



An
Coimisiún
Pleanála

Inspector's Report

ABP-318082-23

Development	Application for Substitute Consent for the continuation of existing quarrying works, consisting of the extraction and grading of stone for the building industry, and all associated site development works. A remedial EIAR accompanies this application.
Location	Drumbeagh, Mountcharles, Co. Donegal.
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	
Applicant(s)	Gabriel Murray, Murray Stone
Type of Application	Substitute Consent
Observer(s)	None
Date of Site Inspection	14 February 2025
Inspector	Claire McVeigh

Contents

1.0 Introduction	4
2.0 Site Location and Description	5
3.0 Development Description.....	6
4.0 Legislation	8
5.0 Background to the substitute consent application	9
6.0 Policy Context and Guidelines	11
6.1. County Donegal Development Plan 2024-2030	11
6.2. Donegal Noise Action Plan (NAP) 2024-2028 (draft) Previous Noise Action Plan 2018-2023 and mapping referred to in rEIAR.	13
6.3. The Geological Heritage of Donegal - An Audit of County Geological Sites in Donegal (Published November 2020)	13
6.4. National Policy and Guidance	13
6.5. Natural Heritage Designations	16
7.0 Submissions and Observations	17
8.0 Donegal County Council - Planning Authority Section 177I report.....	17
9.0 Applicant's response to section 177I report prepared by Donegal County Council 22	
10.0 Assessment.....	22
10.5. Exceptional Circumstances	23
10.6. Proper planning and sustainable development.....	26
10.7. Environmental Impact Assessment (EIA) – with reference to the submitted remedial Environmental Impact Assessment Report (rEIAR)	28

11.0	Appropriate Assessment (AA) Screening	82
12.0	Water Framework Directive	83
13.0	Overall conclusion	84
14.0	Recommendation	86
15.0	Reasons and Considerations.....	86
16.0	Conditions	87
	Appendix 1: Screening for Appropriate Assessment	91
	Appendix 2: WFD Impact Assessment Stage 1: Screening	96

1.0 Introduction

- 1.1. In August 2012 Donegal County Council issued a determination under s.261A of the 2000 Act requiring 'Murray Stone' to apply to the then Board (now the Commission) for substitute consent. The applicant in their leave to apply for substitute consent application ("leave to apply") in letter dated 25-03-2021 states that: *"the Murray family did proceed to commission a comprehensive report from Catherine Storey (a specialist in assessment and conservation) which was forwarded to An Bord Pleanala on 04-10-2012 as part of an application requesting substitute consent"*. No further details are provided, and I note that Donegal County Council (DCC) state that they have no record of same or any previous application for substitute consent. An extensive search was carried out of the database within An Bord Pleanala in 2021, at the time of the leave to apply application, and in a Memorandum dated 31 May 2021 it is stated that they are satisfied that the Board never received any substitute consent application relating to this site prior to the leave to apply application.
- 1.2. This Substitute Consent (SC) application has been submitted pursuant to consent for leave to apply for substitute consent (ABP 310012-21) ("leave to apply") under s.177C of the Planning and Development Act, 2000 (as amended). Section 5.0 of this report outlines the background to the substitute consent application pertaining to the subject site and I highlight to the Commission that the legislation with respect to substitute consent was amended by the Planning and Development and Residential Tenancies Act 2020 ("the 2020 Act") in December 2020. The 2001 Regulations were also amended by the Planning and Development (Amendment) (No. 2) Regulations 2020 ("the 2020 Regulations"). On 16 December 2023, certain provisions of s 177K were repealed by s. 40 of the Planning and Development, Maritime and Valuation (Amendment) Act 2022 ("the 2022 Act"). The 2022 Act contained applicable transitional provisions in section 41(12)¹. As such, the subject application made by Murray Stone on 22

¹ Section 41(12) of the 2022 Act dictates that where an application for substitute consent under s.177E of the 2000 Act was made before the commencement date of s.40, which repealed s.177K(1A)(b) and (c) and s. 177K(1B) to (1I), that application should be considered in accordance with the 2000 Act as if s.26 to 40 of the 2022 Act has not come into operation.

September 2023 should be considered in light of the transitional arrangements under the 2022 Act.

- 1.3. For clarity this means that s.177E(2), which was in force on 22 September 2023, applies i.e. a remedial EIAR is to be included with the application for substitute consent should the Commission have made a direction in this regard.

2.0 Site Location and Description

- 2.1. The site has a stated area of 3.45ha, which includes an extraction area of 2.49ha (as per Chapter 15 of the remedial Environmental Impact Assessment Report (rEIAR), and is located in the rural townland of Drumbeagh accessed off a local road directly off the N56 'Wild Atlantic Way' between the villages of Mountcharles and Inver. The land is owned by the applicant's mother, Bridget Murray, and the applicant leases the land. The overall landholding as shown on Drawing 1-80111 indicates a larger land holding of 8.88ha (Folio DL10130 map ownership assigned to Bridget Murray as submitted with the enforcement report UD 2027 on case file ABP 310012-21).
- 2.2. The boundary of the nearest residential dwelling is located to the northeast of the subject site and abuts the application site boundary, the second nearest to the northwest of the application site is a residential dwelling located directly across the access laneway which abuts the application site boundary along this edge. The applicant's mothers' home is located c. 115 metres west of the application site.
- 2.3. The natural lie of the land in this area is rising from the west to east. The lowest level of the subject site is indicated at c 54mOD and c 73mOD moving east within the site and the land then falls gradually further to the east and northeast within the site. As set out in section 5.3.3 of the rEIAR there are several lithologies present in the quarry and the dominant rocks are brown sandstone and a blue sandstone.
- 2.4. As a result of the quarrying activity there is a quarry void. The digital topographic survey (Drawing No. 12321) illustrates the extracted areas. The extraction area is noted as 2.49ha in Chapter 15 of the rEIAR at section

15.10.3. It is stated in section 1.2.2 of the submitted rEIAR that most of the extracted rock processed aggregate is sold as cut stone after processing with guillotine or circular saw. The various working quarry faces are situated on lands rising to the east of the central levelled area, which are accessible via tracks.

- 2.5. There is a small amount of site infrastructure in the form of a processing area. The equipment in these areas is covered by temporary structures or timber frame and either plastic sheet roofing or corrugated iron roofing. The processing and stockpiling area is in the western part of the site near the entrance. There is no weighbridge on site, and the canteen toilet and welfare facilities are provided at the applicant's home.
- 2.6. A mature line of hedgerows and trees mark the southern boundary with the access road off the N56. A steeply sloping bank falls from the access roadway to a stream which runs across the subject site from east to west in the southern section of the site, culverted under the principal access to the quarry. There is also a stream running along the northern boundary and through the southern portion of the site. There are two no. ground water pools located in an approximately central position with the subject site as defined by the red line boundary, shown on the submitted digital topographical survey.
- 2.7. A second gateway and track located further east of the principal entrance was not in use at the time of my site inspection. Separately, I noted a mobile home situated to the west of the subject site (within the blue line site ownership).

3.0 Development Description

- 3.1. Application for substitute consent for the continuation of existing quarry works (inspector note i.e. the application is seeking permission for retrospective consent and for future works), consisting of the extraction and grading of stone for the building industry and all associated site development works.
- 3.2. A remedial Environmental Impact Assessment Report (rEIAR) accompanies this application. It is stated in that rEIAR that the "*...remedial EIAR has been prepared to accompany an application to An Bord Pleanala for substitute*

consent, that refers specifically to works already carried out at Murray Stone over a long period of time and not to future proposed development at the quarry” (see Section 2.4 Consideration of Alternatives).

- 3.3. The quarrying description (section 3.1.3 of the submitted Ecological Report dated August 2024) sets out that there has been a quarry recorded on the site since the mid 1800’s and the primary product from the quarry is cut sandstone for decorative cladding or garden stone. Furthermore, the quarry activities are described succinctly in section 3.1.3 of the Ecological Report as follows:

“Rock is extracted by mechanical means using an excavator with a ripping claw. Larger boulders are then further broken down into manageable sizes using a hydraulic breaker attachment on the excavator. Manageable pieces are then guillotined cleaving the along the natural bedding planes into decorative stone or cut with a circular sae to size. The quarry produces a beige/light brown cut stone and a blue cut stone from the available lithology. There have been some blasts in the past to assist with rock extraction, but this practice is no longer employed as the effects of the blasting were detrimental to the natural fracture lines within the rock. There are no plans to blast in the future.”

- 3.4. The subject application is accompanied by the following:

Reference/Author	Title
Drawing No. 1-80111	Site Location Map, Site Layout Map and Aerial Image
Drawing no. 2-80111	Plans, elevations, sections & photos of structures within the quarry (Covered area for the stone guillotine and steel-clad container for the stone veneer saw)
Drawing no. 12321	Digital Topographical Survey
Greentrack Environmental Consultants (September 2023)	Remedial Environmental Impact Assessment Screening Report (September 2023)

Greentrack Environmental Consultants (September 2023)	Ecological Report which includes a screening report for Appropriate Assessment. (September 2023)
Greentrack Environmental Consultants (August 2024)	Ecological Report which includes a screening report for Appropriate assessment (August 2024)
Greentrack Environmental Consultants (July 2024)	Remedial Environmental Impact Assessment Report (rEIAR) (July 2024) – Hard copy
Greentrack Environmental Consultants (July 2024)	Electronic remedial Environmental Impact Assessment Report (rEIAR)
Greentrack Environmental Consultants (August 2024)	Electronic Ecological Report for Murray Stone which includes a Stage 1 Screening Report for Appropriate Assessment relating to quarry development in the townland of Drumbeagh, Mountcharles, Co. Donegal.
Greentrack Environmental Consultants (received on 13/09/24 cover dated July 2024)	Electronic REVISED remedial Environmental Impact Assessment Report (rEIAR)

Table 3.1: Plans and particulars

4.0 Legislation

- 4.1. Under section 261 of the Planning and Development Act, 2000 (as amended) a system for the registration of all quarries was introduced (April 2004). Amendments were subsequently made to Section 261 under the Planning and Development Act 2010, and in this respect, the inserted Section 261A introduced specific provisions for substitute consent for quarries. The substitute consent regime is applicable where an application for retention

permission is prohibited i.e. where quarry development has taken place and environmental assessment was required but not undertaken.

