



An  
Bord  
Pleanála

## Inspector's Report

### ABP-315195-22

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<b>Development</b>	Kilkenny County Council Compulsory Purchase Order No. 5 of 2022 N24 Carrick Road Improvement Scheme (Clonmore to Mooncoin)
<b>Location</b>	N24 Carrick Road, Clonmore to Mooncoin, Co. Kilkenny
<b>Planning Authority</b>	Kilkenny County Council
<b>Applicant(s)</b>	Kilkenny County Council
<b>Observer(s)</b>	See Appendix 1
<b>Date of Site Inspection</b>	9 <sup>th</sup> November 2023
<b>Inspector</b>	Liam Bowe

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## 1.0 Introduction

### 1.1. Overview

- 1.1.1. This is an application by Kilkenny County Council for confirmation by the Board of a Compulsory Purchase Order ('CPO'), entitled the 'N24 Carrick Road Improvement Scheme (Clonmore to Mooncoin)' Compulsory Purchase Order No.5 of 2022'.
- 1.1.2. The Compulsory Purchase Order relates to the compulsory acquisition of rights over land in the townlands of Clonmore, Grange and Pollrone to the west of Mooncoin village, and it is made pursuant to the powers conferred on Kilkenny County Council which is a designated road authority under Section 2(1) of the Roads Act 1993, as amended.
- 1.1.3. 5 submissions were received during the consultation period.

### 1.2. Purpose of CPO

- 1.2.1. The purpose of the CPO is to facilitate the undertaking of the development referred to as the 'N24 Carrick Road Improvement Scheme (Clonmore to Mooncoin)', the construction of the road realignment which has an overall length of approximately 2.2km and is routed along and north of the existing N24 national road to the west of the village of Mooncoin, within the Kilkenny County Council administrative area.
- 1.2.2. The overall need for the Proposed Scheme is to improve journey times and average mainline speeds; to improve capacity, drivability, safety and efficiency of the N24 by providing a suitable and sustainable road type, plus road alignment to meet current and future needs; and to improve facilities for vulnerable road users, including separation distances from vehicular traffic on the national road network. Without such interventions traffic congestion will lead to longer and less reliable public transport journey times and car/ commercial traffic journey time reliability throughout the region. It is stated that the Proposed Scheme is needed because it will enable and deliver efficient, safe, and sustainable transport movement along the route.
- 1.2.3. Kilkenny County Council have sent 79 notices to Landowners and Lessee Occupiers along the proposed route. Landowners include Kilkenny County Council and private landowners. All owners and associated parcels to be acquired are detailed in the document titled 'N24 Carrick Road Improvement Scheme (Clonmore to Mooncoin)

Compulsory Purchase Order No. 5 of 2022 (November 2022)' which has been submitted with the CPO application.

### 1.3. **Accompanying documents**

1.3.1. The application was accompanied by the following:

- Compulsory Purchase Order and Schedule thereto, dated 7<sup>th</sup> July 2022.
- CPO Maps.
- Newspaper notice, published in the Kilkenny People dated the 25<sup>th</sup> day of November 2022 and the Irish Independent dated the 23<sup>rd</sup> day of November 2022.
- Copy of notice sent to landowners.
- Copy of registered postal receipt for service of each CPO notice.

### 1.4. **Format of CPO and Schedule**

1.4.1. The CPO states that the lands are required for the purposes of facilitating public transport, and together with all ancillary and consequential works associated therewith.

- The lands described in Part I of the Schedule is a house being permanently acquired,
- Lands described in Part II of the Schedule is land being permanently and temporarily acquired,
- Lands described in Part III describe public rights of way to be restricted or otherwise interfered with.
- Land described in Part IV provide a description of public rights of way to be extinguished.

1.4.2. Temporary land takes are required to facilitate construction of the Proposed Scheme and will be returned to the landowner on completion of the scheme.

1.4.3. There is a house which is described as unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense described in the Schedule.

- 1.4.4. The Schedule and all relevant Parts as aforementioned assigns an identification number to each plot of land and describes the quantity, type, townland, owner or reputed owner, lessee or reputed lessee and occupier of each plot, as relevant.

