



An
Bord
Pleanála

Inspector's Report

ABP-315197-22

Development

N24 Carrick Road Improvement
Scheme consisting of the realignment
of a 2.2km section of the N24 to
remove a series of bends to the west
of Mooncoin, Co. Kilkenny.

Location

N24 Carrick Road, Mooncoin, Co.
Kilkenny

Applicant

Kilkenny County Council

Type of Application

Application for approval made under
Section 177(AE) of the Planning and
Development Act, 2000

Prescribed Bodies

1. Health Service Executive (HSE)
2. Department of Housing, Local
Government and Heritage
(DoHLGH)

Observer(s)

1. Liam Mackey
2. People Before Bats Limited
3. Peter Sweetman

Date of Site Inspection

9th November 2023

Inspector

Liam Bowe

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1.0 Introduction

- 1.1. Kilkenny County Council is seeking approval from An Bord Pleanála to undertake a proposed road improvement scheme on the N24 Carrick Road to the west of Mooncoin village adjacent to the Lower River Suir SAC, which is a designated European site. A Natura Impact Statement (NIS) and application under Section 177AE was lodged by the Local Authority on the basis of the proposed development's likely significant effect on this European site.
- 1.2. Section 177AE of the Planning and Development act 2000 (as amended) requires that where an appropriate assessment is required in respect of development by a local authority the authority shall prepare an NIS and the development shall not be carried out unless the Board has approved the development with or without modifications. Furthermore, Section 177V of the Planning and Development Act 2000 (as amended) requires that the appropriate assessment shall include a determination by the Board as to whether or not the proposed development would adversely affect the integrity of a European site and the appropriate assessment shall be carried out by the Board before consent is given for the proposed development.
- 1.3. A compulsory purchase order (CPO) application is associated with the proposed development. This CPO application is also currently before the Board (ABP Ref. No.: ABP-315195-22 refers). Five objections to this were received by the Board to this CPO.

2.0 Site Description and Location

- 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 and 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 Proposed Development

- 3.1. The proposed development comprises the following:
 - A road improvement scheme of approximately 2.2km in length.
 - Approximately 950m of the road scheme will run along the existing N24 and the remaining 1.25km of the scheme would be realigned.
 - The provision of 2 no. attenuation ponds, with 2m high palisade fencing, one on the western side of the scheme and one on the eastern side of the scheme.
 - Proposed realignment of the Skelpstown 16 stream which flows through the site (and associated box culvert).
 - The provision of new combined road underbridge and cattle underpass at the location of the local road L7416, with track for cattle to gain access to the underpass.
 - The provision of a 1.5m wide footpath as part of the underbridge at the location of the local road L7416.

- The provision of timber post and tension mesh fences along much of the scheme length, as well as 2.5m wide shared surface/ footpath either side of the carriageway.
- The provision of agricultural access tracks and adjacent field access tracks.
- The provision of a construction compound at the location of the proposed eastern attenuation pond.

3.2. The supporting documentation for the application has been submitted in thirteen appendices as follows:

- Appendix A – Air Quality and Climate Impact Assessment 2022 prepared by AWN Consulting Limited.
- Appendix B – Noise and Vibration Impact Assessment 2021 prepared by AWN Consulting Limited.
- Appendix C – Flood Risk Assessment 2022 prepared by Barry Transportation.
- Appendix D – Site Location, Drainage Drawings and Maintenance Plan for Surface Water Drainage Infrastructure 2022 prepared by RDO of TII.
- Appendix E – Archaeological, Architectural and Cultural Heritage Impact Assessment 2022 prepared by John Cronin & Associates.
- Appendix F – Screening Assessment prepared by Kilkenny County Council and Natura Impact Statement 2022 prepared by Ecofact.
- Appendix G – Ecological Impact Assessment prepared by Ecofact.
- Appendix H – Landscape and Visual Drawings prepared by Barry Transportation.
- Appendix I – EIA Screening Reports (2 no.) prepared by Kilkenny County Council and Barry Transportation.
- Appendix J – Outline CEMP 2022 prepared by Barry Transportation.
- Appendix K – Scheme Feasibility and Route Options Report 2019 prepared by RDO of TII.
- Appendix L – Preliminary Design Report 2021 prepared by RDO of TII.

- Appendix M – Departure Details, Drainage, Lighting Extents, Silt Fence, and Site Location Drawings prepared by RDO of TII.

- 3.3. The need for the scheme is presented in the context of both the characteristics and associated deficiencies of the existing section of the N24 and National, Regional and Local policy documents.
- 3.4. The purpose of the proposed scheme is to improve journey times and mainline speeds on the N24 National Road between Waterford City and Limerick City. The scheme aims to improve safety, capacity and efficiency of the N24 by providing a suitable road alignment to meet current and future needs.
- 3.5. The scheme will provide for improved road based public transport journey time. It will also improve facilities for vulnerable road users and increase separation distances from vehicular traffic on the national road network. The scheme will also contribute to improved access and alleviate congestion and delays caused by the layout of the existing carriageway.

4.0 Planning History

- 4.1. 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. 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.

5.0 Legislative and Policy Context

5.1. Legislative Context

- 5.1.1. **The EU Habitats Directive (92/43/EEC):** This Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) and 6(4) require an appropriate assessment of the likely significant effects of a proposed development on its own and in combination with other plans and projects which may have an effect on a European Site (SAC or SPA).
- 5.1.2. **European Communities (Birds and Natural Habitats) Regulations 2011 (as amended):** These Regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in CJEU judgements.
- 5.1.3. **National nature conservation designations:** The only European site located in proximity to the subject site is the Lower River Suir SAC (Site Code: 002137), approximately 700m to the southwest of the proposed scheme. The Lower River Suir (Coolfinn, Portlaw) pNHA is located c.1km from the proposed scheme, and the Fiddown Island pNHA is located c.1.7km to the northwest. As part of the boundary of the Lower River Suir (Coolfinn, Portlaw) pNHA is located within the Lower River SAC.
- 5.1.4. **Planning and Development Acts 2000 (as amended):** Part XAB of the Planning and Development Acts 2000-2017 sets out the requirements for the appropriate assessment of developments which could have an effect on a European site or its conservation objectives.
- 177(AE) sets out the requirements for the appropriate assessment of developments carried out by or on behalf of local authorities.
 - Section 177(AE) (1) requires a local authority to prepare, or cause to be prepared, a Natura impact statement in respect of the proposed development.
 - Section 177(AE) (2) states that a proposed development in respect of which an appropriate assessment is required shall not be carried out unless the Board has approved it with or without modifications.

- Section 177(AE) (3) states that where a Natura impact assessment has been prepared pursuant to subsection (1), the local authority shall apply to the Board for approval and the provisions of Part XAB shall apply to the carrying out of the appropriate assessment.
- Section 177(V) (3) states that a competent authority shall give consent for a proposed development only after having determined that the proposed development shall not adversely affect the integrity of a European site.
- Section 177AE (6) (a) states that before making a decision in respect of a proposed development the Board shall consider the NIS, any submissions or observations received and any other information relating to:
 - (i) The likely effects on the environment.
 - (ii) The likely consequences for the proper planning and sustainable development of the area.
 - (iii) The likely significant effects on a European site.

5.2. Policy Context

National Planning Framework Project Ireland 2040

- 5.2.1. The NPF is a high-level strategic plan to shape the future growth and development of the country to 2040. It will be focused on delivering 10 National Strategic Outcomes (NSOs). NSOs 2, 3, 4, 6, and 7 are relevant to the proposed development. The NSO's relate to enhanced regional accessibility between key urban centres of population and their regions and means ensuring that all regions and urban areas in the country have a high degree of accessibility to Dublin, as well as to each other.
- 5.2.2. The NPF sets the overarching spatial strategy for the next twenty years. The National Development Plan 2021-2030 sets out the ten year investment strategy.

Climate Action Plan 2023 – Changing Ireland for the Better

- 5.2.3. The plan is the second annual update to Ireland's Climate Action Plan 2019. This plan is the first to be prepared under the Climate Action and Low Carbon Development (Amendment) Act 2021, and following the introduction, in 2022, of economy-wide carbon budgets and sectoral emissions ceilings.

5.2.4. The plan implements the carbon budgets and sectoral emissions ceilings and sets out a roadmap for taking decisive action to halve Ireland's emissions by 2030 and reach net zero no later than 2050, as committed to in the Programme for Government. It sets out how Ireland can accelerate the actions that are required to respond to the climate crisis, putting climate solutions at the centre of Ireland's social and economic development.

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

5.2.5. 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.

Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (2010)

5.2.6. This guidance is intended to assist and guide planning authorities in the application of articles 6(3) and 6(4) of the Habitats Directive as it relates to their roles, functions, and responsibilities in undertaking AA of plans and projects. It applies to plans and projects for which public authorities receive an application for consent, and to plans or projects which a public authority wishes to undertake or adopt.

Kilkenny City & County Development Plan 2021-2027

5.2.7. 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

5.2.8. 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 Environmental Impact Assessment Screening

- 6.1. Section 50(1)(a) of the Roads Act, 1993 sets out the types of road development that require the preparation of an EIAR. This includes any prescribed type of proposed road development consisting of the construction of a proposed public road or the improvement of an existing public road. Article 8 of the Roads Regulations, 1994 sets out the prescribed types of proposed road in this respect. The proposed single carriageway road realignment over a distance of 2.2 km does not fall within the categories of development for which a mandatory EIA is required.
- 6.2. When making a decision with respect to the requirement for subthreshold EIA the Board is required to have regard to criteria which are transposed into Irish legislation under Schedule 7 of the PDR 2001 as amended.
- 6.3. An environmental impact assessment screening report dated May 2020 was submitted. Schedule 7A information is included. The scheme has been screened against the criteria in section 50(1)(b) of the Roads Act in order to determine if an EIAR is required.