4.2. In *An Taisce v McTigue Quarries Ltd* [2018] IESC 54 it was argued, in this case to the Supreme Court, that section 177O (1) of the Planning and Development Act 2000 has the effect of authorising future development on a quarry which has been granted substitute consent. However, the Supreme Court interpreted section 177O as meaning that where a grant of substitute consent is made in accordance with section 177A to section 177Q then it would only have the effect of authorising future development where there was a prior planning permission which was defective. As Browne writes in Simons on Planning Law: - “*Substitute consent is capable of authorising future development where defective permissions are replaced*” (Chapter 16, Substitute Consent, Section C, at para.16-100, Simons on Planning Law, 3rd edn. 2021)

4.3. This application for substitute consent does seek authorisation for continued extraction. I highlight that the Commission does not have the power to grant such future development by way of a decision under substitute consent given that there is no ‘gateway’ to that i.e. prior planning permission which was defective for this site. This substitute consent, if granted, can be retrospective only and would not authorise the continuation of quarrying works. Therefore, in the interest of clarity my assessment is retrospective, solely relates to the development already undertaken on a quarry area and does not consider any future development, including excavation, on this site.

4.4. I am satisfied that the remedial Environmental Impact Assessment Report (rEIAR) covers the previous development undertaken on the quarry area. Future quarrying activities would have to be subject to separate application for authorisation supported by the appropriate environmental assessments.

5.0 Background to the substitute consent application

An Bord Pleanála (now An Coimisiún Pleanála)

315867-23 Further extension of time to apply for substitute consent. Granted further three months from the date of the order (Order dated 23rd June 2023).

314750-22 Further extension of time to apply for substitute consent. Granted a further three months from the date of the order (Order dated the 27th October 2022).

312788-22 Application for an Extension of Time to apply for Substitute Consent. Extension of time granted up to the 29th July 2022.

310012-21 Application for Leave to Apply for Substitute Consent under section 177C of the Planning and Development Acts, 2000-2018 granted by order dated the 15th November 2021.

Donegal County Council (DCC)

No record of planning permission sought with exception to the application made in error for substitute consent, as noted below:

Planning register reference 23/50120 (Lodged 3rd February 2023) – **Invalid application** – Application description sought ‘Substitute consent for the continuation of existing quarrying works, consisting of the extraction and grading of stone for the building industry and all associated site development works’.

5.1. Enforcement

UD2027: Enforcement Notice was issued (18 November 2020) under s.154 of the Planning and Development Act, 2000 (as amended).

5.2. Quarry Registration

Section 261 Registration ref: EU QY04 Quarry registered at Drumbeagh, Mountcharles – Gabriel Murray.

5.3. Section 261A process

In March 2007, DCC advised Gabriel Murray that they were considering imposing conditions.

In August 2012 DCC advised Gabriel Murray that substitute consent should be applied for the quarry. As referred to in the introduction, it is stated that a submission prepared by an environmental consultant was forwarded to An Bord Pleanála on 4 October 2012 as part of an application requesting substitute consent. No record of same.

Separately, I highlight to the Commission that the site area of the quarry was stated as 4.15 ha in the application for leave to apply for substitute consent (310012-21).

6.0 Policy Context and Guidelines

6.1. County Donegal Development Plan 2024-2030

Subject site is located within a 'Structurally Weak Rural Area' and an area designated as 'High Scenic Amenity'. The subject site is located in an area categorised as being 'Open to Consideration' for wind energy development.

Section 9.2 Extractive Industry and Geology

Objective EX-O-1 To facilitate extractive industries subject to the protection of residential and natural amenities, the prevention of pollution, and the safeguarding of aquifers and groundwater.

Policies:

EX-P-1 It is a policy of the Council that the principle of proposed new extractive industries, shall generally be accepted where such deposits exist save:

- a. for the following areas/designations where such development shall not be supported:
 - i. Areas designated as Especially High Scenic Amenity;
 - ii. Designated Natura 2000 sites, Natural Heritage Areas, Nature Reserves or other areas of importance for the conservation of flora and fauna; or
 - iii. Areas of significant archaeological potential.
- b. In the following scenarios, unless it can be clearly demonstrated that the development would not have significant adverse impacts on the amenities or the environment;
 - i. identified Views and Prospects, Greenways, Blueways and tourist routes.

EX-P-2 It is a policy of the Council to only support development proposals for extractive industry developments where such proposals identify relevant robust and

effective mitigation measures in respect of the anticipated environmental impacts of such development in accordance with the DEHLG Quarries and Ancillary Activities Guidelines for Planning Authorities 2004 and the EPA Environmental Management in the Extractive Industry (non-scheduled minerals) Guidelines, 2006. Such impacts to be considered shall include: noise and vibration; dust deposition/air quality; water supplies and groundwater; natural heritage; landscape; traffic and roads impact; cultural heritage; waste management; environmental management systems; and site restoration plan.

G-P-1 It is a policy of the Council to protect County Geological Sites (CGS). Accordingly, the Council will adopt a precautionary approach to development proposals with the potential to impact upon a CGS. Proposals should be accompanied by a detailed report from a competent person setting out the potential impact to ensure that an informed decision can be made. Where significant harm to the CGS is deemed likely, planning permission will not be granted unless there are overriding considerations of public importance to the County.

Chapter 8: Infrastructure

Section 8.2.5 Relevant Legal and Planning Frameworks and Guidelines with reference to the Water Framework Directive (WFD)

Map. 11.1 Area is designated as 'Areas of High Scenic Amenity (HSA):

Areas of High Scenic Amenity (HSA): These are landscapes of significant aesthetic, cultural, heritage and environmental quality that are unique to their locality and form a fundamental element of the landscape and identity of County Donegal. These areas have the capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving landscape and which does not detract from the quality of the landscape, subject to compliance with all other objectives and policies of the plan.

Objective L-O-1 To protect, manage and conserve the character, quality and value of the Donegal landscape.

L-P-2 To protect areas identified as ‘High Scenic Amenity’ and ‘Moderate Scenic Amenity’ on Map 11.1 ‘Scenic Amenity’. Within these areas, only development of a nature, location and scale that integrates with, and reflects the character and amenity of the landscape may be considered, subject to compliance with other relevant policies of the Plan.

6.2. Donegal Noise Action Plan (NAP) 2024-2028 (draft) Previous Noise Action Plan 2018-2023 and mapping referred to in rEIAR.

Section 5.4 ...Over the life of the previous NAP, new works projects undertaken on National Routes were assessed for noise mitigation requirements and a section of road on the N56 Mountcharles Drumbeigh Project required action and so sound absorbing barriers were erected at Milltown, along the route, which was opened in 2019.

6.3. The Geological Heritage of Donegal - An Audit of County Geological Sites in Donegal (Published November 2020)

Subject site sits within the designated County Geological Site (CGS) *Bánna Dhún na nGall agus Inbhir* Other names used for site Donegal and Inver Bays, South Donegal Drumlin Field, South Donegal Ribbed Moraine Field, also the northwestern portion of the traditionally termed ‘Drumlin Belt’

Management/promotion issues

This is an excellent site in terms of macro-scale Quaternary subglacial geomorphology. The features are too large to undertake any conservation efforts on their part, but the landscape itself is noteworthy and should be promoted as unique amongst landscape elements within the Donegal County Development Plan and in Landscape Characterisation.

6.4. National Policy and Guidance

6.4.1. Climate Action Plan 2025 (in conjunction with Climate Action Plan 2024)

The CAP 2025 sets out the roadmap to deliver on Ireland’s climate ambition.

The Circular Economy and other emissions - Key messages - the extraction of certain natural resources and the generation of waste is a major contributor to habitat and biodiversity loss and contributed to global warming.

6.4.2. *Ireland 4th National Biodiversity Action Plan 2023-2030*

The 4th NBAP strives for a “whole of government, whole of society” approach to the governance and conservation of biodiversity. The aim is to ensure that every citizen, community, business, local authority, semi-state and state agency has an awareness of biodiversity and its importance, and of the implications of its loss, while also understanding how they can act to address the biodiversity emergency as part of a renewed national effort to “act for nature”.

6.4.3. *First Revision: National Planning Framework (April 2025)*

9.2 Resource Efficiency and Transition to a Neutral Carbon Economy

Aggregates and Minerals (Excerpt of)

Aggregates and minerals extraction will continue to be enabled where this is compatible with the protection of the environment in terms of noise, air and water quality, natural and cultural heritage, the quality of life of residents in the vicinity, and provides for appropriate site rehabilitation particularly with respect to opportunities that may be provided for enhancement or restoration of nature in line with EU policies, such as the Nature Restoration Law, the EU Green Deal and EU Biodiversity Strategy 2020, and legislative instruments.

National Policy Objective 66 The planning system will be responsive to our national environmental challenges and ensure that development occurs within environmental limits, having regard to the medium and longer-term requirements of all relevant environmental and climate legislation and the sustainable management of our natural capital.

6.4.4. *Regional Spatial and Economic Strategy 2020-2031 Northern & Western Regional Assembly*

RPO 5.2 (a) Protect manage and conserve the quality, character and distinctiveness of our Landscapes and seascapes. (b) The Assembly supports co-operation and co-ordination between Local Authorities in determining landscape character along their borders. A targeted review should be undertaken to ensure consistency in

classification and policy in adjoining areas of similar character. The NWRA will assist in collaboration and coordination. (c) Following the completion of the National Landscape Character Assessment, and any associated statutory Guidelines, the Regional Assembly shall prepare a Regional Landscape Character Assessment to promote improved landscape management and designation.