## **2.0 Site Location and Description**

- 2.1. The proposed road development is located to the west of Mooncoin village, in south Co. Kilkenny.
- 2.2. The proposed road improvement scheme provides a realignment of 1.25km of the N24 national road and improvement of 950m of the national road i.e., 2.2km in length between the end of the existing 2 and 1 lane national road and the western entry point to Mooncoin village. The western and eastern portions of the proposed new road will provide improvements to the existing carriageway. The middle section of the proposed scheme will comprise a realigned section of road (1.25km) that is primarily through agricultural land to the north of the existing N24. This mid-section will traverse a small stream (Skelpstown Stream) and a local road (L7416). These will be bridged, and vehicular and pedestrian access will be provided as well as a tunnel for agricultural use/ access.
- 2.3. The areas where attenuation ponds are proposed are part of existing agricultural fields. The attenuation pond to the north of the proposed road realignment is adjacent to the Skelpstown Stream. It is suggested by the applicant that the area to the south of the proposed scheme where the second attenuation pond is proposed may be also used as a construction compound.
- 2.4. There are 17 no. existing houses with direct access to the N24 along this section of the road, two of which are associated with a working farm. There is also a light industrial/ storage depot with direct access to the existing road. Clonmore Junction, located at the westernmost point of the application site, provides access to the N24 for a further 7 no. houses and a working farm.

## **3.0 Planning History**

- 3.1. The main relevant planning applications and future proposed developments are set out in section 5.4.6 of the EIA Screening Report prepared by Barry Transportation for

the associated planning application (ABP-315197-22 refers). In terms of planning applications, the most significant of these is located 1.5km west of the proposed scheme on the other side of the River Suir in Killowen, Co. Waterford.

**P.A. Ref. No.20761:** Permission granted for development at existing Composting and Anaerobic Digestion Facility that will facilitate an increase in the intake of materials at the facility from 40,000 tonnes to 80,000 tonnes per annum. The application relates to development for the purposes of an activity requiring a licence under the Industrial Emissions Directive. An Environmental Impact Assessment Report and a Natura Impact Statement were submitted to the Planning Authority with the application.

#### **4.0 Overview of Submissions**

- 4.1. 5 submissions have been received in relation to the proposed CPO, 3 no. relate to the process, 1 no. relates to the possibility of the landholding being affected by future CPO's for the Mooncoin bypass, and 1 no. relates to excessive land-take.
- 4.2. The issues raised relate to the proportionality of the scheme, third parties consider that the land take is excessive in certain areas and are concerned about the functionality of their properties in terms of egressing and ingressing. Concerns are also raised in relation to access to severed lands and the design details of Clonmore junction. A third party has expressed disappointment that the Board will not be holding an Oral Hearing in relation to the CPO in this report.
- 4.3. All matters pertaining to the proper planning and sustainable development are examined in detail within the planning application report ref: ABP-315197-22 and I refer the Board to this report. I will examine the relevant concerns raised in relation to the assessment of the CPO in terms of community need, compliance with the development plan, proportionality and necessity of level of acquisition proposed, alternatives and suitability of lands.
- 4.4. I note that Kilkenny County Council has responded to the issues raised and such responses will be examined the context of submissions within the assessment section of this report hereunder.

## 5.0 Policy Context

### 5.1. Regional Spatial and Economic Strategy for the Southern Region (RSES)

- 5.1.1. RPO 167 sets out priorities for identified strategic road network improvements that are not included in the NDP. Improvements to national roads identified at regional and local level will be done in consultation with and subject to agreement with TII. The provision of a number of projects are supported as strategic regional priorities to achieve the NPF objective NSO2, Enhanced Regional Accessibility. Upgrades and improvements to the N24 Limerick to Waterford corridor are identified as a project of relevance in this respect.