- 6.4. The proposed development is as described in section 3.1. The proposed development would largely consist of realignment within the road corridor and a short section of off-line construction. Upgrades to the surface water drainage are incorporated.
- 6.5. The aspects of the environment likely to be significantly affected by the proposed development are described in section 5.3 including in relation to the archaeological features, the drainage scheme, the proximity to the river, the air quality and noise impacts and mitigations proposed.
- 6.6. The development is assessed in the document in terms of the likely significant effects with respect to the topics of expected residues and emissions and production of waste and use of natural resources.
- 6.7. In terms of the sensitivity of the environment the nearby European sites and proposed natural heritage areas are described. In addition, it is highlighted that the proposed scheme is within Suir Catchment (17) and the Water Framework Directive river sub-basins, Skelpstown (IE_SE_16S040450). The groundwater classification in this area is classified as good.
- 6.8. The impact on archaeological features and features of archaeological potential is described and the scheme is stated not to result in any significant negative impacts on recorded monuments and will have localised direct negative impacts on features identified during geophysical survey. It is noted that such impacts are typically ameliorated through preservation by record.
- 6.9. The types and characteristics of potential impacts are described in section 5.4. The small spatial extent of the scheme is noted. There are considered to be no significant impacts on the receiving environment during construction or operation phases and the probability of impacts is low subject to mitigation. No significant cumulative impacts with other developments are anticipated. The soil and waste generated during construction is not considered likely to have a significant impact.
- 6.10. It is concluded that due to the size, nature and characteristics of the proposal, no significant effects on the receiving environment are expected and preparation of a subthreshold EIAR is not required.
- 6.10.1. I have taken into consideration the content of the EIA screening report and I concur generally with the overall conclusions drawn by the applicant in this regard. In

addition, I note the relevant thresholds set out in s.50(1)(a) of the Roads Act, 1993 (as amended), and the content of schedules 5, 7, and 7A of the Planning & Development Regulations, 2001 (as amended). The proposed road has two lanes, not four as per the threshold, and the proposed bridges/tunnels are relatively limited in nature and substantially below the 100 metres threshold cited in the same 1993 Act. Therefore, EIA is not mandatory under that Act. In addition, the proposed development does not require mandatory EIA under schedule 5 of the Planning & Development Regulations, 2001 (as amended).

6.10.2. Annex I Paragraph 7 (b) and (c) of Directive 2011/92/EU outlined relevant development that shall be subject of EIA i.e., motorways or four lane roads longer than 10km. The proposed road does not fall within these categories. Annex II outlines development that may be subject of EIA, as determined by the member state. 'Roads' is contained in a list in Paragraph 10 (e). This was transposed into Irish legislation.

6.10.3. Schedule 5 Part 2 of the Planning & Development Act, 2000 (as amended) does not contain any threshold for a public road. It only refers to private roads longer than 2,000 metres. However, it is the Roads Act, 1993 (as amended) which is more applicable to the proposed development. Section 50(1)(a) sets out mandatory thresholds for EIA. The proposed scheme does not comply with these thresholds, the most relevant of which is subsection (iv) which refers to 'any prescribed type of road development consisting of the construction of a proposed public road or the improvement of an existing public road'. Prescribed roads, as set out in article 8 of the Roads Regulations, 1994 are:

- a) the construction of a new road of four or more lanes, or the realignment or widening of an existing road so as to provide four or more lanes, where such new, realigned or widened road would be eight kilometres or more in length in a rural area, or 500 metres or more in length in an urban area; or
- b) the construction of a new bridge or tunnel which would be 100 metres or more in length.

6.10.4. The EIA screening report notes that the proposed development does not satisfy the criteria described in Table 4-1 of the screening report, and it does not meet any of the criteria listed under Part 1 or 2 of Schedule 5 of the Regulations. Subsection

(1)(b) permits the Board to require an EIA Report (EIAR) should it consider any other public road development would be likely to have significant effects on the environment. The applicant considers that the proposed development does not meet the mandatory thresholds and therefore there is no mandatory requirement for EIA.

6.10.5. Notwithstanding this, section 5 of the EIA screening report further assesses the proposed development 'as a sub-threshold development to demonstrate that it will not result in likely significant environmental effects on the receiving environment'. The relevant criteria specified in Annex III of the EIA Directive, as set out in schedule 7 of the Planning & Development Regulations, 2001 (as amended) i.e., characteristics of the proposed development, location of the proposed development, and type and characteristics of potential impacts, together with their relevant sub-headings, are considered by the applicant in section 5 of the screening report. Schedule 7A information, information for the purposes of screening sub-threshold development for EIA, is contained within the report.

6.10.6. Section 5 of the EIA screening report assesses the proposed development in the context of schedule 7 criteria under each of the three main headings and the various sub-headings. Section 5 of the applicant's EIA screening report can be summarised as follows:

Characteristics of Proposed Development

6.10.7. The proposed road improvement scheme provides a realignment of 1.25km of the N24 national road and the upgrade of 950m of existing national road i.e., a total length of 2.2km. The design is compliant with TII standards for single carriageway roads. There is no development requiring EIA within a 5km radius of the site and there is no functional interdependence with any other project.

6.10.8. Natural resources such as aggregates, would be imported to the site although exact quantities have not yet been determined. There will be some removal of treeline and hedgerows i.e., approximately 305m. This constitutes less than 10% of the length of field boundary threshold under Class 1(a) for the restructuring of rural land holdings, Part 2, Schedule 5 of the Planning & Development Regulations 2001 (as amended). However, it is also not considered to have the potential to have a significant effect on the study area due to their low ecological importance. Minor quantities of waste will be generated from construction activities. There is potential for construction activities

to cause negative environmental impacts during instream works on the Skelpstown Stream due to run-off from excavated areas and soil deposition areas resulting in increased suspended solids, as well as potential accidental spillages of hydrocarbons (oils and fuels) from machinery and waste materials such as concrete, and invasive species could be carried downstream and become established in the SAC and adversely affect the designated habitats. Noise and dust impacts may be experienced by property owners adjacent the network; however, these will be minor in nature, short-term and insignificant. The project would not be likely to result in a major accident or disaster. The development would not result in any risks to human health.

Location of Proposed Development

- 6.10.9. The existing N24 National Road would be realigned and widened to the west of Mooncoin village. The upgrade and improvement of the road is a stated objective of the Kilkenny County Development Plan 2021-2027. Most of the proposed route is along the existing N24 and green field with works comprising of realignment and provision of stream box culvert, road underbridge including a cattle track, access tracks and attenuation ponds. Land take is limited to the extent of the road project area.
- 6.10.10. The proposed scheme is located approximately 700m northeast of River Suir and also crosses Skelpstown 16 stream which is an open watercourse and discharges directly into the River Suir. Measures will be put in place to ensure that the water quality of associated waterbodies is maintained or improved during the construction and operational phases of the development.
- 6.10.11. There would be no significant impact on biodiversity due to the receiving environment being of low ecological value. A NIS has been prepared (see section 8.4 below). There would be no impact on recorded monuments because there are no features of archaeological significance along the proposed route. Construction activity would be temporary, and the operational phase would only have a local impact.

Type and Characteristics of Potential Impact

- 6.10.12. The magnitude of the impact would be limited to the immediate surrounds of the development. Residents in the immediate vicinity of the proposed scheme may

be affected by short-term noise and traffic disruption. Commuters may experience delays during the construction phase but will benefit from improved journey times and safer road junctions once the proposed scheme becomes operational. It is considered that the impact to the village would be neutral. The development has a long term horizon, generally 50 years for this type of project, resulting in a permanent greenfield loss and landscape impact, though this is not considered to be significant.

- 6.10.13. Impacts upon biodiversity through the removal of trees and hedgerows, and the construction of the attenuation pond will be reversible through the planting of semi-mature native species along road boundaries.
- 6.10.14. Cumulative effects are not anticipated as there is no development in the vicinity that could rise to in-combination effects. The proposed design has been optimised 'to ensure that environmental impacts are minimised as much as possible'.
- 6.10.15. The Board can direct that the development be subject to EIA under s.50(1)(b) of the Roads Act, 1993 (as amended). However, having regard to the foregoing, I consider that the proposed development is substantially below any relevant EIA threshold. Therefore, having regard to the nature of the proposed development and the EIA screening report submitted with the application, I am satisfied that the proposed development would not result in such significant effects on the environment that would warrant sub-threshold EIA, and therefore I do not consider preparation of an EIAR is required.

7.0 Consultations

7.1. The application was circulated to the following bodies by Kilkenny County Council:

- Department of Tourism, Culture, Arts, Gaeltacht, Sport & Media
- Department of Housing, Local Government & Heritage
- Department of Environment, Climate & Communications
- Inland Fisheries Ireland
- Uisce Éireann
- Kilkenny County Council (KCC)

- The Heritage Council
- Fáilte Ireland
- An Taisce
- Arts Council
- The Commission for the Regulation of Utilities (CRU)
- Transport Infrastructure Ireland (TII)
- Health Service Executive (HSE)
- Southern Regional Assembly

7.2. Two responses were received. The main points made can be summarised as follows:

1. Department of Housing, Local Government & Heritage

- The Department notes the information and have reviewed the desk-based Archaeological, Architectural and Cultural Heritage Impact Assessment (April 2022) prepared by John Cronin & Associates and states that the DAU is broadly in agreement with the findings in relation to archaeology and cultural heritage.
- Recommends a standard condition in relation to the monitoring, excavation and preservation of archaeological materials.

2. Health Service Executive

- Consider the description and the principle of the project to be satisfactory.
- Notes that the construction phase of the development may give rise to temporary emissions and measures should be put in place for sensitive receptors in relation to waste management, pest control, dust control, noise reduction and emissions to surface/groundwater.
- Seeks the careful location of sumps for the removal of groundwater, if encountered, during excavations.

