impacts to water quality and water dependant habitats including marine and coastal habitats through construction related pollution events and /or operational impacts.

- Habitat loss or alteration and introduction of non-native invasive species
- Impacts on species during construction and/or operation of the PRD including disturbance/displacement.

11.6.10. Tables 11-2 to 11-6 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, programmes and existing and proposed developments were considered. This complete assessment allows for clear, precise and definitive conclusions to be reached in terms of adverse effects on the integrity of European sites.

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.

Table 11-2 Kenmare River SAC

Key issues

- Water quality impacts due to pollutants or soil/silt run off during construction and operational phases
- Habitat loss or alteration
- Disturbance/displacement/ mortality of qualifying interest species

Conservation Objectives https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002158.pdf

Summary of Appropriate Assessment

Conservation Objective To maintain (M) or Restore (R) the favourable conservation condition of the following:	Targets and attributes (summary-as relevant)	Potential adverse effects	Mitigation measures (including monitoring)	In-combination effects	Can adverse effects on integrity be excluded?
Large shallow inlets and bays (M)	Habitat area stable or increasing, maintain community diversity.	No direct Impacts Indirect Impacts <u>Construction Phase</u>	<u>Construction Phase</u> Best practice pollution prevention methods set out in Construction	None	Yes Adverse effects on site integrity can be excluded as there is no doubt as to absence of

		<p>Potential for decrease in water quality due to ingress of sediment construction related pollutants,</p> <p><u>Operational Phase</u></p> <p>Potential for decrease in water quality arising from surface water run-off and accidental spillage and release of pollutants.</p>	<p>Environmental Management Plan.</p> <p>Buffer zones to watercourses.</p> <p>No instream works at Tahilla Bridge</p> <p>Limit concentration of suspended solids in discharges to Tahilla River to max. 10mg/l.</p> <p>Use of silt curtains during infilling of Lough Fadda</p>		<p>effects on this species in view of the conservation objectives.</p>
Reefs (M)	Distribution is stable or increasing, Conserve community types in natural condition	<p>No direct Impacts</p> <p>Indirect Impacts</p> <p><u>Construction Phase</u></p> <p>Potential for decrease in water quality due to ingress of sediment construction related pollutants,</p> <p><u>Operational Phase</u></p> <p>Potential for decrease in water quality arising</p>	<p>Ecological Clerk of Works to monitor compliance with mitigation measures and conditions.</p> <p>Biological and chemical monitoring on Tahilla River and Derreennanav Stream</p> <p><u>Operational Phase</u></p>	None	<p>Yes</p> <p>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.</p>

		from surface water run-off and accidental spillage and release of pollutants.	Sustainable Surface Drainage System incorporated as part of PRD.		
European dry heaths (M)	Habitat area stable or increasing, no decline in distribution, maintain ecosystem function, community diversity, vegetation composition in line with specific indicators etc.	<p>No direct impacts - While the habitat is located adjacent to the PRD no works will be undertaken within this habitat.</p> <p>Indirect Impacts</p> <p><u>Construction Phase</u></p> <p>Potential for accidental ingress of construction related pollutants.</p> <p>Construction dust reducing photosynthetic potential</p> <p>Spread of Invasive Species</p> <p><u>Operational Phase</u></p> <p>Potential for decrease in water quality arising</p>	<p><u>Construction Phase</u></p> <p>Best practice pollution prevention methods set out in Construction Environmental Management Plan.</p> <p>Pollution prevention/water quality management plan.</p> <p>Management and control of invasive species in accordance Invasive Plant Species Management Plan.</p> <p>Ecological Clerk of Works to monitor compliance with mitigation measures and conditions.</p>	None	<p>Yes</p> <p>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.</p>

		from surface water run-off and accidental spillage and release of pollutants	<u>Operational Phase</u> Sustainable Surface Drainage System incorporated as part of PRD.		
Lesser Horseshoe Bat (M)	Targets set for numbers at known and important winter and summer roost sites, no decline in condition of known 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	<i>Note:</i> 1 x maternity roost and 1 x satellite roost in close proximity to PRD are outside of SAC The roosts are outside the 2.5km buffer around Dunkerron souterrain roost and Foley's cottage Killaha roost. The PRD will not result in a reduction of available foraging or commuting habitat of the species designated as part of the SAC.	N/A <i>Note:</i> Mitigation measures proposed with respect to other European Sites are detailed below.	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.

	along commuting routes (within 2.5km)				
Otter (R)	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.	<p>No direct Impacts</p> <p>Indirect Impacts</p> <p><u>Construction Phase</u></p> <p>Disturbance and loss of riparian habitat</p> <p>Potential for decrease in water quality due to ingress of construction related pollutants, temporary disturbance of otter if commuting along area affected.</p> <p><u>Operational Phase</u></p> <p>Potential for decrease in water quality arising from surface water run-off and accidental spillage and release of pollutants.</p>	<p><u>Construction Phase</u></p> <p>Best practice pollution prevention methods set out in Construction Environmental Management Plan.</p> <p>Limit concentration of suspended solids in discharges to Tahilla River to max. 10mg/l.</p> <p>Buffer zones to watercourses.</p> <p>No instream works at Tahilla Bridge</p> <p>Use of silt curtains during infilling of Lough Fadda.</p> <p>Ecological Clerk of Works to monitor compliance with</p>	None	<p>Yes</p> <p>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.</p>