### 5.2. Kilkenny City & County Development Plan 2021-2027

- 5.2.1. Section 12.11.6 of the Plan outlines national road improvement projects for National Roads projects such as the N24 that are of strategic importance to facilitate inter- and intraregional accessibility. It is stated that the Council, with the support of Transport Infrastructure Ireland (TII), supports and is progressing/developing a number of schemes within County Kilkenny as follows:

- **N24 Carrick Road Improvement Scheme**
- N24 Waterford to Cahir Scheme.
- N24 Tower Road Junction Improvement Scheme.
- N25 Waterford to Glenmore Scheme
- N77 Ballyragget to Ballynaslee
- N77 Kilkenny City (Dunmore) to Ballyraggett

- 5.2.2. National Road Policy is outlined in section 12.11.7 and states that:

The Council will support the implementation of the TII projects as outlined above and will safeguard the strategic capacity of national road junctions and preserve free from development proposed road realignment/improvement lines and associated corridors where such development would prejudice the implementation of Transport Infrastructure Ireland (TII) or County Council plans.

## **Objective 12Z**

To protect the study area, route corridor options and thereafter the preferred route corridor selected for the national road schemes being progressed in the Development Plan in accordance with National Development Plan Objectives and to prohibit development that could prejudice their future delivery.

## **6.0 Assessment**

### **6.1. Overview**

6.1.1. For the Board to confirm the subject CPO, it must be satisfied that the National Transport Authority has demonstrated that the CPO "is clearly justified by the common good". This requires the following minimum criteria to be satisfied:

- There is a community need that is to be met by the acquisition of the site in question,
- The particular site is suitable to meet that community need,
- Any alternative methods of meeting the community needs have been considered but are not demonstrably preferable, and
- The works to be carried out should accord with or at least not be in material contravention of the provisions of the statutory development plan.
- The extent of land-take should have due regard to the issue of proportionality.

6.1.2. I will therefore address each of the five criteria outlined above in turn below, together with the issue of proportionality and other issues arising from the submissions.

### **6.2. Community Need**

6.2.1. The proposed development is being developed in response to the need for improved road capacity along this part of the N24 national road. This section of the N24 has restricted capacity due to its limited cross section and sub-standard alignment. These constraints contribute to the absence of overtaking opportunities and inconsistent traffic flow regimes on the route. There is a record of accidents arising on the stretch of road under consideration.



- 6.2.2. The provision of an improved section of road, designed to contemporary standards and providing safe overtaking opportunities, will increase the overall consistency, safety and efficiency of the route. The N24 Carrick Road Improvement Scheme will also provide safer journeys as well as more reliable and reduced journey times. The Proposed Scheme will also provide an underbridge that will improve the localised environment for residents and reduce journey times and provide safer journeys to motorized and non-motorized users.
- 6.2.3. The safety objective of the proposed realignment is to maintain the existing collision rankings at below or twice below the national average rates, with an improvement in average mainline speeds within the project extents. It is also an objective to complement wider government policy related to improved accessibility from socially disadvantaged areas and to improve facilities for vulnerable road users, including separation distances from vehicular traffic on the national road network.
- 6.2.4. The proposed N24 Carrick Road Improvement project is consistent with the objectives and visions for the N24 as set out in the RSES. The N24 Carrick Road Improvement Scheme is a discreet minor scheme that will address the safety issues owing to the substandard nature of the N24 along this section.
- 6.2.5. It is considered, therefore, that the Proposed Scheme will benefit the community as a whole. While there will be impacts, including significant impacts, for individual landowners, whose lands are to be acquired, it is considered that the CPO can be justified by the exigencies of the common good. I conclude, therefore, that the community need for the scheme has been established.

### 6.3. **Suitability of Lands**

- 6.3.1. At the outset, the Board will note that Kilkenny County Council are seeking to both permanently and temporarily acquire lands.
- 6.3.2. The lands that are the subject of this CPO are currently used for a number of uses including private gardens, private entrances, public roads, private roads, stream/ watercourse and agricultural lands. The Board should note that the scheme for the most part will comprise lands within/ adjacent to the existing public road and agricultural lands where there is no specific zoning objective. In fact, there are no land use zonings pertaining to the lands that are the subject of the CPO.