- Requests the applicant to outline proactive adaptation measures to ensure the long-term resilience of the proposed infrastructure to the impacts of climate change.
- Requests the applicant to explore opportunities to promote physical activity and any potential for health gain, and that green planting is integrated into the public realm works associated with the proposed scheme.
- States that measures for ecological enhancement should be incorporated into the design and that a pollinator plan should be implemented for the proposed road.
- Seeks safe and segregated facilities that promote walking and cycling be implemented with the proposed scheme.
- Requests the applicant to investigate and implement initiatives that promote and facilitate a modal shift towards more sustainable forms of transport.
- In order to minimise dust emissions during construction, recommends a suite of routine operational measures to minimise nuisance.
- Contend that KCC should predict the impact of traffic noise from the proposed development and carry out an evaluation of the significance of this impact in line with WHO guidelines.
- Highlights two facilities, one with an IEL and another IPC licence, located 1.5km to the northwest of the proposed scheme.

7.3. Response to Prescribed Bodies

The applicant responded to the issues raised by the prescribed bodies on 17th November 2023. The main points made can be summarised as follows:

1. Department of Housing, Local Government & Heritage

- Confirm that an archaeological and cultural heritage assessment will be prepared, and a suitably qualified consultant procured, should the project receive approval.

- Confirm that the locations of all relevant archaeological and cultural heritage constraints will be included in the CEMP.
- Confirm that a Project Archaeologist has been appointed and will be retained.
- Confirm that final reports on archaeological excavations and surveys will be carried out and forwarded to the planning authority and DAU.

2. Health Service Executive

- State that appointed contractor will be required to prepare a site-specific Resource and Waste Management Plan.
- Confirm that general housekeeping measures as set out in the OCEMP will be implemented to control pests.
- State that dust and noise mitigation measures will be carried out as outlined in the Air Quality and Climate Impact Assessment and the OCEMP.
- Confirm that the contractor undertaking the construction works will be required to take specific noise abatement measures.
- Confirm that adaption to climate change is included in drainage designs.
- State that the existing 1.5m wide footpath will be upgraded to a 2.5m wide shared surface that will promote physical activity and well-being.
- Confirm that detailed mitigation and design measures are proposed in order to protect biodiversity along with a planting scheme for native plants and trees.
- Highlight the active travel provisions within the scheme on both the proposed realigned road and on the existing N24.
- Explains the rationale for noise control in accordance with WHO guidelines across the population as whole and states that the risk of annoyance amongst the affected cohort is perceived to be low.

7.4. Public Submissions

Three observations were received, and the points made are as follows:

1. Liam Mackey

- Poor or inadequate design.
- No detailed drainage design.
- Considers that there is no justification for the proposed works.
- Considers that the process is not in accordance with EU law and good practice.
- Contends that his business will be impacted by new realigned road.

2. People Before Bats Limited

- No financial or safety justification for the proposed development.
- Contends that the CPO procedure is contrary to the principles of fairness and equity.
- States that the process and provision is contrary to EU law.

3. Peter Sweetman

- Outlines the Board's legal functions in relation to the Planning Acts, the EIA Directive and the Assessment under the Habitats Directive.
- References No. 315195 and highlights that the Board's website states that a Natura Impact Statement (NIS) is not submitted with the application, whereas the public notice published by KCC states that a NIS has been prepared as part of the application for approval.
- Contends that, as the proposed development is within the Zone of Influence of the Lower River Suir SAC (Site Code: IE0002137), it is not possible to make an informed submission as to the adequacy of the mitigation measures proposed.

7.5. Response to Submissions

The applicant responded to the issues raised in the submissions on 17th November 2023. The main points made can be summarised as follows:

1.Liam Mackey

- KCC is satisfied that the Board has been provided with sufficient information on which to base a decision.
- References drawings in Appendix M for detailed drainage design.
- KCC highlight that the substandard nature of the existing N24 at this location and numerous private accesses form the need for the Proposed Scheme.
- Contend that the design of the scheme is in accordance with TII standards.
- State that they are satisfied that the Proposed Scheme complies with EU law.

2. People Before Bats

- KCC highlight that the substandard nature of the existing N24 at this location and numerous private accesses form the need for the Proposed Scheme.
- KCC contend that the CPO procedure is well-established, and that the assessment of applications is carried out in a transparent and fair manner.
- State that they are satisfied that the Proposed Scheme complies with EU law.

3.Peter Sweetman

- KCC confirm that they have no comment to make on this submission.

8.0 Assessment

8.1. Introduction

8.1.1. The Board in making a decision in respect of an application under Section 177AE shall consider:

- The likely effects on the environment,
- The likely consequences for the proper planning and sustainable development in the area, and
- The likely significant effects of the proposed development upon a European site.

8.1.2. The structure of my report follows the above three topics. In addition, I will address the issues raised in the submissions made on this application.

8.2. The likely effects on the environment

8.2.1. Notwithstanding that an EIAR is not required, the applicant has submitted substantial documentation which assesses the environmental impact. It includes reports on the description of the development, the need for the scheme, options considered, planning and policy context, and consultations undertaken. There are reports addressing environmental issues such as roads and traffic, air quality, climate, landscape, surface water, biodiversity, and material assets. I refer to these reports in the following assessment.

8.2.2. Having regard to the nature and location of the proposed development and the likely effects on the environment I consider the following issues should be considered and assessed. These are:

- Hydrology and Hydrogeology
- Biodiversity
- Air Quality and Climate
- Noise and Vibration
- Population and Human Health

- Cultural Heritage
- Material Assets and related

8.2.3. AA is separately considered in section 8.4 of this report.

Hydrology and Hydrogeology

8.2.4. The River Suir dominates the local hydrology and it is located approximately 700m from the road carriageway. The proposed scheme crosses the Skelpstown 16 stream that flows directly into the River Suir. Groundwater vulnerability is low, and the scheme is underlain by a 'regionally important bedrock aquifer-karstified'. I consider that the likely effects on the environment could include water quality impacts to the River Suir. I also consider the matter of flood risk below.

8.2.5. I also note concerns raised in third party submissions in relation to drainage design, although the appellant has not set out what his precise concerns are. Emissions to water are considered hereunder.

8.2.6. The potential construction phase risks are due to run-off from excavated areas and soil deposition areas resulting in increased suspended solids, as well as accidental spillages of hydrocarbons (oils and fuels) from machinery and waste materials such as concrete. These issues will be addressed through implementation of standard construction mitigation measures including adherence to CIRIA guidance, measures relating to storage and refuelling and to stockpiling. Mitigation measures are set out in the Outline CEMP provided by the applicant, and these will form part of the site-specific iteration of Construction Environmental Management Plan which will be in operation during the construction phase. The layout of the proposed silt fencing at the Skelpstown Stream is provided on Drawing No. KK1613403-P3-FE001 submitted with the application. As a result of these measures, there will be no direct surface water discharges to the River Suir during the construction period and I refer further to this under the appropriate assessment below and to the standards for water quality discharge during construction. I consider that due to the nature of these measures there can be a high degree of confidence in their successful implementation.

8.2.7. Similarly, any wells which may potentially be at risk during the construction or operational phases will be identified and appropriate measures implemented in order to protect any vulnerable groundwater supplies within the vicinity. The applicant has

stated that a pre-construction well survey will be carried out at all properties within 150m of the proposed scheme to identify these groundwater supplies.

- 8.2.8. Subject to the above, I consider that it may be concluded that the scheme will not result in significant adverse effects on surface water or groundwater resources as a result of construction phase activities.
- 8.2.9. Regarding operational phase impacts the improvement of drainage was identified as one of the objectives of the scheme. Presently surface water from the western section of the existing carriageway drains to the Skelpstown 16 Stream as the N24 falls in both directions towards it. The eastern section of the scheme has an outfall directly to an existing land drain through a land drainage pipe. On completion, the upgraded and realigned road would provide for discharges to existing networks to the north and south of the scheme, provision of bypass petrol interceptors, filter drains, conventional gully to closed network systems, and attenuation ponds to cater for the one in 100-year flood event.
- 8.2.10. The design is based on attenuation of discharge to the river at greenfield rates. It can reasonably be concluded therefore, taking into account the other elements of the scheme as described above, that the proposed development will contribute to ongoing improvement of water quality and reduction of peak run-off. A maintenance plan for the surface water drainage system has also been submitted.
- 8.2.11. As the scheme incorporates storm water attenuation and pollution control methods including interceptors and a manual shut-off valve it is considered that there are no likely significant effects due to accidental spillages on the road due to maintenance. The risks to private wells, if any, are to be mitigated as identified earlier including through preconstruction survey and design of appropriate measures in accordance with the Control of Water Pollution from Construction Sites (CIRIA, 2001).
- 8.2.12. Having regard to the above I consider it may be concluded that there is no likelihood of adverse water quality impacts in the operational phase.
- 8.2.13. The potential for flood risk has been assessed under a separate Flood Risk Assessment report submitted with the application. I accept that in view of the proposals for surface water drainage it is reasonably concluded that the only possible flooding mechanism which might be relevant is pluvial flooding as a result of a heavy rainfall event. Based on the information provided by the applicant I am

satisfied that there are no other significant possible flooding mechanisms. I am satisfied that the detailed drainage design of the proposed scheme will alleviate any potential pluvial flooding risks at this location. It can then be concluded also that the proposed development would not contribute to flooding of adjacent lands. Having regard to all of the above, I consider that the subject scheme is not at risk of fluvial flooding or any other source of flooding.

8.2.14. In conclusion, I consider that the proposed development would not give rise to adverse water quality impacts on the River Suir or on groundwater resources. I consider that the proposed development will not contribute to flooding and indeed the proposed design contains elements which address a localised flooding issue and provide for more controlled discharges. The development would result in improvements in the quality and rate of discharges to the river. I am satisfied that the applicant has demonstrated that there would not be a significant impact on the surface water or groundwater environments as a result of the proposed development.

Biodiversity

8.2.15. The ecological impact assessment (EclA) dated March 2022, prepared by Ecofact Environmental Consultants overlaps significantly with the NIS. I address matters relevant to European sites and qualifying interests under the appropriate assessment section of this report below.