			<p>mitigation measures and conditions.</p> <p>Biological and chemical monitoring on Tahilla River and Derreennanav Stream</p> <p><u>Operational Phase</u></p> <p>Sustainable Surface Drainage System incorporated as part of PRD.</p> <p>Mammal pass to be installed adjacent to Lough Fadda outflow.</p>		
<p>Perennial vegetation of stony banks (M)</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts (M)</p> <p>Atlantic salt meadows (M)</p>	<p>These qualifying interest species and habitats are outside of the range of any possible impact of the PRD and are not considered further in the assessment.</p>	N/A	N/A	N/A	<p>Yes</p> <p>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</p>

<p>Mediterranean salt meadows (M)</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) (M)</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) (M)</p> <p>Calaminarian grasslands of the <i>Violetalia calaminariae</i> (M)</p> <p>Submerged or partially submerged sea caves (M)</p> <p>Narrow-mouthed Whorl Snail (M)</p> <p>Harbour Seal (M)</p>	<p>This was informed by ecological survey and reference to the distribution as detailed in best available scientific information from NPWS</p>				<p>All occur outside of any possible range of influence of the of the proposed development.</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 Kenmare River 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 11-3: Drongawn Lough SAC

Key issues

- Water quality impacts due to pollutants or soil/silt run off during construction and operational phases

Conservation Objectives: https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002187.pdf

Summary of Appropriate Assessment

Conservation Objective To maintain (M) or Restore (R) the favourable conservation condition of the following:	Targets and attributes (summary-as relevant)	Potential adverse effects	Mitigation measures (including monitoring)	In-combination effects	Can adverse effects on integrity be excluded?
Coastal Lagoons (M)	Stable habitat area and no decline in distribution, salinity and hydrological regime, connectivity to lagoon	Indirect Impacts <u>Construction Phase</u> Potential for decrease in water quality due to	<u>Construction Phase</u> Best practice pollution prevention methods set out in Construction	None	Yes Adverse effects on site integrity can be excluded as there is no

	<p>and sea, water quality, typical animal and plant species, depth of macrophyte colonisation and absence/control of negative indicator species</p>	<p>ingress of sediment construction related pollutants,</p> <p><u>Operational Phase</u></p> <p>Potential for decrease in water quality arising from surface water run-off and accidental spillage and release of pollutants.</p>	<p>Environmental Management Plan.</p> <p>Buffer zones to watercourses.</p> <p>No instream works at Tahilla Bridge</p> <p>Limit concentration of suspended solids in discharges to Tahilla River to max. 10mg/l.</p> <p>Use of silt curtains during infilling of Lough Fadda</p> <p>Ecological Clerk of Works to monitor compliance with mitigation measures and conditions.</p> <p>Biological and chemical monitoring on Tahilla River and Derreenanav Stream</p> <p><u>Operational Phase</u></p>		<p>doubt as to absence of effects on these qualifying interests in view of their conservation objectives</p>
--	---	--	---	--	--

			Sustainable Surface Drainage System incorporated as part of PRD.		
<p>Overall conclusion: Integrity test</p> <p>Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of Drongawn Lough 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.</p>					

<p>Table 11 - 4: Old Domestic Building, Askive Wood SAC</p> <p>Key issues</p> <ul style="list-style-type: none"> Habitat modification/ deterioration Disturbance/displacement/ mortality of qualifying interest species <p>Conservation Objectives: https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002098.pdf</p>					
<p>Summary of Appropriate Assessment</p>					
<p>Conservation Objective To maintain (M) or Restore (R) the favourable conservation</p>	<p>Targets and attributes (summary-as relevant)</p>	<p>Potential adverse effects</p>	<p>Mitigation measures (including monitoring)</p>	<p>In-combination effects</p>	<p>Can adverse effects on integrity be excluded?</p>

condition of the following:					
Lesser Horseshoe Bat (M)	Targets set for numbers at known and important winter and summer roost sites, no decline in condition of known 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)	<p><i>Note:</i> 1 x maternity roost and 1 x satellite roost in close proximity to PRD are outside of SAC boundary but likely part of wider SAC population.</p> <p>The roosts are within the 2.5km buffer around roost id. 454.</p> <p>Potential ex-situ impacts</p> <p><u>Construction Phase</u></p> <p>Disturbance or displacement impacts due to use of machinery and human activities adjacent to bat roost during construction phase</p> <p><u>Operational Phase</u></p>	<p><u>Construction Phase</u></p> <p>Retention of Bat Specialist</p> <p>Scheduling of construction work.</p> <p>Prohibition of access to roosts</p> <p>Lighting to be directed away from woodland/hedgerow/linear habitats</p> <p>Install temporary fencing during construction phase to replace connecting features.</p> <p><u>Operational Phase</u></p> <p>Landscape planting of road verges and slopes to compensate for loss of existing woodland/scrub/hedgerows.</p>	None	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