6.4.5. *Quarries and Ancillary Activities – Guidelines for Planning Authorities (2004)*

“Aggregates are a significant natural resource. The extractive industries make an important contribution to economic development in Ireland. However, the operation of quarries can give rise to land use and environmental issues which require to be mitigated and controlled through the planning system. These Guidelines seek to identify those issues and to suggest best practice in dealing with them. It is important that planning authorities should recognise that quarries (including sand-and-gravel pits) vary greatly in size, with varying environmental impacts, and that the planning response to proposed developments should be tailored accordingly”.

- Chapter 3 and Chapter 4

6.4.6. *Environmental Management Guidelines Environmental Management in the Extractive Industry (Non-Scheduled Minerals) (2006)*

These guidelines are principally aimed at surface developments within the extractive industry, other than those working minerals as they are defined in the Mineral Development Acts, 1940 to 1999. They apply to surface developments that are extracting and processing construction aggregates and dimension stone (i.e. quarries and ancillary facilities), i.e. typically those regulated by Section 261 of the Planning & Development Act 2000...

The guidelines are intended to provide general advice and guidance in relation to environmental issues to practitioners involved in the planning, design, development, operation and restoration of quarry developments and ancillary facilities...No distinction is made between new and existing developments in this document'

6.4.7. *Guidelines for Planning Authorities An Bord Pleanála on carrying out Environmental Impact Assessment (Department of Housing, Local Government and Heritage) (August 2018)*

6.4.8. *Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (Department of Environment, Heritage and Local Government 2009)*

6.5. Natural Heritage Designations

The nearest hydrologically connected Natura 2000 sites are St. John's Point SAC (Site Code 000191) /proposed Natural Heritage Areas: St. John's Point at 13.67km hydrological distance and Donegal Bay SPA (Site Code: 004151) at 9.17km hydrological distance.

The submitted Ecological Report (dated August 2024) includes a sieving exercise using the source-pathway-receptor (SPR) model within the potential zone of influence and has identified the following Natura 2000 sites:

Site Name and Site Code	Distance from the subject site and pathway
Donegal Bay SPA (Site Code: 004151)	2.96km SE indirect hydrological link. Hydrological distance from the subject site to SPA is 9.17km.
St. John's Point SAC (Site Code: 000191)	12km SW indirect hydrological link to the SAC and hydrological distance from the subject site to the SAC is 13.67km.
Donegal Bay (Murvagh) SAC (Site Code:000133)/ proposed Natural Heritage Areas: Donegal Bay (Murvagh)	2.93km SE indirect hydrological link to eh SAC and hydrological distance from subject site to SAC is 15.43km.
Durnesh Lough SAC (Site Code 000138)	8.2km S undirect hydrological link to the SAC and hydrological distance from the subject site to SAC is 15.43km

I agree with the findings of the SPR sieving exercise with respect to the identification of the relevant Natura 2000 sites.

7.0 Submissions and Observations

7.1. *Transport Infrastructure Ireland (TII)*

- 7.1.1. The Authority notes the subject development site accesses the local road network and notes the traffic analysis undertaken in support of the subject application outlined in Chapter 12 of the remedial EIAR that accompanied the application.
- 7.1.2. Having regard to the extent of the operations presented in the rEIAR and the location of the subject quarry operations accessing the local road network, the Authority has no specific comment to make in relation to the subject development in terms of impacts relating to the safe and efficient operation of the existing or planned national road network in the area.

7.2. *Inland Fisheries Ireland*

- 7.2.1. Identifies that minor watercourses within the Eany Water catchment flow along the site's northern red line boundary and through the southern portion of the site. The Eany Water (IE_NW-37E030350) is considered an important catchment within the Ballyshannon fisheries district, as it provides habitat and spawning habitat for various species of fish including:

- Sea Trout (*Salmo trutta*), and
- Atlantic Salmon (*Salmo salar*), listed in Annex II of the EU Habitats Directive (92/43-EEC)

The overall ecological status of this catchment has been determined as 'Good' in the most recent EPA report. It is imperative that water quality, habitat and species diversity are protected within this catchment during any development or construction projects.

Recommendations and guidance set out under eight (8) points to be followed and adhered to throughout the entirety of the project.

8.0 Donegal County Council - Planning Authority Section 177I report

- 8.1. The planning authority has no objection in principle to An Coimisiún Pleanála approving the current application for substitute consent for reasons relating to the

small, localised nature of quarrying activity at this location. The developer has a small area of land for future quarrying with limited opportunity for future expansion.

Recommended conditions:

Condition 1a. This permission authorises the operation of the quarry for a limited period of (five) years only from the date of order, after which time the quarrying operations to cease unless in the meantime an additional limited permission has been granted by the Council for same.

Condition 1b. Quarry activity/areas to be excavated shall be restricted to the areas delineated in red on the plans and details submitted on xx save as hereinunder otherwise required.

Reason: To define the terms of the permission and to cater for orderly development.

Condition 2a. Progressive restoration of exhausted areas and/or areas where quarrying operations have ceased shall proceed in accordance with a site restoration plan that shall be submitted to the planning authority for its approval, in writing within two months of the imposition of these conditions. This plan shall include the following: -

- i. the identification of all items of plant, machinery, scrap metal, stockpiles and waste material to be removed;
- ii. the identification of all areas to be levelled or graded;
- iii. the position of all quarry faces, together with details of measures to be used to ensure that all final faces are left in a safe and stable condition;
- iv. the identification of areas which are liable to flood, together with details of proposed measures to ensure public safety;
- v. details of additional landscaping/screening measures to be implemented; and
- vi. a timescale for the implementation of the restoration scheme of exhausted areas and/or areas where quarrying operations have ceased on a phased basis as the quarry progresses. The restoration scheme shall be implemented in accordance with the approved plans and within the approved timescale. (In the event that agreement is not forthcoming on any issue the planning authority shall determine the appropriate restoration measures)

Condition 2b. In the event of the working of minerals ceasing, all building, plant and surface equipment shall be removed from the site, and the final stage of restoration works shall be completed within 6 months of the termination of the permission or the exhaustion of the quarry, whichever is earlier.

Condition 2c. All restored surfaces shall be free from ponds and standing water and such drainage dykes and ditches as may be necessary to remove surface water shall be constructed.

Condition 2d. All existing topsoil removed in the course of working to be separately retained from waste material so that it can be readily spread evenly over exhausted dry areas or back filled waste material to the satisfaction of the planning authority.

Condition 2e. All sides of the excavation adjacent to land not required for quarrying operations shall be left with a slope not steeper than one vertical to three horizontals.

Reason: In order to facilitate reinstatement of the site and in the interest of visual amenity.

Condition 3. Quarrying and associated operations shall be confirmed to the hours of 0800 hours to 1800 hours Monday to Friday and 0800 hours to 1400 hours on Saturday and no quarrying operations shall be carried out outside these hours or on Sunday.

Reason: To protect the amenities of property in the vicinity.

Condition 4a. No oils or chemicals shall be discharged or allowed to discharge into surface or ground waters on site. Oil interception traps shall be provided on drainage lines serving areas where oil products are stored or used.

Condition 4b. All overground oil as other chemical storage tanks shall be adequately bunded to protect against spillage. Buildings shall be impermeable and capable to retain drainage lines serving volume equal to 1.5 times the capacity of the largest tank.

Reason: To preserve the amenities of the area.

Condition 5a. Noise levels emanating from the quarry and attributable to on-site operations shall not exceed 50dB(a) when measured at any residential buildings.

Condition 5b. A noise survey shall be carried out on an annual basis in accordance with details to be agreed with the planning authority. Details of the noise survey shall be submitted to the planning authority upon completion.

Reason: To cater for orderly development.

Condition 6a. Dust deposition shall not exceed 350mg/m²/day when measured at the site boundaries and averaged over 30 dates. Monitoring is to be carried out using Bergerhoff Gauges.

Condition 6b. A dust monitoring programme should be commenced and maintained by the operator of the site. Details of the dust monitoring programme and reporting programme and locations of dust monitoring equipment is to be agreed with the Environment Section of Donegal County Council within 3 months of permission being granted.

Condition 6c. Monitoring results in written format are to be submitted in writing to the planning authority and to the Environment Section of Donegal County Council at the Central Laboratory, the Kube, Magheranan, Letterkenny.

Condition 6d. All vehicles carrying rock, stone, sand, or gravel from the quarry shall pass through a vehicle wheel wash and water sprinkling system details of which shall be agreed with the planning authority. Signs shall be erected on site indicating this requirement. All vehicles used for carrying matter from the site shall be fitted with tailboards or other similar devices to prevent spillages onto the public road.

Condition 6e. Any spillages on the public road shall be removed and the road cleaned by the site operator.

Condition 6f. The site operator shall, during dry weather, spray the access road when this becomes dusty as a result of site activities and haulage.

Condition 6g. The internal site roadways shall be maintained in a dampened condition and should be sprayed as required and at least twice weekly during period of drought.

Reason: To limit the amount of dust generation onto the public road and to protect the amenities of residential properties in the area.

Condition 7. All surface water flowing across the quarry areas and all waters contaminated by the quarrying operations shall be discharged to settling ponds prior to discharge to the stream at the south-eastern boundary of the site.

Reason: To cater for orderly development.

Condition 8a. Permanent visibility splays shall be provided in accordance with NRA DMRB standards at the junction of the access lane and the National Primary (N15).

Condition 8b. Entrance radii at the junction of the access lane and the National Primary shall be in accordance with the National Roads Authority, Design Manual for Roads and Bridges NRA (DMRB) and the setback distance of the gates/barrier from the road edge shall be a minimum of 20m.

Reason: In the interest of traffic safety.

Condition 9. No surface water from site shall be permitted to discharge to public road and applicant shall take steps to ensure that no public road water discharges onto site.

Reason: To prevent flooding.

Condition 10. No other development, whether or not “exempted development” shall be carried out within the site without prior written agreement of the planning authority.

Reason: To cater for orderly development.

Condition 11. No signs, symbols or other means of advertisement shall be erected or posted on site without prior written agreement of the planning authority.

Reason: To cater for orderly development.

Condition 12. Within a period of 6 months from the date of imposition of this condition, the development shall provide adequate security to the Council to ensure compliance with conditions.