8.2.16. No Natural Heritage Areas (NHA) are located within 5km of the proposed development. Habitats in the footprint of the proposed scheme are of 'Local importance' only. Otters would not be affected by the scheme and do not use the Skelpstown 16 stream and the stream is not a salmonoid watercourse. There are no Badger setts or other protected mammal dwellings in the study area. No bat roosts were identified and the habitats in the study area are already fragmented and not of significant importance to bats. The birds in the area are typical of those found in the Co. Kilkenny countryside with no listed species found.

8.2.17. The potential for impacts in the construction and operation phases is assessed in section 5 of the EclA. I note that there is no suitable foraging or nesting habitats within the footprint of the proposed scheme and no recorded rare or protected habitats. The new realignment will impact on habitats of low ecological importance

comprising agricultural habitats, improved grassland, treelines and hedgerows which are reported as being common and their loss is unavoidable. Landscaping will be included for the proposed development that is considered to mitigate for this loss. The Skelpstown 16 stream is not an important aquatic habitat. No records of reptiles and no suitable reptile habitat are present in the study area. Similarly, there are no records of protected terrestrial macroinvertebrates on the site and the habitats present are suboptimal.

- 8.2.18. In the operation phase, the route is unlikely to impact non-volant mammals as the N24 is already an existing road and therefore this is not considered to significantly add to the disturbance relating to traffic in the study area. There is some potential for minor impacts on bats that were identified with minor loss of foraging / commuting habitat, disturbance, lighting and collision impacts, although none of these were found to be significant. Similarly, there is potential for some disturbance impacts to common bird species, but the landscaping proposed as part of the new road scheme will benefit the common passerine birds that use the study area.
- 8.2.19. As mitigation, I consider that the early the appointment of a site ecologist and the implementation of a Construction Environmental Management Plan and Method Statement are significant measures. As further discussed below under appropriate assessment it is noted that the site drainage measures are carefully considered and there are anticipated to be no significant impacts on water quality.
- 8.2.20. In conclusion, the direct impacts are restricted to habitat loss and loss of trees and hedgerows of local importance. A further pre-construction bat survey of mature trees is proposed, which will inform the suite of mitigation measures to be used in accordance with NRA guidelines. I am satisfied that this is an additional measure proposed by the applicant to ensure that no possible impact can accrue to any bats in the area and that there are no direct impacts on habitats of significant ecological value or likely impacts on birds or mammals.
- 8.2.21. I am satisfied that the mitigation measures outlined in the EclA are normal, well proven good practice measures for construction works. Having regard to the foregoing, I am satisfied that the potential for impacts on biodiversity can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am

satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts on biodiversity.

Air Quality and Climate

- 8.2.22. An air quality and climate impact assessment (January 2022) presented as part of the application assesses the construction and operation phase impacts on air quality and climate. For the purposes of local air quality impact 5 no. sensitive receptors were identified and incorporated in modelling. The projected traffic for the high growth scenario has been used in the assessment to provide a worst-case approach with an assumed speed of 70 kph for Ch 0 to Ch 415 as a worst-case assessment and 100 kph for Ch 415 to the end of the scheme (per Table 7.1 of the preliminary design report). The climate impact of the proposed scheme has been determined using the procedures given by TII (2011) and the methodology provided in Annex D in the UK Design Manual for Roads and Bridges (UK Highways Agency, 2007). The assessment focused on determining the resulting change in emissions of carbon dioxide (CO₂). With regard to the air quality impact on ecological sites the TII requirement for assessment due to nitrogen deposition refers in relation to ecological sites within 200m of the scheme and where over 5% AADT flows arises. The baseline environment is as described in section 3, which is based on use of Zone D EPA data, including the use of long-term good quality data from nearby locations. I consider that the baseline information and general approach to the assessment is adequate.
- 8.2.23. The most significant construction phase air emission is from dust emissions and the potential for nuisance dust and PM₁₀/PM_{2.5} emissions. There are potential dust soiling effects within 25m of the works areas. There are a small number of sensitive receptors, predominantly residential properties, in close proximity to the proposed scheme. A series of mitigation measures are set out in section 6.1 which relate to adherence to IAQM guidance in the minimisation, suppression, monitoring and recording of dust. Community engagement will be put in place including a communications plan. The construction phase dust impacts will be short-term and not significant and subject to implementation of mitigation as set out will not cause a nuisance at nearby sensitive receptors.

- 8.2.24. In the construction phase, the potential for emissions relevant to climate relate to use of materials with embedded carbon dioxide. Transport emissions can be reduced by the prevention of on-site or delivery vehicles from leaving engines idling, even over short periods. I consider that the applicant's assessment of the predicted climate impact during the construction phase is reasonable such that it is short term, negative but overall, not significant.
- 8.2.25. Operational phase air quality impact has been assessed for potential effects on local air quality due to NO₂, PM₁₀ and PM_{2.5} in accordance with TII guidance. The annual average concentration of NO₂ is in compliance with the limit value at all worst-case receptors in 2024, 2039 and 2054. The modelled results are that the overall impact for these air quality parameters is long-term, localised, positive and imperceptible. There is the potential for a number of greenhouse gas emissions to atmosphere during the operational phase of the development. However, it is predicted that all existing traffic will divert on to the new route and the do nothing traffic is the same as that for the do something scenario. However, it is predicted that the average speed on the route will increase from 80kph to 100kph. The predicted concentrations of CO₂ for the future years of 2024, 2039 and 2054 are detailed in Table 14 of the assessment and show an increase in CO₂ emission, although this is considered negative, long-term and imperceptible.
- 8.2.26. The embedded greenhouse gas emissions as presented in table 9 results in a total construction phase emission of 116.1 tonnes CO₂ equivalent, amounting to 0.0003% of Ireland's National GHG emissions targets for 2030. Mitigation measures which can be introduced are limited to prevention of leaving engines idling and minimising waste.
- 8.2.27. In the operation phase no site-specific mitigation measures are required in relation to air quality or climate. As the operational phase air quality and climate impacts are imperceptible, I consider that this matter is properly addressed in the application documentation, and I accept the conclusions. I therefore consider that the proposed development is acceptable in terms of air quality and climate effects.

Noise and Vibration

- 8.2.28. A baseline noise survey was carried out in December 2021. A total of 6 locations were surveyed – 1 no. unattended and 5 no. attended. Four of these locations

(UN01, AT01, AT02 and AT05) were located at houses along the existing N24. One location was in a lay-by and the remaining location was at a field entrance. The results of the baseline survey confirm that properties along the existing road network experience traffic noise levels above 60 dB L_{den} . The results of the attended surveys indicate noise levels in the range 76 to 79 dB L_{den} and the measured L_{den} value from the unattended survey was 67 dB L_{den} . Traffic noise from the existing N24 was the primary noise contributor.

8.2.29. The noise impact assessment undertaken includes a prediction of construction traffic noise based on BS 5228 and an assessment of operational noise impacts based on a noise model which was developed and noise surveys which were undertaken.

8.2.30. The construction phase noise impacts set out incorporate a 5dB correction for screening which it is assumed will be in place. The assessment concludes that the construction daytime noise limit of 70 DB L_{Aeq} can be complied with at distances beyond 25m for the works. For closer locations there is potential for exceedances of the noise criteria and a commitment was given to employ screening and best practice mitigation to ensure the construction noise limits are not exceeded. The working hours will be as set out namely 07:00 to 19:00hrs Monday to Friday and 08:00 to 13:00hrs on Saturday.

8.2.31. The modelled results for noise consider the effect on 25 no. locations. An assessment is provided for the do minimum and do something scenarios in opening year 2024 and design year 2039. The noise assessment indicates that for one receptor mitigation is required in order to reduce traffic noise levels to the TII criteria. The relevant location is to the rear of an existing house where the route realignment is proposed (CH 1+040 – CH 1+100) on the northbound carriageway edge. A noise barrier which is proposed to be put in place is described in terms of the technical specification required. This will be a 1.25m high barrier and its effect will be to reduce the traffic noise levels to within the TII level of 55 dB L_{den} up to 2039. I note that the acoustic environment to the front of the same house will be significantly positively impacted.

8.2.32. With the proposed mitigation in place, it may be concluded that the project complies with the appropriate guidance in relation to noise, hence the associated impact is considered acceptable. Overall, I note that a negligible to moderate negative impact

will be experienced at some of the noise sensitive receptors/ locations and that a number of locations experience a major positive noise impact as the proposed road scheme is at a greater distance than the existing road.

- 8.2.33. The vibration assessment relies on actual recorded vibration measurements taken during other construction works. These are stated to provide some context in relation to typical ranges of vibration which would be generated by construction breaking activity. A commitment is given that the construction activities will be required to operate below the recommended vibration criteria set by TII. These are set out in Table 4 of the assessment submitted with the application. I consider that this is achievable on the basis of the mitigation measures to be implemented.
- 8.2.34. I consider that the assessment of noise and vibration impacts demonstrates that subject to mitigation there would be no significant adverse residual effects on residential receptors in the vicinity of the scheme.

Population and Human Health

- 8.2.35. I consider that the significant potential impacts on population and human health relate to road safety and accessibility including provision for vulnerable road users, construction phase impacts and visual impacts.
- 8.2.36. With respect to the existing road safety of this section of the N24, the RSA indicates that two fatal collisions and three minor collisions occurred between 2005 and 2016. Thus, while the road is undoubtedly substandard it has not been identified as an area of concern. It is an objective of the proposed scheme to maintain existing collision rate at below or twice below the national average rates while increasing design speed to be consistent with that of a single carriageway national primary route. Baseline air quality and land uses are typical of a rural area served by a national road. There is public transport is available along this stretch of road and the proposed scheme will maintain the existing rural public transport facilities, with the benefits of improvements to journey times and consistency of speeds for inter-urban bus users and operators while maintaining the level of service.
- 8.2.37. Margins are narrow or non-existent on parts of the existing road and conditions for cyclists are poor. There is an existing footpath on the southern side of the existing carriageway from Mooncoin village to the junction with Polerone Lane. It is an objective of the proposed scheme to improve safety conditions for all road users

including pedestrians and cyclists. In this regard, it is proposed to provide a 2.5m wide shared surface for pedestrians and cyclists on both sides of the carriageway to the new junction that provides access to the N24 for the residents of Polerone Lane.