		<p>Loss of foraging and commuting habitat.</p> <p>Disturbance due to proximity of road and human activities</p> <p>Increased artificial light levels.</p>			
<p>Overall conclusion: Integrity test</p> <p>Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of Old Domestic Building, Askive Wood SAC in view of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.</p>					

<p>Table 11.5 - Blackwater River (Kerry) SAC (site code 002173))</p> <p>Key issues</p> <ul style="list-style-type: none"> • Water quality impacts due to pollutants or soil/silt run off during construction and operational phases • Habitat modification/ deterioration • Disturbance/displacement/ mortality of qualifying interest species <p>Conservation Objectives: https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002173.pdf</p> <p>Summary of Appropriate Assessment</p>
--

Conservation Objective To maintain (M) or Restore (R) the favourable conservation condition of the following:	Targets and attributes (summary-as relevant)	Potential adverse effects	Mitigation measures (including monitoring)	In-combination effects	Can adverse effects on integrity be excluded?
European dry heaths (M)	This qualifying interest habitat is outside of the range of any possible impact of the PRD and is not considered further in the assessment.	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 this qualifying interest in view of its conservation objectives It occurs outside of any possible range of influence of the of the proposed development.
Kerry Slug (M)	Distribution within 1km squares stable, habitat	None	None	None	Yes

	extent (heath/bog with sandstone and woodland area) stable or increasing, non-native species absent or under control.	<i>Note:</i> survey identified Kerry Slug within study area of PRD and outside of range of SAC. The species is not highly mobile therefore no ex-situ impacts of the population of the designated site are not expected to occur. The population is mapped as part of the conservation objectives.			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 (R)	Maintain distribution at 18.95km, restore population numbers and per size class, limit adult mortality, maintain habitat extent, restore habitat condition, restore water quality macroinvertebrates,	Indirect Impacts <u>Construction Phase</u> Potential for adverse impacts on salmonids as a result of a reduction in water quality to alter the salmonid balance. <u>Operational Phase</u>	<u>Construction Phase</u> Best practice pollution prevention methods set out in Construction Environmental Management Plan. Buffer zones to watercourses.	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.

	<p>restore substratum quality to specifiedrestore hydrological regime, maintain sufficient juvenile salmonids and maintain area and condition of fringing habitats.</p>	<p>Potential for decrease in water quality arising from surface water run-off and accidental spillage and release of pollutants.</p>	<p>No instream works at Tahilla Bridge</p> <p>Limit concentration of suspended solids in discharges to Tahilla River to max. 10mg/l.</p> <p>Ecological Clerk of Works to monitor compliance with mitigation measures and conditions.</p>		
<p>Salmon (R)</p>	<p>Extent of anadromy, Number of spawning fish, no significant decline in out-migrating smolt abundance or number and distribution of redds and Q4 water quality</p>	<p>Indirect impacts</p> <p><u>Construction Phase</u></p> <p>Potential for decrease in water quality due to ingress of construction related pollutants and resultant impact on adult spawning fish.</p> <p><u>Operational Phase</u></p> <p>Potential for decrease in water quality arising from surface water run-off and accidental</p>	<p>Biological and chemical monitoring on Tahilla River and Derreennanav Stream</p> <p><u>Operational Phase</u></p> <p>Sustainable Surface Drainage System incorporated as part of PRD.</p>		

		spillage and release of pollutants.			
Lesser Horseshoe Bat (M)	Targets set for numbers at known and important winter and summer roost sites, no decline in condition of known 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)	<p><i>Note:</i> 1 x maternity roost and 1 x satellite roost in close proximity to PRD are outside of SAC boundary but likely part of wider SAC population.</p> <p>The roosts are just outside the 2.5km buffer around roost ID 442 and roost ID 642.</p> <p>Potential ex-situ impacts</p> <p><u>Construction Phase</u></p> <p>Disturbance and displacement impacts due to use of machinery and human activities adjacent to bat roost during construction phase</p>	<p><u>Construction Phase</u></p> <p>Retention of Bat Specialist</p> <p>Scheduling of construction work.</p> <p>Prohibition of access to roosts</p> <p>Lighting to be directed away from woodland/hedgerow/linear habitats</p> <p>Install temporary fencing during construction phase to replace connecting features.</p> <p><u>Operational Phase</u></p> <p>Landscape planting of road verges and slopes to compensate for loss of existing woodland/scrub/hedgerows.</p>	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.

		<p><u>Operational Phase</u> Disturbance due to proximity of road and human activities.</p> <p>Increased artificial light levels.</p>			
Otter (M)	<p>No significant decline in distribution or extent of terrestrial or freshwater habitat. No significant decline in coupling or holt sites. No significant decline in fish biomass available, no significant increase in barriers to connectivity.</p>	<p>Indirect Impacts</p> <p><u>Construction Phase</u> Potential for decrease in water quality due to ingress of construction related pollutants, temporary disturbance of otter if commuting along area affected.</p> <p><u>Operational Phase</u> Potential for decrease in water quality arising from surface water run-off and accidental</p>	<p><u>Construction Phase</u> Best practice pollution prevention methods set out in Construction Environmental Management Plan.</p> <p>Buffer zones to watercourses.</p> <p>No instream works at Tahilla Bridge</p> <p>Limit concentration of suspended solids in discharges to Tahilla River to max. 10mg/l.</p>	None	<p>Yes</p> <p>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.</p>

		spillage and release of pollutants.	Use of silt curtains during infilling of Lough Fadda Ecological Clerk of Works to monitor compliance with mitigation measures and conditions. Biological and chemical monitoring on Tahilla River and Derreennanav Stream <u>Operational Phase</u> Sustainable Surface Drainage System incorporated as part of PRD		
--	--	-------------------------------------	--	--	--