- 6.3.3. The deposit map booklet identifies all lands that are being acquired on both a permanent and temporary basis and identifies lands on which public rights of ways will be altered or interfered with.
- 6.3.4. As noted in Section 2.0 above, the proposed road improvement scheme provides a realignment of 1.25km of the N24 national road and improvement of 950m of the national road i.e., 2.2km in length between the end of the existing 2 and 1 lane national road and the western entry point to Mooncoin village. The western and eastern portions of the proposed new road will provide improvements to the existing carriageway. The middle section of the proposed scheme will comprise a realigned section of road (1.25km) that is primarily through agricultural land to the north of the existing N24. This mid-section will traverse a small stream (Skelpstown Stream) and a local road (L7416). These will be bridged, and vehicular and pedestrian access will be provided as well as a tunnel for agricultural use/ access. The areas where attenuation ponds are proposed are part of existing agricultural fields. The attenuation pond to the north of the proposed road realignment is adjacent to the Skelpstown Stream.
- 6.3.5. I refer the Board to the assessment within Section 8.3 of the planning report with the associated concurrent planning application (ABP-315197-22 refers) and to the conclusions that the proposed road design, specification, cross-section and junction strategy are appropriate. The extent of land that would be acquired under the compulsory purchase order is determined by the specifications for same, with additional lands also required for various purposes in connection with the Proposed Scheme (e.g., biodiversity mitigation and attenuation ponds). It is considered reasonable to conclude that, having regard to the development of the route as proposed, the lands proposed to be acquired are necessary and suitable to facilitate the provision of the Proposed Scheme. It is, therefore, accepted that there is a requirement for all of the lands included in the CPO. Some of the objections contend that the extent of proposed acquisition is excessive. These individual objections will be considered below. It is considered that all lands identified in the CPO are required in connection with the Proposed Scheme and that they are suitable for such use.
- 6.3.6. Overall given the current use of lands and the limited extent of lands to be acquired which lie directly adjacent to the existing carriageway and agricultural lands to the

north of the carriageway, I am satisfied that the lands to be acquired are suitable for such use.

#### **6.4. Accordance with Development Plans**

- 6.4.1. At a national level, National Policy Objective 2 in the NPF relates to enhancing regional accessibility between centres of scale separate from Dublin and to significantly improving connectivity, focusing on cities and larger regionally distributed centres on key east-west routes. Similarly, the National Development Plan 2018 – 2027 seeks the delivery of major national infrastructure projects in the interest of regional connectivity and the Proposed Scheme is one such project.
- 6.4.2. At a regional level, policy objective RPO 167 in the Regional Spatial and Economic Strategy sets out priorities for identified strategic road network improvements that are not included in the NDP. Improvements to national roads identified at regional and local level will be done in consultation with and subject to agreement with TII. The provision of a number of projects are supported as strategic regional priorities to achieve the NPF objective NSO2, Enhanced Regional Accessibility. Upgrades and improvements to the N24 Limerick to Waterford corridor are identified as a project of relevance in this respect.
- 6.4.3. At a local level, Section 12.11.6 of the Kilkenny City & County Development Plan outlines national road improvement projects for National Roads projects such as the N24 that are of strategic importance to facilitate inter- and intraregional accessibility. It is stated that the Council, with the support of Transport Infrastructure Ireland (TII), to support and developing the N24 Carrick Road Improvement Scheme. Further to this, National Road Policy is outlined in section 12.11.7 and states that the Council will support the implementation of the TII projects, including the N24 Carrick Road Improvement Scheme, and will safeguard the strategic capacity of national road junctions and preserve free from development proposed road realignment/ improvement lines and associated corridors.
- 6.4.4. I am satisfied, having regard to this clear statement in the Development Plan, that the land required for the Proposed Scheme takes precedence over other land uses in the area. On the basis of the above, I am satisfied that the Proposed Scheme is consistent with all applicable planning policy and, more particularly, is supported by

and in accordance with the objectives of the Kilkenny City & County Development Plan.

- 6.4.5. In conclusion, given the policy documents and plans at national, regional and local level that support the proposed scheme and the type of scheme facilitating sustainable and active travel, I am satisfied that the proposal is justified and in accordance with the overriding policy position set out within the Kilkenny City & County Development Plan 2021-2027 and other national and regional policy documents as set out within the policy section of this report above.