8.2.38. In terms of road safety and general accessibility, the scheme constitutes a benefit to population and human health. I note in addition that the proposed development incorporates shared accesses and other features which will give rise to improved safety, better journey times and conditions for road users including ease of access for local residents. I consider that the proposed development would result in positive effects in terms of road safety and accessibility including provision for vulnerable road users.

8.2.39. The development could give rise to adverse construction phase impacts on local residents. Such impacts would include temporary increases in noise and vibration, potential for some dust emissions and potential impacts on groundwater quality. In the operation phase the predicted air quality impacts would be imperceptible. The assessment of air, noise and vibration above indicates that any exceedances of accepted criteria can be suitably mitigated. As the standards for emissions are set to protect public health, the development should be considered acceptable in terms of the impacts on population and human health.

8.2.40. In terms of landscape and visual impacts, the Study Area is located within a Landscape Character Type defined as 'Lowland' within the Kilkenny City & County Development Plan 2021-2027¹. There are no protected views in the vicinity of the Proposed Scheme. The River Suir is located to the south of the Proposed Scheme. It is stated in the Landscape Character Assessment that the River Valley Area of the River Suir has been identified as being highly scenic and visually pleasing, and as having significant visual amenity value and tourism potential. Due to the limited size and extent of the Proposed Scheme, its impacts on landscape and visual quality are anticipated to be limited.

8.2.41. There are a significant number of existing roadside houses that currently have views of the N24. With the realignment of the road to the north of the existing N24, I am satisfied that some, if not all, of these residential receptors will experience beneficial

¹ The Board should note that the Landscape Character Assessment is contained in Appendix C of the Kilkenny County Development Plan 2008-2014 and this assessment has now been retained again as part of the Kilkenny City & County Development Plan 2021-2027.

effects, particularly after mitigation in the form of planting of roadside trees and hedgerows.

8.2.42. In conclusion, the scheme through provision of shared access and other features will give rise to improved safety, improved journey times and conditions for road users and ease of access for local residents. Potential impacts related to air quality, noise and vibration, lands, soils and geology and water will be mitigated under specific sectoral measures. The visual impacts that will affect residential receptors will be mitigated in time as landscaping matures. I conclude, therefore, that there would be a positive long-term impact on population and human health for road users and for local residents and a 'not significant / neutral effect' in terms of visual impacts and construction related impacts.

Cultural Heritage

8.2.43. The Archaeological Impact Assessment (April 2022) prepared by John Cronin & Associates reported that the current list of recorded monuments with Preservation Orders contains no entries for monuments within the townlands containing or adjoining the proposed scheme. The assessment states that the RMP and SMR do not list any recorded archaeological sites within the study area, but a review of the SMR revealed that it contains two entries for unlocated sites within the three townlands in the study area. It is also confirmed that there are no Protected Structures or NIAH-listed structures located within the study area. There are no reported geological heritage sites in the vicinity of the scheme. It is noted that a roadside memorial will be directly impacted by the scheme.

8.2.44. A geophysical survey highlighted definitive archaeological remains within the scheme boundary, which includes five potential ring-ditch sites, as well as potential archaeological enclosures. A field-walking survey was carried out in March 2022 during clear weather conditions in order to review the locations of likely archaeological sites or other potential features. There is potential that they comprise archaeological sites of medium-to-high value although this cannot be confirmed without recourse to archaeological test excavation.

8.2.45. Having regard to the above, I am satisfied that no mitigation measures for recorded archaeological monuments will be required during the construction phase. However, given the identification of anomalies of archaeological origin in the geophysical

survey and the potential for discovery of previously unknown archaeological sites within the footprint of the scheme, it is recommended that a programme of archaeological test excavations be carried out within the lands to be acquired for the proposed road development, prior to the construction phase.

- 8.2.46. A photographic record of the roadside memorial will be compiled and the memorial reconstructed/reinstated following scheme construction, in consultation with the family of the deceased, if they can be traced.
- 8.2.47. The scheme would not result in any substantial or direct impacts on protected structures or structures which are listed under the NIAH. I consider that the identified direct impacts on undesignated cultural heritage sites are acceptable.
- 8.2.48. Following the successful implementation of the pre-construction mitigation measures, I am satisfied that the proposed scheme will not result in any predicted adverse impacts on the archaeological, architectural and cultural heritage resource during the operation phase.
- 8.2.49. In conclusion, I consider that the archaeological, architectural and cultural heritage impacts are acceptable.

Material Assets and related issues

- 8.2.50. To facilitate the scheme, the proposed improvement works and tie-in locations on the existing N24 will impact existing services (ESB, Eir, water mains and storm water services). It is noted that the part of the proposed scheme that involves realignment to the north of the existing N24 is unlikely to encounter services. There are no known gas services present within the area. There may be a requirement to divert and/or alter a number of utilities where tie-locations are needed with the existing N24. I consider that no significant issues arise in this respect.
- 8.2.51. The agricultural lands within the route of the proposed scheme are predominantly pastureland. There are 32 individual agricultural plots within the area that will be impacted by the N24 Carrick Road Improvement Scheme, including a dairy farm, which currently moves cows across the existing N24. This crossing point is located immediately to the east of the junction of the N24 with the L7416.
- 8.2.52. The loss of agricultural land in the amount of 7.1ha, the temporary use of 0.228ha of land, and small impacts on a road crossing used by a dairy farm would not give rise

to significant impacts on agricultural activity. The existing road crossing for a dairy farm is to be retained and simplified by the provision of accommodation works that will result in moving the northerly gate used for crossing the road to a location further eastward and opposite the gate on the southerly side of the existing road/ N24, thus removing the previous staggered nature of the crossing on the national road. The Board should also note that this crossing point would now be located on what is likely to be classified as a county road i.e., an extension of the L7416 local road that loops under the realigned section of the proposed scheme/ new part of the N24. Overall, I consider that the design detail and recommended measures presented are suitable and sufficient to mitigate the impacts on the agricultural land holdings. Therefore, I consider that there would be no significant residual effect on agronomy.

8.2.53. Any unsuitable material and any made ground/waste soil would be classified, transported and disposed of in accordance with all relevant waste management legislation. The amount to be disposed of is estimated at 5,819m³. Standard construction waste management measures will be implemented as part of the general construction works. I am satisfied that waste generated will not have a significant effect on the environment.

8.2.54. There is a low likelihood that the bedrock will be encountered during the construction phase as a borehole located immediately north of Mooncoin along the N24 route identified bedrock at a depth of 12.2m. There is no indication of any impact on aggregates of value.

8.2.55. In conclusion, I consider that the development is acceptable in terms of material assets and there would be no significant adverse effects.

Conclusion

8.2.56. I consider that it can be concluded that the likely significant effects on the environment can be suitably mitigated. In particular, I note the noise and archaeological mitigation measures described and the recommendation for the management of the surface water system. Subject to these measures and the other measures set out in the application documentation, I conclude that the development would not give rise to significant adverse residual effects on the environment.

8.3. The likely consequences for the proper planning and sustainable development of the area

I address this topic under the following relevant headings:

- Need for the Scheme, and
- Road Safety and Transportation.

Need for the Scheme

- 8.3.1. The scheme need is stated to be rooted in the deficiencies associated with the existing road together with the national, regional and local policies. The deficiencies are discussed in more detail in the next section below. They include sub-standard bends, narrow and inconsistent road widths and multiple direct entrances. There are 43 no. direct access locations along the part of the N24 that is subject to this proposed scheme. These are comprised of 23 no. field entrances, 17 no. domestic entrances, 1 no. commercial entrance and 2 no. vulnerable user entrances (on the day of my site inspection, I noted that one of the vulnerable user entrances was no longer in use).² There are also 3 no. local road junctions along this stretch of the road. I am satisfied that based even on a preliminary consideration of the facts, there is clear evidence of the need for a scheme to address the deficiencies in this section of the N24.
- 8.3.2. I note that the issue of need/ justification for the Proposed Scheme was raised as an issue in the third party observations. As well as outlining the need/ justification in my associated report on the CPO application, I will further address this issue below.
- 8.3.3. The existing section of the N24 is a narrow 80kph single carriageway road with average driving lane widths in the order of 3.2m. The existing verge widths vary but are again predominantly narrow and sub-standard. This means that Vulnerable Road Users are typically in close proximity to vehicular traffic, with cyclists using the vehicular driving lanes. However, there is an existing footpath in the verge from Mooncoin village adjacent to the westbound carriageway for c.650m. It should be noted that visibility is also sub-standard for a considerable number of the existing private access points. On-site surveys carried out by the applicant also noted that

² Figure A2.2: Existing Access Location & Type, Appendix 2 – Drawings Related to Scheme Need, Scheme Feasibility & Route Options Report (TII, October 2019)

traffic on the mainline was effectively stopped up for a dairy cattle crossing for a period of between 4 to 5 minutes within the AM and PM Peak hours of 8-9am and 5-6pm and this resulted in significant queuing of national road traffic at these times.