Overall conclusion: Integrity test

Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of Blackwater River (Kerry) 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 11-6 Old Domestic Building, Dromore Wood SAC

Key issues

- Habitat modification/ deterioration

- Disturbance/displacement/ mortality of qualifying interest species

Conservation Objectives: https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000353.pdf

Summary of Appropriate Assessment

Conservation Objective To maintain (M) or Restore (R) the favourable conservation condition of the following:	Targets and attributes (summary-as relevant)	Potential adverse effects	Mitigation measures (including monitoring)	In-combination effects	Can adverse effects on integrity be excluded?
Lesser Horseshoe Bat (M)	Targets set for numbers at known and important winter and summer roost sites, no decline in condition of known 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	<p><i>Note:</i> 1 x maternity roost and 1 x satellite roost in close proximity to PRD are outside of SAC boundary but likely part of wider SAC population.</p> <p>The roosts are outside the 2.5km buffer around roost id. 454</p>	<p><u>Construction Phase</u></p> <p>Retention of Bat Specialist</p> <p>Scheduling of construction work.</p> <p>Prohibition of access to roosts</p> <p>Lighting to be directed away from woodland/hedgerow/linear habitats</p>	None	<p>Yes</p> <p>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.</p>

	<p>2.5km of qualifying roosts, no significant increase in artificial light adjacent to named roosts or along commuting routes (within 2.5km)</p>	<p>Potential for Ex-situ impacts</p> <p><u>Construction Phase</u></p> <p>Disturbance or displacement impacts due to use of machinery and human activities adjacent to bat roost during construction phase</p> <p><u>Operational Phase</u></p> <p>Loss of foraging and commuting habitat.</p> <p>Disturbance due to proximity of road and human activities</p> <p>Increased artificial light levels.</p>	<p>Install temporary fencing during construction phase to replace connecting features.</p> <p><u>Operational Phase</u></p> <p>Landscape planting of road verges and slopes to compensate for loss of existing woodland/scrub/hedgerows.</p>		
<p>Overall conclusion: Integrity test</p> <p>Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of Old Domestic Building Dromore Wood SAC in view of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.</p>					

11.7. Appropriate Assessment – Conclusion

- 11.7.1. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act, 2000, as amended.
- 11.7.2. Having carried out screening for appropriate assessment of the project, it was concluded that the proposed development may have a significant effect on Kenmare River SAC (site code 002158), Drongawn Lough SAC (site code 02187), Blackwater River SAC (site code 002173), Old Domestic Building Askive Wood SAC (site code 002098) and Old Domestic Building Dromore Wood SAC (site code 00353). Consequently an appropriate assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives. The possibility for significant effects was excluded for any other European site.
- 11.7.3. 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 Kenmare River SAC (site code 002158), Drongawn Lough SAC (site code 02187), Blackwater River SAC (site code 002173), Old Domestic Building Askive Wood SAC (site code 002098), Old Domestic Building Dromore Wood SAC (site code 00353), or any other European site, in view of the sites' Conservation Objectives.
- 11.7.4. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

12.0 Compulsory Purchase Order

- 12.1.1. The statutory powers of the local authority to acquire land are contained in section 213 (2)(a) of the Planning and Development Act 2000, as amended. Under its provisions the planning authority may acquire land compulsorily for the purpose of performing any of its functions including giving effect to or facilitating the implementation of its development plan.
- 12.1.2. Mr. Walsh in his submission to the CPO hearing in paragraph 4.11 noted that subsequent to the publication of the CPO the local authority became aware of a

typographical error in the individual acquisition map issued in respect of Plot No.216. The area of land to be acquired was stated to be 0.0375ha on the said map. The correct area is 0.3752ha. The CPO Schedule and Deposit Maps are not affected by this correction.

12.1.3. The CPO provides for the acquisition of 11.4989 ha. of lands from 46 property owners or groups of owners. Roadbed accounts for 5.3963 hectares or approx. 47% of the total acquisition. 0.44 hectares is proposed for temporary acquisition to provide a construction site compound, for the treatment of invasive species and for the construction of boundaries and entrances. The lands will be returned to the respective landowners on completion of the project. When roadbed, lands owned by Kerry County Council and temporary acquisitions are excluded the PRD requires the permanent acquisition of 5.441 ha of land which represents approx. 47% of the total land acquisition.

12.1.4. The PRD will also require the extinguishment of 1 no. public right of way over approx. 120 metres of local road L-4049 at its junction with the N70 at Tahilla.

12.1.5. It is accepted that there are four criteria that should be applied where it is proposed to use powers of compulsory purchase to acquire land or property namely:-

- There is a community need which is met by the acquisition of the land in question.
- The works to be carried out accord with the Development Plan,
- Alternative methods of meeting the community need have been considered but are not available,
- The suitability of the land to meet the community need.