(A) a bond of a banking or insurance company acceptable to the Council in an approved form; or

(B) A cash deposit; or

(C) Such other security as the council may approve –

in the sum of monies to be agreed in writing with the planning authority.

Reason: To ensure satisfactory completion of the development.

9.0 Applicant's response to section 177I report prepared by Donegal County Council

- 9.1. The applicant has the following comments in relation to the recommended conditions contained within the section 177I report as follows:
- Condition 1a – request for the 5 year time period indicated by Donegal County Council for the operation of the quarry be extended to 20 years to take into account the substantial financial outlay in making the substitute application.
 - Condition 2a – notes that some of the existing quarry faces have been in place for many years. Confirms that any reasonable request for making good will be complied with.
 - Condition 12 – applicant is open to negotiations with Donegal County Council to provide security that is acceptable to both parties.

10.0 Assessment

- 10.1. In the application for leave to apply for Substitute Consent (SC) under section 177C of the Planning and Development Acts, 2000-2018 (*repealed 16 December 2023*) (ABP-310012-21 refers) the Board granted leave to apply for substitute consent under 177D of the Planning and Development Act 2000, as amended, and considered that exceptional circumstances do exist, such that it would be appropriate to permit the opportunity for regularisation of the development by permitting an application for substitute consent in relation to the site at the leave stage.
- 10.2. Set against the context of this application being considered under the transitional provisions of the Planning and Development, Maritime and Valuation (Amendment) Act 2022 ("the 2022 Act") and having regard to the amendments to section 177K(1A) introduced by the Planning and Development, and Residential Tenancies, Act 2020 ("the 2020 Act"), applicable to this subject application the

Board shall not be bound by, take account of or otherwise have regard to any decision of the Board under section 177D as to the existence of exceptional circumstances in relation to an application under section 177C(see s.177K(1A)(b) *now repealed*).

10.3. Separately, I highlight to the Commission that section 177K(1A)(c) (now repealed but applicable given the transitional provisions relevant to this subject application) requires that a member (including the chairperson) of the Board who participated in the making of a decision by the Board under section 177D to grant leave to apply for substitute consent shall not participate in the consideration of, or the making of a decision under this section in relation to, an application under section 177E made pursuant to the grant of leave concerned.

10.4. I have inspected the substitute consent site and have reviewed all details and submissions on file, including the remedial Environmental Impact Assessment Report (rEIAR). I shall consider the case made with respect to satisfying the test of exceptional circumstances for this substitute consent application in the following section 10.5. Section 10.6 of my assessment will consider the proper planning and sustainable development of the area having regard to national, regional and development plan policy and the proposal taking into account the integral environmental assessments, as considered in Section 10.7 in respect to the remedial Environmental Impact Assessment and Section 11.0 (including Appendix 1) of this report with respect to Appropriate Assessment screening.

10.5. Exceptional Circumstances

10.5.1. The Commission must first consider whether exceptional circumstances under 177K(1J) of the Planning and Development Act (as amended) exist that would justify the grant of such substitute consent by the Commission. The relevant tests the Commission is to have regard are as follows:

- a) whether regularisation of the development concerned would circumvent the purpose and objectives of the Environmental Impact Assessment Directive or the Habitats Directive;
- b) whether the applicant had or could reasonably have had a belief that the development was not unauthorised;

- c) whether the ability to carry out an assessment of the environmental impacts of the development for the purpose of an environmental impact assessment or an appropriate assessment and to provide for public participation in such an assessment has been substantially impaired;
- d) the actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out or continuation of the development;
- e) the extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated;
- f) whether the applicant has complied with previous planning permissions granted or has previously carried out an unauthorised development; and
- g) such other matters as the Board (now Commission) considers relevant.

I shall address each of the tests below:

(a) Would regularisation of the development circumvent the purpose and objectives of the Environmental Impact Assessment Directive or the Habitats Directive?

10.5.2. A remedial EIAR (rEIAR) dated July 2024 has been submitted with the application. EIA is undertaken in section 10.7 of my report. An Ecological Report has been submitted which includes a screening report for Appropriate Assessment (AA) dated August 2024. Appropriate Assessment is undertaken in section 11.0 of my report. As such, the applicant having submitted the supporting environmental assessments has not avoided compliance with the Directive obligations. I do not consider that the regularisation of the development concerned would circumvent the purpose and objectives of either the EIA Directive or the Habitats Directive.

(b) whether the applicant has or could reasonably have had a belief that the development was not unauthorised.

10.5.3. The applicant has submitted a timeline of quarry activity with supporting historical maps attached. In addition, the applicant has provided a copy of letter received from Donegal County Council (DCC) dated 23rd April 1993 stating that “...*the Council has no objection to the operations of your established quarry at Drimbigh Mountcharles provided there is no significant change in the scale or scope of current operations*”. In August 2012 the planning authority stated that they advised the applicant of the

need to apply for substitute consent for the subject quarry development. Given the extended period of no further action by the planning authority, as no enforcement action was undertaken by the planning authority in respect to the quarry activities until November 2022, there is a possibility that the applicant on the basis of same could reasonably have been in the belief that the development was not unauthorised.

(c) whether the ability to carry out an assessment of the environmental impacts of the development for the purpose of an environmental impact assessment or an appropriate assessment and to provide for public participation in such an assessment has been substantially impaired.

10.5.4. The applicant has applied for substitute consent and statutory public notices were published and placed on the subject site. Third party observations could have been submitted under same; I highlight to the Commission that no third-party observations were received in respect to this application. I do not consider that the provision for public participation has been substantially impaired.

(d) the actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out or continuation of the development.

10.5.5. From the details available, and in undertaking the EIA and AA screening (see sections 10.7 and 11.0 below) there is no indication that these previous quarrying activities, subject of the substitute consent application, have resulted or continue to have such effect in any significant direct or indirect effects on the environment or would have affected the Conservation Objectives of the features for which any European Site in the vicinity has been designated.

(e) the extent to which significant effects on the environment or adverse effects on the integrity of a European Site can be remediated.

10.5.6. From the details available, and in undertaking the EIA and AA screening (see sections 10.7 and 11.0 below) there is no indication that these previous quarrying activities, subject of the substitute consent application, have resulted or continue to have such effect in any significant direct or indirect effects on the environment or would have affected the Conservation Objectives of the features for which any European Site in the vicinity has been designated.

(f) whether the applicant has complied with previous planning permissions granted or has previously carried out an unauthorised development.

10.5.7. There are no previous planning permissions relating to the subject site. The quarry activities are not regulated and as such the applicant has carried out unauthorised development.

(g) such other matters as the Board (now Commission) considers relevant.

10.5.8. I consider that no further matters need be considered by the Commission in this case.

10.5.9. To conclude on this point, I am of the opinion that the applicant has demonstrated substantial compliance with the relevant tests for exceptional circumstances as outlined above and taking into consideration historical correspondence from DCC in respect to quarrying activities on the site and the extended period of no further action by the planning authority post s. 261A determination I am of the opinion that the applicant satisfies the exceptional circumstances test.

10.6. Proper planning and sustainable development

Nature and extent of development concerned

10.6.1. This substitute consent application is for an existing quarry pertaining to a site of 3.45ha stated area, which accords with the extent of the extraction area on the ground and includes additional non extracted area to the east. As already outlined in section 2.0 of my report there is a small amount of site infrastructure in the form of a processing area. The equipment in these areas is covered by temporary structures or timber frame and either plastic sheet roofing or corrugated iron roofing. The processing and stockpiling area is in the western part of the site near the entrance. The various working quarry faces are situated on lands rising to the east of the central levelled area, which are accessible via tracks.

10.6.2. The quarry development is generally consistent with the aim, objectives and policies relating to 'extractive industry'. To avoid overlap in my assessment I shall consider under section 10.7 the aspects of the development concerned relating to biodiversity, water, landscape and visual impact, residential amenity (within population and

human health) and transportation planning within each of their relevant environmental topics.

10.6.3. The planning authority in their submitted s.177I report state no objection in principle to the Commission approving the current application for substitute consent for reasons relating to the small, localised nature of quarrying activity at this location. The planning authority have indicated a number of conditions that are recommended in the event of a grant of substitute consent. The applicant has made a submission in response to a few of the Donegal County Council recommended conditions, as detailed in section 8.0 of my report, but for reference I summarise again here:

- Conditions 1a - requesting that permission is granted for the extension for quarrying operations to 20 years rather than five as set out in recommended condition.
- Condition 2a - highlights that some of the existing quarry faces have been in place for many years but confirms that any reasonable request for making good will be complied with.
- Condition 12 – expresses a willingness to negotiate in require to an acceptable security.

10.6.4. In this substitute consent application as the quarry does not hold any prior planning permission which was defective² and while the application seeks authorisation for continued extraction the Commission does not have the power to grant this by way of a decision on the application for substitute consent (please refer to section 1.0, 4.0 and 5.0 of my report). Therefore, the conditions recommended by Donegal County Council relating to continued operation of the quarry are not applicable to this substitute consent application. Separately I highlight that a typographic error is contained in Condition 8a. which makes reference to the N15, this should read N56. If the quarry operator seeks to continue quarrying, then they would have to make a separate application with supporting environmental assessments as appropriate.

10.6.5. I note that no third-party submissions have been received in respect to the substitute consent application and that the submissions received from the prescribed bodies,

² Supreme Court in *An Taisce v McTigue Quarries Ltd* [2018] IESC 54

as detailed in section 7.0 of this report, do not raise any objection to the quarry development.

10.6.6. Please refer to section 13.0 of my report for overall conclusions in respect to the development concerned.

10.7. Environmental Impact Assessment (EIA) – with reference to the submitted remedial Environmental Impact Assessment Report (rEIAR)

A remedial Environmental Impact Assessment Report (rEIAR) prepared by *Greentrack Environmental Consultancy* has been submitted with the Substitute Consent (SC) application.