- 8.3.4. I note that there were no specific road safety problems identified in terms of injury collisions. However, the applicant considers it reasonable to say that the speed limit and low-cost measures implemented by Kilkenny County Council to improve road safety along this stretch of road has assisted in reducing the number of recorded collisions and the severity of these collisions along the N24. This has, however, resulted in a reduction of average journey times and speeds. I draw the Board's attention to Figures 2.1 and 2.2 in the Scheme Feasibility & Route Options Report (TII, 2019) where the location of a number of material damage collisions is highlighted and note that these locations are on substandard parts of the existing road.
- 8.3.5. The scheme aims to improve safety, capacity and efficiency of the N24 by providing a suitable road alignment to meet current and future needs. The provision of improved mainline speeds will maintain the existing collision rankings at below or twice below the national average rate.
- 8.3.6. The scheme will also provide for improved road based public transport journey time and complement wider government policy related to improved accessibility. It will also improve facilities for vulnerable road users and separation distances from vehicular traffic on the national road network. The scheme will also contribute to improved access and alleviate congestion and delays caused by the layout of the existing carriageway and a dairy cow crossing. The provision of cattle underpass will prevent significant queuing of the national road traffic and, simultaneously, assist in reducing existing carbon dioxide and particulate emissions through a reduction in fuel consumption.
- 8.3.7. In terms of the policy context, I refer to the earlier section of my report which outlines a range of national, regional and county policy provisions which are relevant. I would refer in particular to the Regional Policy Objectives in the RSES for the Southern region, notably RPO 167. I also note the inclusion in the development plan of specific reference to Kilkenny City & County Council's policy for progressing/developing the N24 Carrick Road Improvement Scheme.

8.3.8. I consider that it may be concluded that there is a clear case for the scheme and that it accords with planning policy.

Road Safety and Transportation

8.3.9. The scheme objectives as set out in the Scheme Feasibility & Route Options Report (TII, 2019) include:

- Economy - journey times, capacity and efficiency.
- Safety – maintain existing collision rankings, mainline visibility and overtaking opportunities, reduced private access.
- Environment – reduced emissions, avoidance of adverse effects on SAC.
- Accessibility & Social Inclusion – improve road based public transport journey time and journey time reliability.
- Integration – complement and be consistent with planning policy.
- Physical Activity – improve facilities for vulnerable users.

8.3.10. I consider that the impetus for the scheme is to address the restricted capacity and other deficiencies of this section of the national road network. The relevant section of the N24 road is described as having a restricted capacity due to its limited cross-section, number of direct access points and substandard horizontal alignment. I assess below the aspects of the scheme and the extent to which it addresses the identified deficiencies.

8.3.11. I note that the issue of the poor and inadequate design of the Proposed Scheme was raised as an issue in the third party observations. However, the appellant has not set out what his precise concerns are in relation to the design of the proposed scheme. I have reviewed this issue and the overall design of the proposed scheme below.

8.3.12. The proposed scheme comprises a combination of online upgrades and an offline section providing 1.25km of newly realigned national road. The offline section passes through agricultural lands (Ch 350 to Ch 1900). Three separate options were assessed per the Scheme Feasibility & Route Options Report. Each of the options has varying degrees of online and offline sections. The multi-criteria analysis undertaken concluded that the off-line option (Option 1) from immediately west of the junction of the existing N24 with the L7416 local road was preferable. This option

diverts the road away from 3 no. junctions, numerous direct entrances and the sharp bends on the existing road. The selected option involving the off-line section would appear to me to be a suitable approach to the design. The provision of this realigned section as part of the overall upgrade will result in a safer and more efficient section of national road.

8.3.13. In relation to the design of the proposed scheme, I am satisfied that this has been carried out in accordance with TII standards as outlined in Appendix L, Preliminary Design Report contained in the Planning Report submitted with the application documentation.

8.3.14. In recognition of the number of houses in the area and in Mooncoin village the scheme also includes as an objective the provision of better facilities for vulnerable road users. The provision of shared pedestrian/ cycle track facilities within the scheme is considered appropriate. I consider that the scheme will adequately contribute to the goal of providing for vulnerable users by this provision.

8.3.15. The improved access/egress arrangements to/from houses will benefit the local community in terms of providing safer accessibility to the road.

Conclusion

8.3.16. Having regard to all of the above I am satisfied that the proposed scheme will provide for a significant upgrade to the road resulting in increased overall consistency and efficiency and providing for road safety. I consider that the selected option and the general thrust of the design as well as the consideration of details including with respect to surface water are appropriately described and sufficient. The scheme will improve conditions for vulnerable road users and for the local community.

8.3.17. I conclude that the development would constitute a positive intervention and would be in accordance with the proper planning and sustainable development of the area.

8.4. The likely significant effects on a European site

8.4.1. The areas addressed in this section are as follows:

- Compliance with Articles 6(3) of the EU Habitats Directive
- The Natura Impact Statement
- Appropriate Assessment

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

8.4.2. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.

8.4.3. The proposed development is not directly connected to or necessary to the management of any European site and is therefore subject to the provisions of article 6(3).

The Natura Impact Statement (NIS)

8.4.4. The application was accompanied by an NIS which described the proposed development, the project site and the surrounding area. The NIS contained a Stage 1 Screening Assessment which concluded that a Stage 2 Appropriate Assessment was required. The NIS outlined the methodology used for assessing potential impacts on the habitats and species within several European Sites that have the potential to be affected by the proposed development. It predicted the potential impacts for these sites and their conservation objectives, it suggested mitigation measures, assessed in-combination effects with other plans and projects and it identified any residual effects on the European sites and their conservation objectives.

8.4.5. Kilkenny County Council's application for the proposed development was accompanied by a Natural Impact Statement (NIS) which scientifically examined the proposed development and the European sites. The NIS identified and characterised

the possible implications of the proposed development on the European sites, in view of the site's conservation objectives, and provided information to enable the Board to carry out an appropriate assessment of the proposed works.

8.4.6. The applicant's NIS was prepared in line with current best practice guidance and provides an assessment of possible significant effects on Lower River Suir SAC. The applicant's NIS stated that it was the considered view of its authors that it can be concluded that the project will not, alone or in-combination with other plans or projects, result in adverse effects to the integrity and conservation status of European sites in view of their Conservation Objectives and on the basis of best scientific evidence and there is no reasonable scientific doubt as to that conclusion.

8.4.7. The NIS was informed by the following studies, surveys and consultations:

- A desk top study.
- Site/ walkover surveys of the proposal site and surroundings including flora and fauna that occur in the closest Natura 2000 sites and the Skelpstown 16 stream was inspected in the vicinity of the proposed road scheme for evidence of Otter.
- Consultations with the National Parks and Wildlife Service, Inland Fisheries Ireland, Environmental Protection Agency and National Biodiversity Data Centre.

8.4.8. The report concluded that, subject to the implementation of best practice and the recommended mitigation measures, direct, indirect and cumulative impacts that may arise from the proposed road improvement works on the N24 in Co. Kilkenny will be avoided and therefore will not affect the integrity of the Lower River Suir SAC.

8.4.9. 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, and they are summarised in Section 7 of the NIS. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development (see further analysis below).

Screening for Appropriate Assessment - Test of likely significant effects

- 8.4.10. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).
- 8.4.11. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.
- 8.4.12. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:
- Emissions to surface water

Submissions and Observations

- 8.4.13. Three submissions were received by the Board from Liam Mackey (landowner), People Before Bats Limited and Peter Sweetman. The basic tenant of the public submissions was that the process is not in accordance with EU law and good practice. Other issues highlighted refer to poor or inadequate design, no detailed drainage design, and no justification for the proposed works.
- 8.4.14. Peter Sweetman references application no. 315195 and highlights that the Board's website states that a Natura Impact Statement (NIS) is not submitted with the application, whereas he contends that the public notice published by KCC states that a NIS has been prepared as part of the application for approval. Following on from this, he also contends that, as the proposed development is within the Zone of Influence of the Lower River Suir SAC (Site Code: IE0002137), it is not possible to make an informed submission as to the adequacy of the mitigation measures proposed.
- 8.4.15. Although the appellant has not given details of how the application is not in accordance with EU law and good practice, I am satisfied that the application process has been carried out in accordance with the relevant legislation, as outlined in section 4 of the applicant's Planning Report, and that the documentation provided

by the applicant is sufficient to enable an assessment and decision to be made on the Proposed Scheme.

- 8.4.16. I note Mr. Sweetman's contention regarding the absence of an NIS and his consequent inability to make an informed submission as to the adequacy of the mitigation measures proposed. I draw the Board's attention to the fact that Mr. Sweetman appears to have examined the CPO application and referenced that application number (ABP-315195-22) in his submission instead the details submitted this application under ABP-315197-22.
- 8.4.17. I can confirm that the public notice issued by KCC in the Irish Independent dated 23rd November 2022 clearly stated that an NIS had been prepared for the Proposed Scheme. As part of my Appropriate Assessment of the Proposed Scheme, I have reviewed the NIS (see below) and I am satisfied having completed the assessment that there is no lacuna of information and that there is no scientific doubt as to the absence of adverse effects and that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of any European site.

European Sites

- 8.4.18. The development site is not located in or immediately adjacent to a European site. The closest European sites are the Lower River Suir SAC (site code: 002137) and Hugginstown Fen SAC (site code: 000404), within 600m and 12.5km of the proposed development, respectively. All other European sites are located at a remote distance from the project site. A summary of these European Sites is presented in the table below. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail.
- 8.4.19. The development site is hydrologically linked to one European site: Lower River Suir SAC (site code: 002137).
- 8.4.20. All other European sites were not considered, by the applicant, to be within the Zol of the proposed development due to a lack of ecological/hydrological connectivity, the nature of qualifying interests, and/or physical distance. I concur with this assessment and consider that Lower River Suir SAC is the only site that has a pathway to the application site.

8.4.21. Having regard to the information and submissions available, nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle and sensitivities of the ecological receptors the following European Sites are considered relevant to include for the purposes of initial screening for the requirement for Stage 2 appropriate assessment on the basis of likely significant effects.

Lower River Suir SAC

8.4.22. The Lower River Suir SAC consists of the freshwater stretches of the River Suir immediately south of Thurles, the tidal stretches as far as the confluence with the Barrow/Nore immediately east of Cheekpoint in Co. Waterford, and many tributaries including the Clodiagh in Co. Waterford, the Lingaun, Anner, Nier, Tar, Aherlow, Multeen and Clodiagh in Co. Tipperary.