12.1.6. The Board is advised that there is an overlap with the planning assessment above and therefore this section should be read in conjunction with same.

Community Need

12.1.7. The stated purpose of the CPO is to:

- Improve the road alignment and layout to a standard that fulfils the requirements of the TII publications for rural road design,
- Improve safety including road visibility and stopping sight distance

- Improve environment for non-motorised users,
- Improve local connectivity

12.1.8. Following the assessment in section 9 above the section of the N70 before the Board for consideration is substandard in engineering terms and that upgrading of the road will improve access arrangements, sight distances, etc. From this perspective, the principle of its promotion as a section of road meriting improvement is warranted.

12.1.9. There does not appear to an overall strategy setting out the orderly and planned approach to the N70 improvements and the basis for prioritisation of certain sections over others especially in view of the fact that large sections of the route have been identified to fall short of the current design requirements as highlighted in the 2011 National Secondary Road Needs Study. Such detail is considered appropriate to ensure the efficient use of resources and sustainable development. The consequences of proceeding without an overall strategy which also gives due regard to the function of the road as an integral component of the area's tourism infrastructure will effectively result in the sporadic and haphazard provision of works to a specification as required by relevant design standards in remote locations resulting in the provision of unnecessary infrastructure which is contrary to the proper planning and sustainable development of the area.

12.1.10. On this basis I do not consider that the CPO can be justified by the exigencies of the common good. I therefore consider that the community need for the scheme has not been satisfactorily established.

Compliance with Development Plan

12.1.11. As detailed in the planning assessment in section 9 above the PRD the current Kerry County Development Plan specifically supports and prioritises works to the Ring of Kerry part of the N70 as set out in Table 7.1a, which is further endorsed by objectives RD-04 and RD-19. The provision of cycle and pedestrian facilities are also supported by development plan objectives. I would bring to the Board's attention that the projects listed in Table 7.1a largely pertain to discrete schemes along sections of the national primary and secondary road network in the county including Kilderry Bends which is on the N70. The basis for the primacy of the projects and inclusion for in the table is unclear with no evident correlation to the prioritisation of projects in the NRA needs study. I would also submit that the

reference to the 'N70 – Ring of Kerry' in the table runs counter to the specificity of the other referenced projects and lacks clarity as to what is intended in terms of the nature and extent of the works envisaged along the route. As noted previously almost the entirety of the N70 comprises the Ring of Kerry tourist route (135km).

Alternatives

12.1.12. I refer to the consideration of alternatives and my assessment in 10.2 above. I am of the opinion that the application has submitted sufficient details in terms of alternatives including options comprising do-nothing, do-minimum and alternative arrangements at Lough Fadda and Tahilla. The reasons for the choice of the alignment proposed and the level of details provided meets the requirements of section 50(2)(d) of the Roads Act, 1993, as amended and the EIA Directive. The chosen on-line option appears to be the most reasonable solution whilst complying with Type 2 road standard requirements although the impact of the extent of the works on the character of road is of material concern as detailed in the planning assessment in section 9 above.

12.1.13. The objector to the CPO considers that the scheme would have an adverse impact on his property. It is acknowledged that the preferred route presents burdens in relation to residential and land owners. Issues relating to loss of lands arising are matters to be addressed by way of compensation.

Suitability of Lands to Meet Community Need

12.1.14. I refer to section 9.2 of this assessment. Notwithstanding the concerns arising the proposed cross section is in accordance with TII requirements entailing a Type 2 carriageway with segregated cycle/pedestrian provision. The extent of the land that would be acquired under the order is determined by the specifications for same.

Site Specific CPO Issues

12.1.15. At the time of the writing of this report 1 no. objection refers.

Mr. Claus -Wilhelm Riepe CPO Plot Ref. 101

12.1.16. Mr. Riepe's property is at the western end of the PRD where it will tie into the existing N70. The area of land being acquired is 0.4241 hectares to the north of the existing N70 alignment in the townland of Ankail. The issues of impact on tourism, character of the road, vehicular speed and adequacy of the EIAR as raised in his

written submission are dealt with in other sections of my assessment above. Mr. Riepe is concerned that the PRD will result in a new straight road across his land, would leave his roadside entrance exposed raising issues of safety.