10.7.1. Statutory Provisions

Schedule 5, Part 2, Class 2 (b), requires EIA for the extraction of stone, gravel, sand or clay, where the area of extraction would be greater than 5 hectares. The proposed development, with a stated site area of 3.45 ha, therefore, does not require a mandatory EIA. The project is sub-threshold. Initially a screening determination accompanied the application as submitted on the 22 September 2023 and following the validation process by the Board the applicant was requested in accordance with section 132 to submit a remedial Environmental Impact Assessment Report (rEIAR).

I highlight to the Commission that the revised legislation now provides under section 177E (1D) of the Planning and Development Act 2000 (as amended) that where the Commission receives an application which is accompanied by a remedial environmental impact assessment report under subsection (2)(b) and the application is not, under the Act or any regulations made under it, invalid or withdrawn, the Commission shall be deemed to be satisfied that an environmental impact assessment is required and was required and the Commission shall consider the application.

10.7.2. EIA Structure

This section of the report comprises the environmental impact assessment of the proposed development in accordance with Planning and Development Act 2000 (as amended) and the associated Regulations, which incorporate the European directives on environmental impact assessment (Directive 2011/92/EU as amended

by 2014/52/EU). Section 171 of the Planning and Development Act, 2000 (as amended) defines EIA as:

- a. consisting of the preparation of an EIAR by the applicant, the carrying out of consultations, the examination of the EIAR and relevant supplementary information by the Board, the reasoned conclusions of the Board and the integration of the reasoned conclusion into the decision of the Board, and
- b. includes an examination, analysis and evaluation, by the Board, that identifies, describes and assesses the likely direct and indirect significant effects of the proposed development on defined environmental parameters and the interaction of these factors, and which includes significant effects arising from the vulnerability of the project to risks of major accidents and/or disasters.

Section 177F of the Act, requires that a remedial EIAR (rEIAR) shall contain a statement of the significant effects on the environment which may have, or reasonably be expected to occur because a development (the subject of the application of substitute consent) was carried out. In such circumstances, and under section 177F(b), the EIAR is required to contain details of:

- Any appropriate remedial measures undertaken or proposed to be undertaken by the applicant for substitute consent to remedy any significant adverse effects on the environment;
- the period of time within which any proposed remedial measures shall be carried out by or on behalf of the applicant.

Article 94 of the Planning and Development Regulations, 2001 and associated Schedule 6 set out requirements on the contents of an EIAR.

This EIA section of the report is therefore divided into two sections. The first section assesses compliance with the requirements of Article 94 and Schedule 6 of the Regulations. The second section provides an examination, analysis and evaluation of the development and an assessment of the likely direct and indirect significant effects of it on the following defined environmental parameters, having regard to the EIAR and relevant supplementary information:

- population and human health,

- biodiversity, with particular attention to species and habitats protected under the Habitats Directive and the Birds Directive,
- land, soil, water, air and climate,
- material assets, cultural heritage and the landscape,
- the interaction between the above factors, and
- the vulnerability of the proposed development to risks of major accidents and/or disasters.

The assessment provides a reasoned conclusion and allows for integration of the reasoned conclusions into the Commission's decision, should they agree with the recommendation made.

10.7.3. Issues Raised in Respect of EIA

Issues raised in respect of EIA by parties to the application are:

- **Transport Infrastructure Ireland** – As set out in Section 7.0 of this report the Authority notes the subject development site accesses the local road network and notes the traffic analysis undertaken in support of the subject application outlined in Chapter 12 of the remedial EIAR that accompanied the application. Having regard to the extent of the operations presented in the rEIAR and the location of the subject quarry operations accessing the local road network, the Authority has no specific comment to make in relation to the subject development in terms of impacts relating to the safe and efficient operation of the existing or planned national road network in the area.
- **Inland Fisheries Ireland** - As set out in Section 7.0 of this report IFI identify that minor watercourses within the Eany Water catchment flow along the site's northern red line boundary and through the southern portion of the site. The Eany Water (IE_NW-37E030350) is considered an important catchment within the Ballyshannon fisheries district, as it provides habitat and spawning habitat for various species of fish including:
 - Sea Trout (*Salmo trutta*), and
 - Atlantic Salmon (*Salmo salar*), listed in Annex II of the EU Habitats Directive (92/43-EEC)

The overall ecological status of this catchment has been determined as 'Good' in the most recent EPA report. It is imperative that water quality, habitat and species diversity are protected within this catchment during any development or construction projects. Recommendations and guidance set out under eight (8) points to be followed and adhered to throughout the entirety of the project.

10.7.4. Compliance with the Requirements of Article 94 and Schedule 6 of the Regulations 2001

Compliance with the requirements of Article 94 and Schedule 6 of the Regulations is assessed below.

Article 94 (a) Information to be contained in an EIAR (Schedule 6, paragraph 1)
A description of the proposed development comprising information on the site, design, size and other relevant features of the proposed development (including the additional information referred to under section 94(b).
<i>A description of the development is contained in Chapter 3 of the rEIAR including details on the existing site description, characteristics of quarry activity, fuel and chemical storage, surface water and groundwater management, working hours and employment, utilities and services, facilities, waste management, transport and access, safety, security and screening, dust generation and control, noise generation and control, landscaping, restoration , decommissioning and aftercare.</i>
A description of the likely significant effects on the environment of the proposed development (including the additional information referred to under section 94(b).
<i>The rEIAR sets out in section 5.1 that it assesses the existing environment in addition to the potential effects on population and human health arising from the historical and current quarrying activities. An assessment of the likely significant direct, indirect and cumulative effects of the development is carried out for each of the environmental topics within Chapters 5-15 inclusive and interactions of effects is considered in Chapter 16. I am satisfied that the assessment of significant effects is comprehensive and enables robust decision-making.</i>

A description of the features, if any, of the proposed development and the measures, if any, envisaged to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment of the development (including the additional information referred to under section 94(b)).

The rEIAR includes a consideration of where likely significant effects are predicted to have occurred what mitigation is in place and what the appropriate additional mitigation measures proposed to avoid/reduce the significant of the effect on the key environmental receptors are summarised in The Non-Technical Summary for each of the environmental topics and with each of the technical Chapters 5-15 inclusive. Chapter 17 provides a summary of the impacts identified relative to each environmental factor and the mitigation and monitoring for same. Mitigation measures comprise standard good practices and site-specific measures and are largely capable of offsetting significant adverse effects identified in the EIAR.

A description of the reasonable alternatives studied by the person or persons who prepared the EIAR, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the proposed development on the environment (including the additional information referred to under section 94(b)).

Chapter 2, section 2.4 of the rEIAR sets out that this rEIAR has been prepared to accompany an application for substitute consent, that refer specifically to works carried out at Murray Stone over a long period of time. The rEIAR does not include within the assessment future proposed development at the quarry and therefore no alternatives have been considered. I am satisfied that given the nature of the application, for substitute consent, the consideration of other alternatives to the development already carried out is not applicable in this instance.

Article 94(b) Additional information, relevant to the specific characteristics of the development and to the environmental features likely to be affected (Schedule 6, Paragraph 2).

A description of the baseline environment and likely evolution in the absence of the development.

A description of the baseline environment is included in each technical chapter of the rEIAR and an assessment of the likely evolution of it in a do nothing scenario. I note that Chapter 5 Population & Human Health also cross refers with Chapter 8: Water, Chapter 10: Noise & Dust, Chapter 12: Material Assets – Traffic and Chapter 15 – Landscape & Restoration.

A description of the forecasting methods or evidence used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information, and the main uncertainties involved

The methodology employed in carrying out the rEIAR is set out in each of the individual chapters assessing the environmental effects. The applicant has indicated in the different chapters where difficulties have been encountered (technical or otherwise) in compiling the information to carry out the rEIAR. I comment on these, where necessary in the technical assessment below and for the reasons stated I am satisfied that forecasting methods are adequate.

A description of the expected significant adverse effects on the environment of the proposed development deriving from its vulnerability to risks of major accidents and/or disasters which are relevant to it.

Section 11.5.3 of the rEIAR sets out the assessment of the development in relation to unplanned events and vulnerability to the risks of major accidents or disasters relevant to the project. The types of events considered include flooding, extreme temperatures and storm events.

Article 94 (c) A summary of the information in non-technical language.

This information has been provided in a separate document rEIAR Non-Technical Summary. I have read this document, and I am satisfied that the document is concise and comprehensive and is written in a language that is easily understood by a lay member of the public.

Article 94 (d) Sources used for the description and the assessments used in the report

The sources used to inform the description, and the assessment of the environmental impact are set out at the end of each chapter. I consider the sources relied upon are generally appropriate and sufficient.

Article 94 (e) A list of the experts who contributed to the preparation of the report

A list of the various experts who contributed to the report are set out in Chapter 1 section 1.6 Table 1.2. Where relevant the introductory section of each of the chapters also details the individual expertise involved in the preparation of the chapter. I am satisfied that the rEIAR has been prepared by experts with competency in the technical subject areas.

10.7.5. Consultations

Issues raised in respect of consultations

The application has been submitted in accordance with the requirements of the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended) in respect of public notices. Submissions have been received from statutory bodies in advance of decision making and are considered in this report. No submissions or observations were received from third parties.

I am satisfied, therefore, that appropriate consultations have been carried out and that third parties have had the opportunity to comment on the substitute consent development advance of decision making.

10.7.6. Compliance

Having regard to the foregoing, I am satisfied that the information contained in the rEIAR, and supplementary information provided by the applicant is sufficient to comply with article 94 of the Planning and Development Regulations, 2001.

10.7.7. Assessment of Likely Significant Effects

This section of the report sets out an assessment of the likely environmental effects of the proposed development under the following headings, as set out Section 171A of the Planning and Development Act 2000, as amended:

- Population and human health.
- Biodiversity, with particular attention to the species and habitats protected under the Habitats and Birds Directives.
- Land, soil, water, air and climate.
- Material assets, cultural heritage and the landscape.
- The interaction between these factors.
- The vulnerability of the proposed development to risks of major accidents and/or disasters that are relevant to that development.