## **6.5. Use of Alternative Methods**

- 6.5.1. The consideration of Alternatives is documented within Section 5 of the Scheme Feasibility & Route Options Report submitted with the planning application ABP-315197-22. I note that alternatives were considered at three levels, strategic alternatives, route alternatives and design alternatives.
- 6.5.2. Alternatives including 'do-nothing', 'do-minimum' and 'do-something' scenarios were considered in accordance with the TII Project Appraisal Guidelines for National Roads (TII, 2016) which implement the Guidelines on a Common Appraisal Framework for Transport Projects and Programmes (Department of Transport, Tourism and Sport, 2016).
- 6.5.3. Furthermore, 3 no. Route Corridor Options were identified for the N24 Carrick Road Improvement Scheme. Within these Corridor Options, it states that nine Alignment or Preliminary Design Options were developed. These are outlined in Section 6 of the Scheme Feasibility & Route Options Report. All Corridor Options traverse through the townland's of Clonmore, Grange and Pollrone to the west of Mooncoin village. Consequently, the geographical extent and associated impacts or effects are limited to a relatively small local area.
- 6.5.4. There is a parallel rail link / network alternative to the existing N24 road-based route which serves Waterford, Carrick-on-Suir, Clonmel, Cahir, Limerick Junction and Limerick City and I note that the nearest adjacent train stations are located in Waterford and Carrick-On-Suir. There are also number of existing through bus services on the N24 between Waterford. However, given the limited geographic area of the project along the N24 (<3km), the applicant states that development of rail or

bus alternatives will not satisfy or address the objectives of the scheme. I agree with this assessment.

### Route Alternatives

- 6.5.5. The applicant outlines within section 6 of the Scheme Feasibility & Route Options Report that alternative route options have been considered throughout the design development in response to consultations held with the public. The route selection process is clearly outlined, and I note that a sifting process ensued resulting in the development of 2 routes, which are appraised in section 7 of the Scheme Feasibility & Route Options Report.
- 6.5.6. These routes were then considered against environmental considerations such as geology, groundwater, soils, drainage, air quality, noise and vibration, landscape and visual, ecology and biodiversity, potential archaeological, architectural and cultural heritage impacts. Other constraints relating to these routes such as the extent of third-party lands to be acquired was also considered and the route selections reduced and modified accordingly.
- 6.5.7. Having regard to the information submitted it is clear that the applicant has considered a significant number of options for the Proposed Scheme and has been responsive to consultations held and concerns raised by the public. Each emerging route was considered in relation to a number of criteria such as economy, safety, integration, accessibility and social inclusion and environment.
- 6.5.8. Thus, having regard to the information provided by Kilkenny County Council in relation to the alternatives considered I am satisfied that a significant number of options have been considered in detail and that the process undertaken by the applicant has been a robust assessment of alternative options having regard to environmental considerations and the stated Project Objectives, which are considered to be reasonable. I agree that the route chosen is the one which best meets these objectives. I also accept that the consideration of options within the selected route corridor and the strategy for key infrastructure provisions was a rigorous process, which had regard to environmental considerations and to the Project Objectives. I therefore generally concur with the reasons for choosing the preferred alternatives as presented in the Scheme Feasibility & Route Options Report.

## **6.6. Proportionality**

- 6.6.1. I am satisfied that the process and procedures undertaken by Kilkenny County Council have been fair and reasonable, that Kilkenny County Council has demonstrated the need for the lands and that all the lands being acquired are proportionate, necessary, and suitable to facilitate the provision of N24 Carrick Road Improvement Scheme.
- 6.6.2. Having regard to the constitutional and Convention protection afforded to property rights, I consider that the acquisition of lands, acquisition of wayleaves, and extinguishment of rights of way as set out in the compulsory purchase order and on the deposited maps pursues, and is rationally connected to, a legitimate objective in the public interest, namely the N24 Carrick Road Improvement Scheme.
- 6.6.3. I am also satisfied that the acquiring authority has demonstrated that the means chosen to achieve that objective impair the property rights of affected landowners as little as possible; in this respect, I have considered alternative means of achieving the objective referred to in submissions to the Board, and am satisfied that the acquiring authority has established that none of the alternatives are such as to render the means chosen and the CPO made by the acquiring authority unreasonable or disproportionate.
- 6.6.4. The effects of the CPO on the rights of affected landowners are proportionate to the objective being pursued. I am further satisfied that the proposed acquisition of lands, acquisition of wayleaves, and extinguishment of rights of way would be consistent with the policies and objectives of the Kilkenny City & County Development Plan 2021-2027. Accordingly, I am satisfied that that the confirmation of the CPO is clearly justified by the exigencies of the common good.