- 12.1.17. Mr. Riepe was represented by Mr. Munnelly at the oral hearing. Following on from Mr. Munnelly's request I bring to the Board's attention Mr. Riepe's procedural objections with specific respect to (a) the Board's refusal of an adjournment of the hearing, (b) the procedural unfairness in terms of the breadth of documentation submitted by Kerry County Council in response to his written submission at such a late date and only a few days before the hearing, (c) the holding of the hearing remotely which precludes proper public consultation and (d) Kerry County Council's failure in terms of engagement with Mr. Riepe during previous public consultations.
- 12.1.18. Mr. Munnelly stated that an online improvement to meet the design needs could be achieved without the need to construct a new road line through Mr. Riepe's property. Consideration should be given to a revised proposal with the introduction of a slight curvature in the straight stretch of road which passes his. Mr. Munnelly informed the hearing that while the extent of the CPO is not the basis for the objection the proposed redesign would require a reduced land take. Mr. O'Donovan in reply stated that the road alignment at this location is so as to address the series of reverse curves, narrow carriageway and lack of verges. The layout will remove the reverse curve layout and improve visibility for the 3 accesses to the south. The length of the straightened roadway is 145 metres (185 metres including transitions), is design compliant in terms of cross section, and provides for as safe a transition as possible to the existing N70 to the west. Mr. Donovan informed the hearing that the alternative arrangement as proposed by Mr. Riepe was assessed but that it would offset the safety benefits of the optimum design of the preferred option, would prejudice the improved sight lines at the three accesses to the south and would not provide for the optimum ride quality and safe transition. Mr. Riepe's access to his lands to the north is just outside the PRD and the PRD would improve sight lines from same in an easterly direction.
- 12.1.19. The landtake will not give rise to any severance issues. In terms of the cross section and alignment requirements the applicant has provided sufficient details to support its case for the need for the extent of the CPO and that should the Board find in

favour of the PRD and I conclude that the proposed CPO is reasonable and necessary.

12.1.20. The Board is advised that Mr. Woodstock who made a submission to the hearing is in favour of the PRD and does not object to the CPO of his affected lands.

13.0 Recommendation

13.1. I recommend that the application under section 51 of the Roads Act 1993, as amended, and Section 177AE of the Planning and Development Act 2000, as amended be **REFUSED** for the reasons and considerations as set out in Schedule 1 and consequently that the CPO be **ANNULLED** (Schedule 2).

13.2. Schedule 1 - Application for Approval of Proposed Road Development

REASONS AND CONSIDERATIONS

In coming to its decision, the Board had regard to the following:

- (a) The relevant provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU (EIA Directive) on the assessment of the effects of certain public and private projects on the environment, Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directives) which set the requirements for Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union.
- (b) the national, regional and local strategic road policies and objectives, inclusive of those set out in National Planning Framework, Regional Spatial & Economic Strategy for the Southern Region, the Kerry County Development Plan and Cahersiveen, Waterville and Sneem Functional Local Area Plan.
- (c) the nature, scale and design of the proposed works as set out in the application for approval and the pattern of development in the vicinity,
- (d) the documentation and submissions of the Local Authority, including the environmental impact assessment report and associated documentation submitted with the application, and the range of mitigation and monitoring measures proposed,

- (e) likely effects and 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 and
- (f) the submissions made in relation to the application
- (g) the report and recommendation of the inspector.

Appropriate Assessment

Appropriate Assessment – Stage 1

The Board completed an Appropriate Assessment screening exercise in light of the assessment requirements of Section 177U of the Planning and Development Act 2000, as amended, in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development, the Screening Report for Appropriate Assessment in Appendix A of the Natura Impact Statement, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and it was concluded that the proposed road development may give rise to significant effects on the Kenmare River SAC (site code 002158), Drongawn Lough SAC (site code 02187), Blackwater River SAC (site code 002173), Old Domestic Building Askive Wood SAC (site code 002098), and Old Domestic Building Dromore Wood SAC (site code 00353)

Appropriate Assessment Stage 2

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed road development for the affected European Sites, namely Kenmare River SAC (site code 002158), Drongawn Lough SAC (site code 02187), Blackwater River SAC (site code 002173), Old Domestic Building Askive Wood SAC (site code 002098), Old Domestic Building Dromore Wood SAC (site code 00353) in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment.

In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed road development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the conservation objectives for the European Sites.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed road development on the aforementioned European Sites, having regard to the sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed road development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' conservation objectives.

Environmental Impact Assessment:

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

- (a) the nature, scale and extent of the proposed development;
- (b) the environmental impact assessment report and associated documentation submitted in support of the application;
- (c) the submissions from the applicant and prescribed bodies in the course of the application and application
- (d) the Inspector's report

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant provided information which was reasonable and sufficient to allow the Board to carry out an environmental impact assessment and to reach a reasoned conclusion on the significant effects of the proposed development on the environment taking into account current knowledge and methods of assessment and the results of the examination set out in the Inspector's Report .

The Board is satisfied that the Inspector's report sets out how these various environmental issues were addressed in the examination and recommendation and are incorporated into the Board's decision.

Reasoned Conclusion on the Significant Effects

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:

- **Population and Human Health**
 - Adverse impacts from noise and dust may arise from construction activities. A suite of mitigation measures to manage noise during the construction phase are set out in sections 10.5.1, 11.6.1 and 11.6.2 and as summarised in sections 17.8 and 17.9 of the EIAR.
 - In terms of the operational phase the proposed development would have a positive impact in that the scheme is to be constructed with a low noise surface which will have a 1.5dB(A) reduction in road traffic noise at all locations from the current baseline situation.
 - Positive effects in terms of the increased benefits in terms of reduction in vehicular hazard.