In accordance with section 171A of the Act, which defines EIA, this assessment includes an examination, analysis and evaluation of the application documents, including the rEIAR and submissions received and identifies, describes and assesses the likely direct and indirect significant effects (including cumulative effects) of the development on these environmental parameters and the interaction of these. Each topic section is therefore structured around the following headings:

- Issues raised in the application.
- Examination of the rEIAR.
- Analysis, Evaluation and Assessment: Direct and indirect effects.
- Conclusion: Direct and indirect effects.

10.7.8. Population and human health

10.7.8.1. Issues raised

No issues have been raised in respect of population and human health.

10.7.8.2. Examination of the rEIAR

Chapter 5 of the rEIAR deals with Population & Human Health. Associated Figures 5.1 and 5.2 and Tables 5.1-5.6.

10.7.8.3. **Baseline**

The rEIAR includes a study area based on the Small Area Population (SAP) A057138002 within which the existing quarry is located and at county level for comparison purposes. The assessment draws from CSO publications to assess both the historic and up to date picture of the population. The population growth rate for the SAP follows a similar pattern to that of the County falling in 2016 but rising in 2022. Age structure indicates that the 45-64 (29.1%) age group comprises the highest proportion of people in the SAP which is marginally higher than that of the County (26.3%). The lowest portion of the population within the study area is the 65+ (10.6%) age group compared to the County at 17.7%. Subsequently the study area has a considerably lower dependency ratio (27.6%) than the County (38.1%) and State (34.7%) due to the lower proportion of population aged between 0-14 and 65+ than that of the County.

The SAP has a slightly lower labour participation rate (of 48.7%) than the County (51.1%). Table 5.3 indicates that the main socio-economic group for the SAP is managerial and technical similar to that of the County. Given the rural nature of the study area the main mode of travel/transport is by motor car as the principal driver (48.2%) above the County figure of 37.2%.

The key receptors within the study area are local residences (Figure 5.1) with the principal sensitive receptors within the environment of the subject site identified as residential properties predominantly to the west and east of the quarry. A total of 40 dwellings are indicated within 500m of the quarry boundary. One commercial premises Kelly's Toyota dealership and garage is located c 500m southwest of the quarry along the N56.

The rEIAR states that the main land use in the study area is agriculture with sheep and beef enterprises most common and small areas of commercial forestry. The rEIAR described the tourism and recreational assets within proximity to the site (considered in Landscape and Restoration). Furthermore, the existing social infrastructure is set out in section 5.2.9.

In respect to Human Health the rEIAR refers to both the US Environmental Protection Agency (US EPA) Human health Risk Assessment process and the Guidelines for Preparing Environmental Impact Assessment Reports (EPA, August

2022). The baseline human health cross refers to the information contained within other chapters of the rEIAR in particular to: Chapter 8: Water, Chapter 9: Noise, Chapter 10: Air, Chapter 11: Climate, Chapter 12: Material Assets – Traffic and Chapter 15: Landscape & Restoration.

10.7.8.4. **Effects**

The assessment contained within the rEIAR has had regard to the findings of other chapters of the rEIAR in particular to: Chapter 8: Water, Chapter 9: Noise, Chapter 12: Material Assets – Traffic and Chapter 15: Landscape & Restoration.

The rEIAR identifies potential effects through a population impact assessment and human health impact assessment. Effects are summarised in Table PHH 10.7.8 below:

Table PHH 10.7.8:

Project Phase	Significant effects, if any on the environment which have occurred, or which are occurring, or which can reasonably be expected to occur because the development for substitute consent was carried out (s.177F(1) of the Planning and Development Act 2000 (as amended)).
Do Nothing	• No further loss of land to quarry activity, • Loss of local jobs and employment (currently 2-3 people employed from the local area) as the quarry would be forced to close.
Substitute Consent	• Population Impact Assessment –A number of houses built in the vicinity of the quarry in recent years (four constructed post 2013 DCC Planning Portal). Measures have been undertaken to reduce noise, vibration and dust emissions from the quarry (Chapters 9 and 10 refer). • A positive impact on local community in terms of employment levels (2-3 local people in employment). • No significance loss of existing (agricultural) land use in the area.

	• The topography of the surrounding lands aids in screening the quarry from the surrounding landscape, no impacts on the tourist amenity on the study area. • The subject application site is not located on or near a Natura 2000 site or near any protected structure. • Unlikely that the quarrying activity would impact on the social infrastructure of the area. • Positive impact as materials extracted from the quarry would be used for the local construction industry. • Some concerns that there are threats to safety of people and agricultural stock as a result of the steep quarry faces. • Potential impacts of the proposed development on water are assessed in Chapter 8 of the rEIAR. The assessments conclude that given the mitigation in place and proposed mitigation there will be and has been no significant impact on water quality standards and the effects on human health from water are assessed as <u>imperceptible</u>. • Noise monitoring undertaken at the quarry indicates that the quarry is within the limits of 55dB(A) LAeq (60 minutes) daytime. The likely historical noise associated with development may have been higher than that measured due to certain mitigation measures not being in place such as berms, and extraction areas may have been at topographically higher levels. Blasting is also to have occurred historically. The human health effect for all receptors arising from noise and vibration are assessed as <u>being imperceptible</u>. • Difficulties exist for the identification of effects in respect to historical vibration impacts with the last blast recorded to have occurred in 2007.
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	- Emissions to air in relation to the development associated with plant and machinery undertaking day to day activities such as extraction, processing and transportation of material and dust blow generated during dry windy conditions and operation. Effect in terms of impact on human health is determined to be <u>imperceptible</u>. - Historical and current impact of traffic has not and will not result in a significant increase in traffic on public road infrastructure.
Restoration	Not addressed in this Chapter.
Cumulative	Not addressed in this Chapter.

10.7.8.5. **Mitigation**

The rEIAR states that continued development will secure employment and supply of building materials for the local construction industry. Furthermore, it is stated that as the effect is positive in relation to employment no mitigation measures are proposed.

Mitigation measures are detailed in Chapter 8: Water, Chapter 9: Noise & Vibration, Chapter 10: Air, Chapter 11: Climate, Chapter 12: Material Assets – Traffic and Chapter 15: Landscape & Restoration.

10.7.8.6. **Residual Effects**

No residual effects are identified in the rEIAR with respect to population and human health.

10.7.8.7. **Analysis, Evaluation and Assessment: Direct and Indirect Effects**

The rEIAR outlines that activities associated with quarry sites can deter people from living within proximity. It is put forward that there have been a number of houses built in the vicinity of the quarry in recent years which would acts as an indicator of the non-significance of effects to the population as the quarrying activity has not deterred people from living in the area.

Whilst berms have been used around excavated areas and quarry benches are in line with 'Safe-Quarry – Guidelines to the Safety, Health and Welfare at Work (Quarry) Regulations 2008' concerns were identified in the rEIAR with threats to the safety of people and agricultural stock. It is proposed to further improve perimeter fencing and safety notices in order to make the site more secure.

Historically there may have been more vehicle movement, when aggregate was being hauled for the construction of the nearby N56, as set out in the rEIAR.

Currently, the traffic generated as a result of the quarry during peak production is in the region on one collection lorry (rigid or articulated) per week and one smaller wither 3.5T lorry or van and tailer collection per week. It is stated that the applicant walks to the site from his residence, and the other 1-2 employees travel by car to the quarry. A weekly maximum of 4 HGV movements and 12 car movements has been estimated in the rEIAR and, it is stated within the rEIAR, that this volume of traffic associated with the quarry is insignificant in comparison with the volume of traffic using the N56 daily. I note that TII have raised no concerns with respect to the development's impact on the national road network and I am in agreement with the findings of the rEIAR that the historical and current impact of vehicular movements on the public road infrastructure has not occurred, are not occurring and is not likely to occur.

In respect to emergency (major accidents or disasters) it is stated in section 5.4.9 that emergency response plans and procedures are in place and will be implemented should an unplanned event occur.

As already noted under mitigation the effect on employment is considered to be positive in the rEIAR and this determination is based on the continuation of the quarrying activity at the application site. Given the continued excavation and extraction of the site cannot be authorised under substitute consent in this instance I do not agree with the findings of the rEIAR in respect to employment.

Section 5.6.4.1 of the rEIAR cross refers to Chapter 8: Water of the rEIAR which concludes that given the mitigation in place and that proposed that there will be no significant impact on surface water or groundwater. Therefore, the rEIAR considers that effects on human health from water would be imperceptible. I am satisfied that

the development, taking into account the mitigation measures (including remedial mitigation), would not give rise to any significant effects on human health.

I note that the applicant accepts that technical difficulties existing in the assessment of vibration impacts due to the lack of historical records, with the last blast stated to have occurred in 2007.

Dust deposition is assessed in Chapter 10: Air of the rEIAR and the result of a dust deposition study presents that the total dust deposition is below the recommended guideline value of 350mg/m²/day (EPA Environmental Management in the Extractive Industry (Non-Scheduled Minerals, 2006). Having reviewed Chapter 10 in conjunction with Chapter 5 Population and Human Health I am satisfied that with the implementation of the mitigation measures and those proposed remedial mitigation measures that the direct and indirect effect of emissions to air would not be significant.

10.7.8.8. Conclusion: Direct and Indirect Effects

In general, given the scale, nature and location of the quarry development carried out, I conclude that significant direct and indirect effects on population and human health have not occurred, are not occurring and are not likely to occur from the development carried out.

10.7.9. Biodiversity

10.7.9.1. Issues raised

Inland Fisheries Ireland (IFI), as summarised in section 6.0 of my report, highlight that minor watercourses within the Eany Water catchment flow along the site's northern red line boundary and through the southern portion of the site.

The Eany Water (IE_NW-37E030350) is considered an important catchment within the Ballyshannon fisheries district, as it provides habitat and spawning habitat for various species of fish including:

- Sea Trout (*Salmo trutta*), and

- Atlantic Salmon (*Salmo salar*), listed in Annex II of the EU Habitats Directive (92/43-EEC)

The overall ecological status of this catchment has been determined as 'Good' in the most recent EPA report. It is imperative that water quality, habitat and species diversity are protected within this catchment during any development or construction projects.