## **6.7. CPO Issues common to Objectors**

- 6.7.1. Concerns were raised in relation to a number of common issues which I will group together and examine hereunder. It is important for the Board to note, as mentioned above, concerns relating to planning matters such as noise, air and visual and residential amenity impacts are dealt have been examined within the planning application report for this scheme ref: ABP-315197-22, and as such this report

should be read in conjunction with the aforementioned planning application report for the Proposed Scheme.

#### Engagement in the Process

- 6.7.2. Third Parties raised concerns and expressed dissatisfaction in relation to the level of engagement by Kilkenny County Council in relation to the process.
- 6.7.3. Whilst I acknowledge third parties' submissions in this regard, I have reviewed the file in relation to the statutory obligations in relation to engagement of landowners and note that Kilkenny County Council has complied with its statutory obligations in relation to the notification of landowners in relation to the process and also advertised the process accordingly. I can therefore find no failure in relation to Kilkenny County Council's compliance with the relevant legislation in this regard.
- 6.7.4. I note that a Communications Plan in conjunction with the appointed contractor will be put in place to ensure dialogue in relation to any accommodation works to be carried out between property owners and Kilkenny County Council's Roads Section.

#### Impact on Access

- 6.7.5. A number of the third parties raised concerns about access to their lands post-development. Specifically, the owner of Plot No.105a contended that no information was provided regarding the access to the retained land arising from the CPO. Similarly, both the owner and lessee of Plot No.115 consider that access to severed lands is totally inadequate and request that a livestock tunnel be provided.
- 6.7.6. In this regard, I have reviewed the deposit maps and Kilkenny County Council's response to such concerns in relation to each of the individual properties. Kilkenny County Council have also confirmed that access to both Plot no.105a and Plot no.115 is provided (per Drawing No.KK1613403-P3-GA-004 submitted with the associated planning application – ABP-315197 refers). Access to Plot no.105a is demonstrated at CH175 on this drawing and takes the form of a standard agricultural access. Access to Plot no.115 is two-part, the southern part of the field access will remain as it is (CH540 on Drawing No.KK1613403-P3-GA-002) onto the downgraded road, and access to the northern part of the holding will be via a field access track that will run adjacent to the newly aligned section of road. This field access track will run in a westerly direction to the L7416 Grange Road. An

underbridge is provided at this location and a cattle underpass is provided at this location.

- 6.7.7. Kilkenny County Council do not consider that the provision of a tunnel for access to Plot no.115 is either warranted or justifiable. I agree with this assertion as I consider the provision of an underpass via the L7416 and a more direct road crossing on what will now be designated as a local road would be significantly safer than the existing arrangement on the N24 and, therefore, the provision of a tunnel is not warranted.
- 6.7.8. I am satisfied that Kilkenny County Council have demonstrated that access to all agricultural lands will be satisfactorily provided, and that it will be provided in a manner that will improve road safety and not impede the operation of each holding for agricultural purposes. Similarly, I am satisfied that access to private houses, which may be temporarily inconvenienced during the construction phase, will be significantly improved and all private accesses from CH360 to the end of the scheme will be removed entirely from the newly aligned N24.

#### Clonmore Cross

- 6.7.9. A number of the third parties raised concerns about the safe operation of Clonmore Junction. The Board should note that Clonmore Junction is located at the westernmost point of the application site and presently provides access to the N24 for a 7 no. houses and a working farm. The applicant is proposing to link a further two existing houses, that presently have direct access/ egress from/ to the N24, to the Clonmore Junction.
- 6.7.10. Having reviewed the information and having travelled the N24, it is clearly evident that apart from some sections of the road where improvements have taken place, this section of the N24 immediately to the west of Mooncoin village is below the required standards to address traffic capacity and road safety. Overall, this section of the N24 is constrained in terms of traffic flow because of the multiple accesses and minor junctions.
- 6.7.11. Within the last 10 years, Kilkenny County Council has implemented 80kph speed limit zones (circa 2008) and low cost safety measures (circa 2012) on this section of the N24. These controls and measures in addition to the existing road character and geometry have resulted in reduced journey times and average speeds. An objective



of the Proposed Scheme is to maintain the existing collision rankings at below or twice below the national average rate, with improved average mainline speeds.