- **Water**
 - Potential adverse impacts arising from risk of pollution of ground and surface water during the construction and operational phases. The impacts would be mitigated by measures within a Construction Erosion and Sediment Control Plan and adherence to best practice construction measures and incorporation of appropriate drainage facilities as set out in sections 6.6.1.3 to 6.6.1.4 and commitments 1 to 15 in Section 17.4 of the EIAR. The proposed drainage arrangements will provide for an improvement on the current regime which currently drains to the local receiving waters by runoff and groundwater flow.
 - Lough Fadda is a source of water supply for 5 no. properties to the south. Construction works will disrupt this supply. An alternative supply will be required during the duration of construction works at the

lough. Monitoring during and post construction will be undertaken to ensure adequate supply and quality.

- **Biodiversity**

- Construction activity has the potential to impact negatively on lesser horseshoe bat roosts. The removal of hedgerow/treelines, scrub and woodlands and use of lighting could result in disturbance/displacement. Mitigation measures are set out in sections 9.7.1.9 and commitment No.9 of section 17.7 of the EIA.
- The proposal will result in loss of habitat supporting Kerry slug. It will be necessary to remove Kerry Slug from impacted habitats. Individual slugs and features which may contain Kerry Slug within the footprint of the works will be translocated to adjacent lands which are known to contain existing populations of the species. Mitigation measures are set out in Section 9.7.1.6 and commitment no. 6 of Section 17.7 of the EIA.
- Freshwater Pearl Mussel in Tahilla River has the potential to be impacted negatively by water quality changes. Mitigation measures are detailed in sections 8.5.2.1 to 8.5.2.5 and commitments 1 to 20 of section 17.6 of the EIA.
- The proposal could facilitate the indirect spread of invasive species. An Invasive Alien Species Management Plan is to be prepared.
- Permanent loss of a small portion of Lough Fadda which will be infilled to accommodate the proposed road development. This loss cannot be mitigated.

- **Material Assets**

- The proposed development would give rise to significant impacts on Material Assets and Land arising from the compulsory acquisition of land to allow for the development. The TII/NRA's Code of Practice Guide to Process and Code of Practice for National Road Project Planning and Acquisition of Property for National Roads will be adhered to and the mitigation measures with regard to timing of works,

consultation with property owners, restoration of access, boundary treatment, drainage and services will be carried out.

- **Landscape**

- Visual Impacts will arise from the PRD. Landscape mitigation proposals shall take account of the approaches and principles set out in A Guide to Landscape Treatments for National Road Schemes in Ireland with planting and landscaping to be carried out in accordance with the mitigation measures set out in sections 13.6.1. and 13.6.2 and detailed in Table 17.11.

It is considered that subject to the implementation of the mitigation measures referred to above and as detailed throughout the chapters of the EIAR including Chapter 17 Summary of Mitigation Measures the effects on the environment of the proposed development in the vicinity, would be acceptable in respect of the delivery of the physical infrastructure and any associated direct impacts.

However the provision of such an isolated piece of infrastructure, including segregated facilities for vulnerable road users, which does not commence or finish in a settlement or connect to other cycling or walking routes, could have an adverse impact in terms of pedestrian/cyclist safety and could result in the replacement of an existing substandard road with a suboptimum solution which, itself, could give rise to conflicting movements and traffic hazard and consequent adverse impact on **population and human health**. In addition, in the absence of any proposals for improvement works which the PRD would tie into and absence of a strategy for the planned schedule of improvements to the N70 which has due regard of the function of the road as part of the area's tourism infrastructure and which will ensure the efficient use of scarce resources whilst maximising the benefit to all road users, it is considered that the proposal constitutes a disorderly form of development and will create a significant catalyst for the justification and advancement of comparable schemes in remote locations and the preponderance of a disjointed and haphazard approach to improvements on the N70 with consequent adverse impact on the N70 as a **material asset**.

Overall, the Board cannot be not fully satisfied that the proposed development would not have any unacceptable effects on the environment.

Proper Planning and Sustainable Development

It is considered, notwithstanding the deficient cross section and alignment of the existing N70 National Secondary Road, that the proposed improvement works to Type 3 Single Carriageway Road standard which provides for a segregated cycle/pedestrian facility would, if permitted and constructed, constitute isolated infrastructure in a remote location. In the absence of a strategy for future improvements to the N70 which forms part of the Ring of Kerry and Wild Atlantic Way tourist routes into which the proposed improvement works would connect the proposed road development would not represent a coherent approach and would not have the potential to fulfil the functions envisaged for the Scheme. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

13.3. Schedule 2 - Compulsory Purchase Order

DECISION

Having regard to the stated purpose of the acquisition as set out in the compulsory purchase order, the acquisition by the local authority of the land referred to in the compulsory purchase order is not necessary due to the Board's decision to refuse to approve the N70 Sneem to Blackwater Bridge (Ankail to Doon) Road Project under file reference number ABP 309196-19.

Pauline Fitzpatrick
Senior Planning Inspector

January, 2021

Appendix 1 – Summary of Oral Hearing

Remote by Microsoft Teams

Tuesday 17th November, 2020

Note: Copies of the submissions by the Local Authority, Mr Riepe and Mr. Woodstock were forwarded to the Board in electronic form on Friday 13th November as requested in the Agenda previously circulated.