Recommendations and guidance set out under eight (8) points to be followed and adhered to throughout the entirety of the project, as below:

1. Prior to discharge to watercourse, all surface water must pass through a settlement lagoon and a hydrocarbon interceptor, which should be regularly inspected and maintained, to attenuate any run-off of suspended solids or other deleterious matter from the site.
2. Any watercourses within/bordering the site must be maintained in their original state, their bankside vegetation preserved, and the existing alignment, profile and gradient of the watercourse left unaltered. Buffer zones should be clearly marked in advance of works commencing to preserve their integrity.
3. To ensure the storage, management and conveyance of materials on site does not permit the discharge of any deleterious matter into adjacent watercourses, either directly or indirectly, buffer zones as well as appropriate means of containment (such as silt curtains and silt traps) should be applied to work methods and practises at the site.
4. In relation to storage of fuels and materials, refuelling, vehicle maintenance and accidental spillages etc. all mitigation measures outlined in Chapter 8 (*Water my insertion*) of the submitted remedial Environmental Impact Assessment Report (rEIAR) must be implemented and strictly enforced, to ensure that no negative impact occurs on the adjacent watercourses.
5. During the operational phase, the contractor should nominate a responsible person to oversee environmental monitoring and housekeeping on site and ensure that guidelines and good practice are being adhered to on site.

6. A biosecurity protocol must be implemented to manage invasive alien species where they are found on-site, and to prevent the introduction of such species. The plan should indicate how the contractor will treat machinery, workwear etc. that may potentially become a vector for transporting invasive alien species to or from the site.

7. In relation to foul sewage and wastewater treatment, the planning authority should ensure that EPA guidelines are adhered to and that the cumulative impact of the development does not have the potential to negatively impact on ground or surface waters in the vicinity.

8. This proposal should be undertaken in accordance with the relevant sections of the following publications:

- A Guide to the Protection of Watercourses through the use of Buffer Zones, Sustainable Drainage Systems, Instream Rehabilitation, Climate/Flood Risk and Recreational Planning. <https://irishriverproject.com/2021/10/11/ifi-urban-watercourses-planning-guide/>
- Guidelines on Protection of Fisheries During Construction Works In and Adjacent to Waters. <https://www.fisheriesireland.ie/media/guidelines-on-protection-of-fisheries-during-construction-works-in-and-adjacent-to-waters>

10.7.9.2. Examination of the rEIAR

Chapter 6 of the rEIAR deals with biodiversity and Appendix 1: Bird Survey and Appendix II: Invasive Species Management Plan. I also highlight to the Commission the Ecological Report submitted which includes a Screening Report for Appropriate Assessment.

Baseline ecological conditions were assessed in line with CIEEM (2018) 'Guidelines for Ecological Impact Assessment in the UK and Ireland; Terrestrial Freshwater, Coastal and Marine'. The assessment methodology includes desk and field surveys. Multiple field surveys were carried out as part of the assessment between January-June 2022 and then January to July 2024. A series of bird observation reports were conducted during spring-summer 2024, an amphibian and reptile survey was carried out on 4 June 2024.

The rEIAR notes that the timing of the surveys was good for most vegetation. In terms of the faunal surveys wintering birds would be missed during summer surveys. The mid-summer amphibian walkover is stated to be slightly later than ideal timing for observing breeding frog and newt. No limitations with regard to bat walkovers and non-volant mammal habitat appraisal were encountered.

10.7.9.3. **Baseline**

The baseline environment is described in section 6.6 and the baseline for hydrology is presented in chapter 8: Water. As per the IFI's submission the subject site has a minor watercourse of the Eany Water River (EPA code:IE_NW_37E030350) flowing along the northern boundary of the site and through the southern boundary of the site. The Eany Water River flows into the sea at Inver Bay approximately 3km southwest of the subject site (Figure 6.2 illustrates hydrological connections). The rEIAR states that the site is outside any Margaritifera catchment and does not influence any waters designated under the Salmonid Regulations (SI 293/1988).

There are two outflows from the site:

- A small proportion of runoff from the site flows north through a settlement pond, which has been unmanaged, and towards into a tributary of the Eany Water River.
- The majority of the runoff from the footprint of the site flows into a settlement pond located in the central southern part of the site. The outflow of which flows into a vegetated drainage ditch and into an open drain at the entrance of the site. This drain is then culverted and flows southwest into a tributary of the Eany Water River.

The processing area where the stone is cut and guillotined is surfaced with concrete. It is stated in the rEIAR that all runoff from this area is directed to the sump and water is recycled for use within the circular saw from the sump. There is stated to be no outflow from this sump and the sludge at the base of the sump is periodically cleaned out and used to supplement screening berms. Main water features shown in Figure 6.3 include 2 no. 'groundwater pools' within the northwestern portion of the site.

The underlying groundwater body (GWB) is characterised as the Frosses groundwater body. The rEIAR outlines that a well bedded blue and brown/buff sandstone, part of the Mullaghmore Sandstone Formation, is present on site. The aquifer underlying the application site is described by the GSI as a Locally Important Aquifer (Lm) – Bedrock generally moderately productive.

No Natural Heritage Areas (NHAs) occur within 15km of the development and there is no pathway identified for significant effects on any proposed Natural Heritage Area (pNHA) (Table 6.2 includes impact determination for Nationally Designated Sites).

Figure 6.3 illustrates the habitats within the red line boundary of the quarry. Extraction and processing take part in the central part of the site on the quarry deck and within the main quarry void. Active Quarry (ED4) is the dominant habitat type. It is stated in the rEIAR that large parts of the previous quarry working within the site are partially recolonised with pioneer vegetation, especially along the southern boundary. Himalayan knotweed is the main invasive on site and a sole occurrence of Giant Rhubarb occurs at the north of the site. It is stated that there is an on-going invasive species management plan which was devised in 2022 in place at the site.

The predominant change in the proceeding years since 1995 has been the gradual removal of grassland at the east of the active quarry. Acknowledging difficulties in calculating the exact amount of habitat loss due to differences in aerial imagery from different time periods the rEIAR estimates that c0.6ha of improved agricultural grassland was lost between 1995 and 2024 as a result of continued quarry operation. Woodland measuring c0.2 ha at the northwest of the site has been lost, the rEIAR states that by examining aerial imagery this loss has occurred in the last 10 years. Woodland at the south of the site has increased slightly in extent in the last 30years. The examination of historical aerial imagery outlined in the rEIAR from c. 1995/96 indicates that the woodlands has increased in extent from c0.26ha to c0.37ha.

No badger setts observed in the quarry site and no evidence of badger feeding, tracks or other signs on site. There were no other tracks, signs or evidence of other non-volant mammals onsite. Whilst examination of potential roost features on site found there is negligible to low potential, the semi-native woodland at the south of

the site provides good connectivity to the wider landscape and the rEIAR assigns this as a key environmental receptor (KER) in the assessment.

No protected bird species were identified during any of the site visits undertaken as part of the Bird Survey included in Appendix I of Chapter 6 (Undertaken 21 May 2024 and 4 June 2024). Foraging Meadow Pipit were noted and given this species is red listed on the birds of conservation concern list these species were identified as KER.

Table 6.14 lists all identified receptors and assigns them an ecological importance in accordance with the Guidelines for Assessment of Ecological Impacts of National Road Schemes (NRA, 2009).

10.7.9.4. Effects

The rEIAR identifies the potential for a range of environmental effects on Biodiversity in section 6.7.4 and a do-nothing scenario in section 6.7.1. Effects are summarised, as identified in the rEIAR as being likely significant effects on KERs from the development during the site clearance works and entire construction stage and operational stage to date. It is stated that where likely significant effects are predicted to have occurred, remedial mitigation in place and appropriate mitigation measures going forward are suggested to avoid/reduce the significance of the effect on KERs, as summarised in the following Table B 10.7.9:

Table B 10.7.9:

Project Phase	Significant effects, if any on the environment which have occurred, or which are occurring, or which can reasonably be expected to occur because the development for substitute consent was carried out (s.177F(1) of the Planning and Development Act 2000 (as amended).
Do Nothing	• If development ceased the main portion of the quarry would be colonised by pioneer species. • Notes that an attempt at Invasive Species Management has been made by the applicant but the quarrying activities have allowed an infestation of Himalayan Knotweed to establish. Established

	infestation of Himalayan knotweed would readily colonise disturbed areas and the infestation would grow. • Weeds and grasses would turn to scrub and woodland in patches of the site. • The quarry void by its nature would not completely fill with water, instead there would be several small surface water fed lagoons that would develop.
Substitute Consent	• Assessment of Effects on Rivers/Streams and Sensitive Aquatic Faunal Species – Temporary fluxes in received sediment/pollutants. Effect characterised as <u>slight negative</u>. • Assessment of Effects on Woodland - Woodland extent has increased to the south of the subject site, c0.37ha of semi natural wet willow alder ash woodland, having a slight positive effect. However, removal of woodland, c. 0.2ha of wet willow wood at the northwest of the site, during the operation of the development has been a <u>reversible moderate negative</u>. • Assessment of Effects on Fauna – Noise from the operational works could have caused a disturbance to birds foraging on site. Effect characterised as <u>short-term negative</u>. Removal of woodland at the northwest could have removed foraging/roosting resource. Effect is characterised as <u>reversible-medium term negative</u>. Increase of woodland at the south has slightly increased foraging habitat provision. Effect is characterised as <u>medium-term positive</u>. • Assessment of effects on bats and supporting habitat – Disturbance of foraging bats through noise and light and alterations to species behaviour through

	changes in the landscape. Removal of foraging resource. <u>Effect is characterised as medium-term negative. (significant prior to mitigation)</u>
Decommissioning Stage	• <u>No likely significant effects</u> are envisaged during the decommissioning of the existing development. There will be no additional habitat loss during decommissioning. The quarry void would be allowed to rewild, and enhancement measures will be implemented as appropriate.
Restoration	• Chapter 15: Landscape and restoration includes details the restoration plan to be implemented in the case of decommissioning.
Transboundary	• No transboundary considerations the site is c. 20km from the border with Northern Ireland and there is no pathway for transboundary effect.
Cumulative	• Section 6.8 Cumulative Impact Assessment considered the N56 road upgrade, continued aquaculture at Inver Bay, a series of unregulated quarries within vicinity of the development site and the policy contained with the County Donegal Development Plan 2018-2024 and draft County Donegal Development Plan 2024-2030. <u>No significant cumulative effects identified.</u>

10.7.9.5. Mitigation

Section 6.7.4 Likely Significant Effects of the rEIAR includes a section on mitigation measures both implemented and proposed.