- 6.7.12. Overall, the realignment will result in the removal of 13 no. private access points, including a working farm/ cattle crossing point, from the N24. Two road junctions (L7416 and Pollrone Lane) will also be removed. Access to the N24 for users of these two roads/ junctions is provided via a newly designed junction at CH450. The two westernmost houses on the N24, that presently have direct access/ egress from/ to the N24, will be provided with a link road to the Clonmore Junction. There is presently a right-turning pocket on the N24 for access to the Clonmore junction and this will remain unchanged under the Proposed Scheme.
- 6.7.13. I am satisfied that the Proposed Scheme would provide an infrastructural basis for improving road safety and provide more reliable and reduced journey times, which is a matter that warrants high consideration given the significant positive outcome of improved road safety including reduction of loss of life and serious injuries for individuals and reduction of associated negative impacts for communities. Having examined the scheme, I am satisfied that it will not adversely impact the safe operation of the Clonmore Cross junction.

#### Excessive Land-take

- 6.7.14. Two of the third parties raised concerns about an excessive amount of land being taken, one in relation to the provision of an access road from Grange Junction to Clonmore Junction and the other in relation to the proposed route for the Mooncoin Bypass as part of the N24 Waterford to Cahir Project.
- 6.7.15. In the case of the provision of an access road from Grange Junction to Clonmore Junction, Kilkenny County Council state that the compulsory purchase of Plot no.106c is necessary to ensure that the Proposed Scheme complies with national policy for active travel by creating a safe access link for VRU's from the eastern extents to the western extents of the scheme. I note that the provision of a new 2.5m shared surface for non-motorized users along the length of the old N24 and then off road from Grange Junction to Clonmore Junction is clearly annotated on the General Arrangement Drawings submitted with the associated planning application (ABP-315197-22 refers). I am satisfied that this provision is necessary, appropriate, and proportionate.

6.7.16. The other landowner has a concern that her small holding may be affected again at a future date by the Mooncoin Bypass, which she contends would make her holding economically unviable. I note that the second public consultation on the N24 Waterford to Cahir Project is completed and that TII are presently preparing to publish the preferred route. Currently, there are 4 no. options under consideration including the option of providing a hybrid route of a combination of any these 4 no. options.<sup>1</sup> In response, Kilkenny County Council have stated that it is not possible to give confirmation that Plot no.111 will not be affected again as the preferred option for the N24 Waterford to Cahir Project is still within the options selection phase, with the preferred option expected to be announced in Q1 2024. I accept that no assurances can be given at present, and I am satisfied that any future impacts on this holding would be subject to the appropriate compulsory purchase and arbitration processes should this land be sought for acquisition.

#### Non-compliance with EU Law

6.7.17. Two of the objectors state that the proposed acquisition of lands is not in accordance with EU law. However, this is not elaborated upon in the objections. I am satisfied having regard to my assessment above that all criteria/ tests for the acquisition of these lands have been met.

## **7.0 Conclusion**

7.1. I have examined all of the issues raised within the submissions received. I am satisfied that the proposed extent of land acquisition is reasonable and proportional to the stated purpose of the Proposed Scheme. I am also satisfied that the process and procedures undertaken by the applicant have been fair and reasonable and it has demonstrated the need for the lands and that all the lands being acquired are both necessary and suitable. I consider that the proposed acquisition of the lands would be justified by the exigencies of the common good and would be consistent with national, regional and county level planning policies and objectives.

7.2. I am satisfied that: the process and procedures undertaken by Kilkenny County Council have been fair and reasonable, that Kilkenny County Council has

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<sup>1</sup> [Brochure-English\\_PC-no.2.pdf \(n24waterford2cahir.ie\)](#)

demonstrated the need for the lands and that all the lands being acquired are both necessary and suitable to facilitate the provision of the N24 Carrick Road Improvement Scheme.