CPO - Landowners

Mr. Michael Munnely, Junior Counsel representing Mr. Claus Wilhelm Riepe

Mr. Peter Woodstock

Local Authority

Conleth Bradley, Senior Counsel

Mr. Dara Walsh, Senior Executive Engineer, Project Manager

Mr. John O'Donovan, RPS Design Lead

Mr. Damien McGinty, Acting Senior Planner

Note 1: The proceedings of the Oral Hearing are recorded. What follows below is a brief outline of the proceedings. This outline is proposed to function as an aid in following the recording.

Note 2: My report makes reference to prepared texts/details submitted at the Oral Hearing.

CPO Objections/Submissions

Mr. Munnely on behalf of Mr. Riepe

Wishes procedural objections to be noted:

1. the Board's refusal for an adjournment of the hearing
2. procedural unfairness in terms of breath of documentation submitted by Kerry County Council in response to his written submission dated January 2020 only a few days before the hearing.
3. Kerry County Council's failure in terms of public consultation in 2017.

4. holding of the hearing remotely.

The CPO of his land in its current form has not been clearly justified in the interests of the common good (Clinton v. An Bord Pleanala). An online improvement to meet the design needs is sufficient and could be achieved without the need to construct a new road line through Mr. Riepe's property. Consideration should be given to a revised proposal with the introduction of a slight curvature in the straight stretch of road which passes his lands. While the extent of the CPO is not the basis for the objection the proposed redesign would require a reduced land take. Mr. Riepe is supportive of an on-line improvement. The construction of the new off line section which impacts on his lands is unnecessary. A redesign introducing a slight curvature through his lands would reduce the extent of CPO. The applicant has not provided sufficient evidence that the design is necessary or justified. The Inspector is requested to make a recommendation for such a modification.

The PRD is incongruous with the historic layout of the road and fails to properly appreciate the Ring of Kerry with the journey as important as the destination. Improvements need to be carefully considered and not just engineering requirements met. The public interest is questionable

In terms of the applicant's submission with respect to vehicular speed and noting that the 80 kph speed limit will remain and the fact that Failte Ireland and An Taisce were consulted, Mr. Riepe's concerns as set out in his written submission with respect to speed, tourism and conservation are withdrawn.

Mr. Woodstock made a submission in favour of the CPO. He has 1km of lands along the N70 along which there are half completed works and a dangerous bend.

Local Authority

Mr. Bradley stated that the statutory procedures regarding public participation were adhered to.

In order to avoid undue repetition the representatives of the Local Authority read specific sections of the written submissions to the hearing:

Mr. O'Donovan (2 submissions - copies attached) set out the need for the scheme, project objectives, design alternatives, the proposed design including details on proposed road cross section. Along this section of the N70 there are 8 curve

elements back to back with curve range in radius from 73 to 210 metres. The desirable design radius for design speed of 85 kph is 510 metres. He also addressed the impact of the CPO on Mr. Riepe's property including local technical objectives, western tie-in alternative, impact on site access and safety of other road users in addition to the character of the route and tourism impacts and wider plans to develop Ring of Kerry. Issue of consultation with Mr. Riepe also addressed.

Mr. Walsh (1 submission – copy attached) gave a description of existing road including cross section, alignment, overtaking sight distance and stopping sight distance, junctions and accessed and pavement condition. Accident data is provided. The strategic need for the PRD is set out. The submission also addressed land acquisition and extinguishment of public right of way required for the PRD. The project benefits are detailed.

Mr. McGinty in his submission (copy attached) set out the planning policy context of the PRD.

Mr. Bradley made reference to case law – Clinton v. An Bord Pleanala, Reid and IDA. The PRD meets the tests of satisfying the common good, it is proportionate, fair, incurs on property rights as little as possible and is necessary to achieve its purpose.

Responses to Questions

Mr. O'Donovan:

Whilst curves in design are necessary the objective is to design out successive curves. An alternative design introducing a curve in the vicinity of Mr. Riepe's property would offset the safety benefits of the optimum design. The proposed arrangement would enhance 3 accesses with improvements through visibility. The introduction of a curvature coupled with the widened road would create dubious sight lines. The stretch of road in question is approx. 145 metres and the objective is to go apex to apex with curves to the east and west.

The cross section at Mr. Riepe's property is 13.5 metres and compliant design.

44 departures are made along the PRD so as to minimise land take and to retain the existing character of the road. No departure was sought at the western section of

the PRD with the objective to improve ride quality and to provide as safe a transition as possible.

The photographs of the road improvement near Milltown in Mr. Riepe's submission are noted. He stated that the design intent of the said road improvements which was an Type 2 off line road was different to those of the PRD.

Mr. Walsh:

There are no current plans for road improvement works to the west of the PRD. A 1.2km stretch of the N70 at Brackagh has gone through Part 8 procedures for improvements with another scheme to the south of Waterville at non-statutory consultation stage. Approx. 15 km of the N70 are at various stages of planning and design.

Mr. Munnelly stated that the CPO was the subject of the hearing and not the merits of the PRD. Its current form is what is required to be justified

Closing Statements

Mr. Bradley stated that the tests to be met with respect to the CPO have been met.

Mr. Munnelly reserves his client's objection. It is open to the Board to seek a variation of the CPO.

Hearing Closed