8.4.23. The site is of particular conservation interest for the presence of a number of Annex II animal species, including Freshwater Pearl Mussel (both *Margaritifera margaritifera* and *M. margaritifera* subsp. *durrovensis* occur), White-clawed Crayfish, Salmon, Twaite Shad (*Alosa fallax fallax*), three species of Lampreys - Sea Lamprey, Brook Lamprey and River Lamprey, and Otter. This is one of only three known spawning grounds in the country for Twaite Shad. The site also supports populations of several other animal species. Those which are listed in the Irish Red Data Book include Daubenton's Bat, Natterer's Bat, Pipistrelle Bat, Pine Marten, Badger, Irish Hare, Smelt and Common Frog.

Hugginstown Fen SAC

8.4.24. Hugginstown Fen is situated approximately 4 km south-west of Ballyhale, Co. Kilkenny. The site consists of a relatively large, isolated area of swamp and floating fen developed in a small valley in hilly country. It is underlain by limestone glacial till overlying and surrounded by acid Old Red Sandstone. The catchment is relatively small and iron-rich springs are an important source of water for the wetland.

8.4.25. The northern third of the fen is dominated by Common Reed (*Phragmites australis*) swamps, with some small areas of open water near springs. The remainder of the site consists of species-rich fen, partly developed on mats of floating vegetation. Two uncommon insect species recorded from Hugginstown Fen are Scarce Emerald

Damselfly (*Lestes dryas*) and the Hoverfly *Parhelophis consimilis*. The Common Frog, a Red Data Book species, is frequent at the site.

8.4.26. Although this site has been damaged to some extent by drainage, especially in the southern part, it contains an important example of an alkaline fen, a habitat listed on Annex I of the E.U. Habitats Directive and remains one of the most interesting and diverse fen sites in Ireland.

Table 1: Summary Table of European Sites Within the Zone of Influence of the Proposed Development

European Site	List of Qualifying Interests (QI)/Special Conservation Interests (SCI)	Distance from Proposed Development	Connections (source, pathway, receptor)
Lower River Suir SAC	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I habitats and Annex II Species, as defined by specific attributes and targets:</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation [3260]</p>	c.600m to the west	Hydrological

	<p>Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Taxus baccata woods of the British Isles [91J0]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Austropotamobius pallipes (White-clawed Crayfish) [1092]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Lampetra fluviatilis (River Lamprey) [1099]</p> <p>Alosa fallax fallax (Twaiite Shad) [1103]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Lutra lutra (Otter) [1355]</p>		
Hugginstown Fen SAC	The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of condition of the following Annex I	12.5km to the north	None

	habitats, as defined by specific attributes and targets: Alkaline fens [7230]		
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8.4.27. Based on my examination of the Screening Report, the NIS and supporting information, the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European sites, I agree with the conclusion of the applicant’s consultants that a Stage 2 Appropriate Assessment is required for one of the European sites referred to above, that being Lower River Suir SAC (site code: 002137).

8.4.28. All other European sites, and in particular Higginstown Fen SAC, can be screened out from further assessment because of the nature and scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Conservation Interests, the separation distances and the lack of a substantive hydrological or ecological linkage between the proposed works and the other European sites. No reliance on avoidance measures or any form of mitigation is required in reaching this conclusion.

Identification of Likely Effects

8.4.29. The conservation objectives of the Natura 2000 site are as follows:

- Lower River Suir SAC – Conservation objectives are set out in the ‘Conservation Objectives Series Lower River Suir SAC 002137’ document published by the National Parks & Wildlife Service (NPWS). They are to restore and/ or maintain the favourable conservation conditions of habitats and species cited.

8.4.30. As identified in section 8.4.11 above, I consider the likely significant effects on European sites to be both construction and operation related concerning the uncontrolled disposal of surface water related pollution. These pollutants / emissions could have a significant effect on downstream habitats and species through water quality impacts during the construction phase given the direct hydrological link via the surface water drainage system.

Mitigation Measures

8.4.31. No measures designed or intended to avoid or reduce any harmful effects of the project on a European site have been relied upon in this screening exercise.

Screening Determination

8.4.32. The proposed development was considered in light of the requirements of section 177U of the Planning & Development Act, 2000 (as amended). Having carried out screening for Appropriate Assessment of the project, I conclude that the project individually (or in combination with other plans or projects) could have a significant effect on the European site Lower River Suir SAC (site code: 002137) in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is therefore required.

Appropriate Assessment of Implications of the Proposed Development

8.4.33. 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. 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).

8.4.34. The following is an assessment of the implications of the project on the relevant conservation objectives of the European sites using the best available scientific knowledge in the field. 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.

8.4.35. 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 development of the N24 Carrick Road Improvement Scheme individually or in-combination with other plans or projects will have a significant effect on the following European site (i.e., there is the possibility of significant effect):

- Lower River Suir SAC (site code: 002137)

8.4.36. In order to carry out a complete appropriate assessment of the proposed development, 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

8.4.37. A catalogue of these sites and their Qualifying Interests/Special Conservation Interests of the Lower River Suir SAC (site code: 002137) are set out in Section 4.2 of the NIS. Habitats and species for which direct or indirect impacts were identified for assessment of adverse effects are examined in view of their conservation objectives. This was based on ecological surveys, analysis of distribution mapping, ecological requirements of individual species and habitats and impact pathways etc. I have examined and evaluated this scientific analysis and provide a summary in Tables 2 and 3 of this report as part of my assessment for the Board.

8.4.38. 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 once the mitigation measures detailed in Table 2 below are implemented no significant effect will accrue to the habitats and species in the SAC. I provide a summary in Tables 2 and 3 of this report as part of my assessment for the Board. I am satisfied that in-combination effects have also been considered and adequately assessed in the NIS.

Aspects of the Proposed Development that could affect Conservation Objectives

- 8.4.39. In my opinion, having reviewed the development proposals, the main aspects of the proposed development that could affect the conservation objectives of the sites are those set out in section 8.4 .11 above.
- 8.4.40. For the SAC, this is a change in water quality as a result of a surface water runoff during the construction phase on Atlantic salt meadows, Mediterranean salt meadows, Alluvial forests, Sea lamprey, River lamprey, Twaite Shad, Otter, and Salmon. Any impacts affecting Salmon would interfere with the successful Freshwater Pearl Mussel life cycle completion.
- 8.4.41. Tables 2 and 3 summarise the AA and site integrity test. The relevant conservation objectives for the European site have been examined and assessed with regard to the identified potential significant effects and all aspects of the project, both 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, and clear, precise, and definitive conclusions reached in terms of adverse effects on the integrity of the European sites.

Tables 2 and 3 below: 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 2: Lower River Suir SAC [002137]					
Summary of key issues that could give rise to adverse effects:					
<ul style="list-style-type: none"> • Changes in water quality during construction impacting on habitats • Changes in water quality during construction impacting on species Conservation objectives: see ConservationObjectives.rdl (npws.ie)					
Summary of Appropriate Assessment					
Qualifying Interest Feature	Conservation objectives targets and attributes	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Atlantic salt meadows (Glaucopuccinellietalia maritimae) [1330]	To restore the favourable conservation condition of Atlantic salt meadows (Glaucopuccinellietalia maritimae)	The site is hydrologically linked to the SAC/habitat via the existing surface water drainage system which discharges directly to the river.	<p>Construction – A final CEMP will be completed by the contractor and a Method Statement will be drawn up detailing how the works will be carried out in compliance with the mitigation measures.</p> <p>An ECoW will be appointed for the duration of the construction works to approve the contractor's CEMP and to ensure best practice methods and mitigation measures detailed in the NIS / EclA are adhered to.</p> <p>A new drainage network will be</p>	There is no potential for the proposed development to undermine the integrity of Lower River Suir SAC, acting in combination with other plans or projects.	Yes Adverse effects on the site can be excluded and with the implementation of the mitigation measures the potential for significant effects can be ruled out.

			<p>installed with attenuation ponds, reduced flows and two new Bypass Petrol Interceptors.</p> <p>Silt fences will be erected around works adjacent to the Skelpstown 16 stream and the site compound.</p> <p>Any oils or fuels that may be required for minor machinery used during the proposed works will be stored appropriately in bunded tanks in the site compound to ensure no spillages occur.</p> <p>Machinery will be well-maintained and checked for leaks prior to its use on site.</p> <p>Storage areas for concrete / cement and grout required for the works will be included in the site compound.</p> <p>Waste from any site clearance works will be dealt with appropriately, at least 50m away from the Skelpstown 16 stream.</p> <p>The precise process of the Skelpstown 16</p>	
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			<p>stream realignment and box culvert installation will be detailed in the Method Statement and will follow mitigation and relevant guidelines.</p> <p>The site compound will be located away from Skelpstown 16 stream.</p> <p>Works within 50m of the Skelpstown 16 stream shall be limited to daytime hours.</p> <p>Any hired equipment and machinery used on site will be treated with an approved biocide / cleaning agent prior to its arrival on site.</p> <p>Operation – A new surface water drainage system with interceptor will be in operation.</p>		
<p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p>	<p>To restore the favourable conservation condition of Mediterranean salt meadows (Juncetalia maritimi)</p>	As above	As above	As above	As above

Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260]	To maintain the favourable conservation condition of Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation	None	N/A	As above	As above
Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]	To maintain the favourable conservation condition of Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels	None	N/A	As above	As above
Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]	To restore the favourable conservation condition of Old sessile oak woods with Ilex and Blechnum in the British Isles	None	N/A	As above	As above
Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae,	To restore the favourable conservation condition of Alluvial forests with Alnus glutinosa and Fraxinus	The site is hydrologically linked to the SAC/habitat via the existing surface water drainage system which discharges	As above	As above	As above

Salicion albae) [91E0]	excelsior (Alno- Padion, Alnion incanae, Salicion albae)	directly to the river.			
Taxus baccata woods of the British Isles [91J0]	To restore the favourable conservation condition of Taxus baccata woods of the British Isles	None	As above	As above	As above
Freshwater Pearl Mussel Margaritifera margaritifera [1109]	To restore the favourable conservation condition of Freshwater Pearl Mussel	Water quality impacts on Salmon could indirectly impact on the designated Freshwater Pearl Mussel	As above	As above	As above
White-clawed Crayfish Austropotamo bius pallipes [1092]	To maintain the favourable conservation condition of White-clawed Crayfish	None	N/A	As above	As above
Sea lamprey Petromyzon marinus [1095]	To restore the favourable conservation condition of Sea Lamprey	The site is hydrological ly linked to the SAC/habitat via the existing surface water drainage system which discharges directly to the river.	As above	As above	As above

Brook Lamprey Lampetra planeri [1096]	To restore the favourable conservation condition of Brook Lamprey	None	N/A	As above	As above
River lamprey Lampetra fluviatilis [1099]	To restore the favourable conservation condition of River Lamprey	The site is hydrologically linked to the SAC/habitat via the existing surface water drainage system which discharges directly to the river.	As above	As above	As above
Twaite Shad Alosa fallax fallax [1103]	To restore the favourable conservation condition of Twaite Shad	As above	As above	As above	As above
Salmon Salmo salar [1106]	To restore the favourable conservation condition of Atlantic Salmon	As above	As above	As above	As above
Otter Lutra lutra [1355]	To maintain the favourable conservation condition of Otter	As above	As above	As above	As above

Overall conclusion: Integrity test

Following the implementation of mitigation, the construction and operation of the proposed development will not adversely affect the integrity of Lower River Suir SAC in light of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.