- 7.3. Having regard to the constitutional and Convention protection afforded to property rights, I consider that the acquisition of lands, acquisition of wayleaves, and extinguishment of rights of way as set out in the compulsory purchase order and on the deposited maps as follows, pursues and is rationally connected to, a legitimate objective in the public interest, namely the provision of safer, efficient, sustainable public and private transport and active travel facilities.
- 7.4. I am also satisfied that the acquiring authority has demonstrated that the means chosen to achieve that objective impair the property rights of affected landowners as little as possible; in this respect, I have considered alternative means of achieving the objective referred to in submissions to the Board, and I am satisfied that the acquiring authority has established that none of the alternatives are such as to render the means chosen and the CPO made by the acquiring authority unreasonable or disproportionate.
- 7.5. The effects of the CPO on the rights of affected landowners are proportionate to the objective being pursued. I am further satisfied that the proposed acquisition of these lands on a permanent and temporary basis, acquisition of lands, acquisition of wayleaves, and extinguishment of rights of way would be consistent with the policies and objectives of the Kilkenny City & County Development Plan 2021-2027 in which the delivery of the proposed N24 Carrick Road Improvement Scheme is an objective. Accordingly, I am satisfied that that the confirmation of the CPO is clearly justified by the exigencies of the common good.

## 8.0 Recommendation

I recommend that the Board confirm, with no modifications, the Compulsory Purchase Order submitted to the Board on the 24<sup>th</sup> day of November 2022, based on the reasons and considerations set out below.

## 9.0 Reasons and Considerations

9.1. Having considered the objections made to the Compulsory Purchase Order, and not withdrawn, the report and recommendation of the Inspector, the purpose for which the lands are to be acquired, wayleaves are to be acquired and rights of way extinguished as set out in the Compulsory Purchase Order, and having regard to the following:

- (a) the constitutional and Convention protection afforded to property rights,
- (b) the substandard infrastructure provided for along the existing route,
- (c) the community need, and public interest served and overall benefits, including benefits to a range of road users to be achieved from use of the acquired lands,
- (d) the design response, which has been appropriately tailored to the identified need,
- (e) the suitability of the lands and the necessity of their acquisition to facilitate the provision of the N24 Carrick Road Improvement Scheme,
- (f) The policies and objectives of the Kilkenny City & County Development Plan 2021-2027,

it is considered that, the acquisition by Kilkenny County Council of the lands in question, and the acquisition of wayleaves and extinguishment of rights of way, as set out in the compulsory purchase order and on the deposited maps, is necessary for the purpose stated, which is a legitimate objective being pursued in the public interest, and that the CPO and its effects on the property rights of affected landowners are proportionate to that objective and justified by the exigencies of the common good.

In reaching this conclusion, the Board agrees with and adopts the analysis contained in the inspector's report.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Liam Bowe  
Senior Planning Inspector

4<sup>th</sup> January 2024

## **Appendix 1 Third Party Objections**

### **1. Kay Fripps: (111a, b, c, & d)**

- Seeks confirmation that her small holding will not be affected again at a future date.

### **2. Andrew Phelan: (105a, b, c & d; 106c; & temporary acquisition of 105T1 & 105T2)**

- Contends that the process is not in accordance with EU law and good practice.
- States that no information is provided regarding the access to the retained land arising from the CPO on Plot No.105a.
- Concerned that the proposed design for Clonmore Cross is more dangerous than the present layout.
- Contends that access from Grange junction to Clonmore junction is not required and, consequently, considers that the land-take is excessive at this location (Plot No.106c refers).

### **3. Edward Mackey (114; leased/ rented: 113a & b, 112a & b, 109c & 111a, b, c & d)**

- Contends that the process is not in accordance with EU law and good practice.
- Concerned that the proposed design for Clonmore Cross is more dangerous than the present layout.

### **4. Seán Mackey (115a, b & c)**

- Contends that the process is not in accordance with EU law and good practice.
- Contends that access to severed lands is totally inadequate and requests a livestock tunnel.

**5. Edward Doyle (101e; 103a, b, c & d; occupier on 115a, b, c, e, f & 101c)**

- Considers the land-take on Plot No.106a-d to be excessive as he contends that the new access road is not required.
- Considers access to his land impractical with no road tunnel for Plot No.115.
- Concerned that the proposed design for Clonmore Cross is more dangerous than the present layout.