Potential in-combination effects

8.4.42. Having examined and assessed the project alone and in combination with plans and projects as presented in the NIS, I accept that due to the limited scale, that the construction and completion of the N24 Carrick Road Improvement Scheme will not constitute a significant additional loading on the ecological carrying capacity of area or the complex of habitats that are required to maintain the conservation objectives of any of the ecological receptors considered in the NIS. Taking account of the scope, scale, nature, size and location of the project and the sensitivities of the ecological receptors, there is very limited potential for synergistic interaction, between the proposed development and the projects, plans and activities considered in the preceding sections that could result in cumulative or in-combination impacts.

Mitigation measures

8.4.43. Section 7 of the NIS sets out the mitigation measures proposed to avoid, reduce or prevent the risk of potential impacts arising from the proposed development. The mitigation measures proposed include as follows:

- A final CEMP will be completed by the contractor and a Method Statement will be drawn up detailing how the works will be carried out in compliance with the mitigation measures.
- An ECoW will be appointed for the duration of the construction works to approve the contractors CEMP and to ensure best practice methods and mitigation measures detailed in the NIS / EclA are adhered to.
- A new drainage network will be installed with attenuation ponds, reduced flows and two new Bypass Petrol Interceptors.
- The precise process of the Skelpstown 16 stream realignment and box culvert installation will be detailed in the Method Statement and will follow mitigation and relevant guidelines.
- Silt fences will be erected around works adjacent to the Skelpstown 16 stream and the site compound.
- Any oils or fuels that may be required for minor machinery used during the proposed works will be stored appropriately in bunded tanks in the site compound to ensure no spillages occur.

- Machinery will be well-maintained and checked for leaks prior to its use on site.
- Storage areas for concrete / cement and grout required for the works will be included in the site compound.
- Waste from any site clearance works will be dealt with appropriately, at least 50m away from the Skelpstown 16 stream.
- Any tool washing and waste / grey water from the site will be stored securely until it can be removed from site.
- Contained portaloo toilets will be used and all sewage appropriately removed from the site to an authorised treatment plant.
- Removal of soil off the site to a licensed facility with certification for all materials provided by the main contractor on completion of excavation works.
- The site compound shall be located away from the Skelpstown 16 stream.
- Machinery will not operate or be stored outside of delineated works area.
- Works within 50m of the Skelpstown 16 stream shall be limited to daytime hours to avoid potential disturbance to Otters.

8.4.44. All mitigation measures proposed have been examined, evaluated and assessed as being in line with current best practice. The measures have been described in detail providing evidence of how adverse effects will be avoided or reduced to non-significant levels. There is no doubt as to the effectiveness of these measures or their ease of implementation. In my view, the mitigation measures are appropriate to the risks identified and would, if implemented correctly, be sufficient to avoid any significant impacts and exclude adverse effects on site integrity.

NIS omissions

8.4.45. There are no omissions from the NIS.

Suggested related conditions

8.4.46. Given the distance between the proposed N24 Carrick Road Improvement Scheme and the Lower River Suir SAC, I do not consider any specific related conditions are necessary in addition to the mitigation measures proposed.

Site Integrity

8.4.47. The integrity of sites designated SAC involves their constitutive characteristics and ecological functions. Following appropriate assessment of all aspects of the proposed development (alone and in combination with other plans and projects), which I consider to have been done in view of the best scientific knowledge, adverse effects on Lower River Suir SAC (site code: 002137) can be excluded based on the following rationale:

- Following mitigation, none of the habitat types or species for which the site has been designated will be significantly affected.
- The proposed development will not cause delays in achieving the conservation objectives of the European site or interrupt progress towards achieving those objectives.
- The proposed development will not interfere with the ecological structure, function or ecological processes of any European site.
- The proposed development will not reduce the area of key habitats or the population of key species or the balance between key species.
- The proposed development will not result in fragmentation of habitats or species and will not result in the loss or reduction of key features supporting this site.

Appropriate Assessment Conclusion

8.4.48. The proposed development of the N24 Carrick Road Improvement Scheme has been considered in light of the assessment requirements of sections 177U and 177V of the Planning & Development Act, 2000 (as amended).

8.4.49. Having carried out screening for AA of the project, it was concluded that it may have a significant effect on Lower River Suir SAC (site code: 002137). Consequently, an AA was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.

8.4.50. Following AA, it has been ascertained that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of European site No. 002137, or any other European site, in view of the sites Conservation Objectives.

8.4.51. 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. The basis of the conclusion is:

- a full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the Conservation Objectives of Lower River Suir SAC.
- detailed assessment of the in-combination effects with other plans and projects including historical projects, current proposals, and future plans.
- no reasonable scientific doubt as to the absence of adverse effects on the integrity of Lower River Suir SAC.

9.0 Recommendation

On the basis of the above assessment, I recommend that the Board approve the proposed development subject to the reasons and considerations below and subject to conditions including requiring compliance with the submitted details and with the mitigation measures as set out in the NIS.

Reasons and Considerations

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

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011 (as amended),
- (c) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on a European Site,
- (d) the conservation objectives, qualifying interests and special conservation interests for the Lower River Suir SAC (site code: 002137),
- (e) Project Ireland 2040 National Planning Framework (NPF),

- (f) Climate Action Plan 2023 – Changing Ireland for the Better,
- (g) Design Manual for Urban Roads and Streets (2019) (DMURS),
- (h) Regional Spatial and Economic Strategy for the Southern Region (RSES),
- (i) the policies and objectives of the Kilkenny City & County Development Plan 2021-2027,
- (j) the nature and extent of the proposed works as set out in the application for approval,
- (k) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (l) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement
- (m) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

Appropriate Assessment:

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the Lower River Suir SAC (site code: 002137), is the only European Site in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Site, namely the Lower River Suir SAC (site code: 002137), in view of the site's 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 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 Site.

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 development on the integrity of the aforementioned European Sites, having regard to the site's conservation objectives.

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

Proper Planning and Sustainable Development/Likely effects on the environment:

It is considered that, subject to compliance with the conditions set out below, the proposed development would not have significant negative effects on the environment or the community in the vicinity, would not give rise to a risk of pollution, would not be detrimental to the visual or landscape amenities of the area, would not seriously injure the amenities of property in the vicinity, would not adversely impact on the cultural, archaeological and built heritage of the area and would not interfere with the existing land uses in the area. The proposed development would improve road safety on this section of the N24 national road and result in an improved environment for residents of Mooncoin village. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The proposed road development shall be carried out and completed in accordance with the plans and particulars, including the Natura Impact Statement, lodged with the application for approval, except as may otherwise be required in order to comply with the following conditions. Where any mitigation measures set out in the Natura Impact Statement or any conditions of approval require further details to be prepared by or on behalf of the local authority, these details shall be placed on the file and retained as part of the public record.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the environment.

2. The proposals, mitigation measures, commitments, and recommendations set out in the Natura Impact Statement shall be implemented in full as part of the proposed road development. Any proposals, mitigation measures, commitments, and recommendations stating 'should' or 'may' etc. shall be read as 'shall' or 'will' etc.

Reason: In the interest of clarity, to mitigate the environmental effects of the proposed road development, and to protect the amenities of the area and of properties in the vicinity.

3. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare in consultation with the relevant statutory agencies, a Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement and demonstration of proposals to adhere to best practice and protocols. These details shall be placed on file and retained as part of the public record.

Reason: In the interest of protecting the environment.

4. A suitably qualified ecologist shall be retained by the local authority to oversee the site set up and construction of the proposed development and implementation of mitigation measures relating to ecology set out in the Natura Impact Statement and the Ecological Impact Assessment Report. The ecologist shall be present during site construction works. Upon completion of works, an

ecological report of the site works shall be prepared by the appointed ecologist to be kept on file as part of the public record.

Reason: In the interest of nature conservation, to prevent adverse impacts on the European site and to ensure the protection of the Annex I habitats and Annex II species and their Qualifying Interests for which the site was designated.

5. The design and construction of culverts shall have regard to the provisions of NRA publication 'Guidelines for the Crossing of Watercourses during the Construction of National Road Schemes' and the Eastern Regional Fisheries Board publication 'Requirements for the Protection of Fisheries Habitat during Construction and Development Work at River Sites'.

Reason: In the interests of ecological protection.

6. The preservation, recording, and protection of archaeological materials or features that may exist within the site shall be facilitated. In this regard, a suitably qualified archaeologist shall be retained to monitor all site investigations and other excavation works and provide arrangements for the recording and for the removal of any archaeological material considered appropriate to remove.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

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.

Liam Bowe
Senior Planning Inspector

4th January 2024