Rivers/Streams and Sensitive Aquatic Faunal Species

Remedial measures undertaken include a water management system providing attenuation prior to surface water discharge. It is proposed to upgrade the water management system (detailed in Chapter 8 of the rEIAR – please see also 9.7.11 of my report)

Woodland

Remedial measures proposed include retention of woodland, implementation of sensitive planting of native willow, alders, ash and birch to further improve landscape connectivity and control of Invasive Non-Native Species (INNS) onsite to allow woodland regeneration at the northern boundary.

The primary remedial impact is the removal of Himalayan Knotweed (Appendix 11: Invasive Species Management Plan) from the site and the re-instatement of the semi-natural wet willow woodland at the northwest of the site.

Fauna

Standard noise mitigation measures described for the use of the vehicles and plant in conjunction with extraction and processing activities.

Woodland remedial measures, as already summarised above.

Bats

Noise mitigation measures and monitoring as per Fauna above. Woodland retention and remedial measures including reinstating the woodland to the northwest of the site, removal of all INNS and the promotion of a natural wetland at woodland edge. It is stated that there is no nighttime lighting associated with the development. Avoid operation outside standard hours.

10.7.9.6. Residual Effects

The analysis of water quality, detailed in Chapter 8: Water, is stated to suggest that the development has not conveyed a significant effect on water quality. It is further stated that data is indicative that agricultural fertiliser is a pressure on water quality in this catchment.

Woodland

The loss of wet willow wood at the northwest of the site measuring c.0.2ha in extent represents a moderate negative effect due to the impact this has on connectivity with the landscape at the northern boundary. Treating the INNS, as per the management plan, and subsequent replanting of Willow, Hawthorn, Birch will remediate this effect and after implementation have a slight positive effect on woodland.

Bats and supporting habitat

No residual effects have occurred. Remedial mitigation includes further improvement to the connectivity of habitat on site and to maintain natural wetlands which should aid foraging for any bat species. Working hours have followed the standard working day thereby limiting nighttime disturbance and there is no nighttime lighting associated with the development.

With the implementation of the remedial mitigation measures (including monitoring), residual effects are set out in section 6.7.4. These provide that no significant residual effects on biodiversity arise.

10.7.9.7. Analysis, Evaluation and Assessment: Direct and Indirect Effects

I have examined, analysed and evaluated Chapter 6 of the rEIAR, all of the associated documentation and submissions on file in respect of biodiversity. I am satisfied that the applicant's understanding of the baseline environment, by way of desk and site surveys, is comprehensive and that the key impacts in respect of effects on biodiversity, as a consequence of the development have been identified.

Inland Fisheries Ireland (IFI) as a party to the application has raised a number of issues with respect to the importance of the Eany Water River catchment as a habitat and spawning habitat for various species of fish includes Sea Trout (*Salmo Trutta*) and Atlantic Salmon (*Salmo Salar*). Recommendation no. 4 of their submission outlines that all mitigation measures in Chapter 8 of the submitted remedial Environmental Impact Assessment Report must be implemented and strictly enforced to ensure that no negative impact occurs to the adjacent watercourse.

10.7.9.8. Conclusion: Direct and Indirect Effects

In general, given the scale, nature and location of the quarry development carried out, I conclude that significant direct and indirect effects on biodiversity have not occurred, are not occurring and are not likely to occur from the development carried out.

Taking into account the remedial mitigation measures included within the rEIAR I am satisfied that there is no potential for any significant direct, indirect or cumulative effects on biodiversity as a result of the development.

10.7.10. Land, soils and Geology

10.7.10.1. Issues raised

No issues were raised in respect to Land, Soils and Geology in respect of the rEIAR.

10.7.10.2. Examination of the rEIAR

Chapter 7 of the rEIAR deals with Land, Soils and Geology, the figures, photographs and tables included therein.

10.7.10.3. Baseline

The topography of the study area is undulating, and the topography of the quarry site varies from c.73m OD on top of the screening berms in the east to c. 54 m OD in the central deck of the site. The site is within a large area designated as the Donegal and Inver Bays County Geological Site (CGS) (DL011). This CGS is described as a large area of rolling countryside forming the hinterlands around Donegal and Inver Bays which is a drumlinised basin – one of the finest moraines and drumlins in the country (section 7.4.6 of the rEIAR).

The area is underlain by sedimentary rocks belonging to the Mullaghmore Sandstone Formation which is part of the Dintantian Sandstone Group. The colour of the sandstone on site varies from a buff light brown to a grey/blue depending on the strata. Beds are seen to dip gently to the southeast (section 7.4.5 of the rEIAR). Almost all ground has been stripped of soil with exception to the only undisturbed soil remaining on site are in the far eastern side of the site where extraction has not taken place. Soils are described as surface water Gley and the subsoil as a till derived from Lower Carboniferous sandstones and shales.

There is a strong tradition of quarrying activity around the study areas with three other quarries within 3km of the subject site. GSI aggregate potential online map classifies the area as ‘very high potential’.

Historically the rocks have been extracted from west to east within the site and the current extraction areas are in the central eastern part of the site.

10.7.10.4. Potential Effects

The rEIAR identifies the potential for a range of environmental effects on Land, Soils and Geology. Effects are summarised in the **Table LSG 10.7.10** below.

Section 7.6.2.5 of the rEIAR states that the activities at the application site will have no impact on the geological features of the nearest geological heritage site of Mountcharles Sandstone Mine c1.5km northeast of the site.

Table LSG 10.7.10:

Project Phase	Significant effects, if any on the environment which have occurred, or which are occurring, or which can reasonably be expected to occur because the development for substitute consent was carried out (s.177F(1) of the Planning and Development Act 2000 (as amended)).
Do Nothing	- Local construction end users will be forced to source quarry produce from further afield. - The permanent negative effect on the geology of the area will remain the same but rock will be extracted at another location to replace that extracted at the application site.
Substitute consent - Construction and operational	- Hydrocarbon contamination through accidental spillages/leaks. Effect characterises as '<u>slight significance</u>'. - Loss of soils/subsoils due to extraction. Effect characterised as '<u>moderate significance</u>'.

	• Loss of bedrock geology as extracted product. Effect characterised as '<u>moderate significance</u>' • Impact of rock removal characterised as <u>permanent negative</u>.
Decommissioning/Restoration	• The proposed landscaping and restoration plan to be implemented when activities have ceased on site. Details given in Chapter 15: Landscaping and Restoration.
Cumulative	• There are quarry developments within 2.5km to the northeast of the site of a similar or greater size that the subject quarry. Cumulative effect regarding the loss of bedrock geology for all sites. The impact is classified as <u>permanent negative effect</u>.

10.7.10.5. Mitigation

Mitigation measures are set out in section 7.13 of the rEIAR. Measures include those proposed under hydrology and hydrogeology and the Environmental Management Systems. Other notable measures are:

- Regular visual monitoring of all surface waters onsite (including settlement ponds) for any surface sheen or sign of potential hydrocarbon pollution.
- Geotechnical assessments of quarry face over 20m height, and those over 30m height with multiple benches must be conducted by a geotechnical specialist.

10.7.10.6. Residual Effects

Section 7.10 of the rEIAR sets out the residual impacts. Within this section of the rEIAR it is stated that by its nature the quarrying activity will have a permanent negative effect on the bedrock removed from the site. The creation of new diverse

habitats on the restoration of the site will go some way to mitigating the loss of the resources in the longer term.

10.7.10.7. Analysis, Evaluation and Assessment: Direct and Indirect Effects

I have examined, analysed and evaluated Chapter 7 of the rEIAR, all of the associated documentation and submissions on file in respect of land, soils and geology. I am satisfied that the applicant's understanding of the baseline environment, by way of desk and site surveys, is comprehensive and that the key impacts in respect of effects on land, spoils and geology, as a consequence of the development have been identified.

10.7.10.8. Conclusion: Direct and Indirect Effects

In general, given the scale, nature and location of the quarry development carried out, I conclude that the loss of bedrock as extracted product is a permanent negative effect I would, however, concur with the rEIAR determination of significance of the effect as being a 'moderate effect' i.e. An effect that alters the character of the environment in a manner that is consistent with existing and emerging baseline trends. As such a significant direct and indirect effects on land, soils and geology have not occurred, are not occurring and are not likely to occur from the development carried out.

10.7.11. Water

10.7.11.1. Issues raised

As detailed in section 10.7.9.1 of my assessment Inland Fisheries Ireland (IFI), highlight that minor watercourses within the Eany Water catchment flow along the site's northern red line boundary and through the southern portion of the site.

The Eany Water (IE_NW-37E030350) is considered an important catchment within the Ballyshannon fisheries district, as it provides habitat and spawning habitat for various species of fish including:

- Sea Trout (*Salmo trutta*), and

- Atlantic Salmon (*Salmo salar*), listed in Annex II of the EU Habitats Directive (92/43-EEC)

The overall ecological status of this catchment has been determined as 'Good' in the most recent EPA report. The IFI states that it is imperative that water quality, habitat and species diversity are protected within this catchment during any development or construction projects.

10.7.11.2. Examination of the rEIAR

Chapter 8 of the rEIAR deals with water and includes Appendix 8.1: Certificates of Analysis (Surface water), Appendix 8.2 Borehole logs and Appendix 8.3 Certificates of Analysis.

10.7.11.3. Baseline

The site is located in the Eany Water sub basin catchment (Eany (Water)_SC_010) and a tributary of the Eany Water River flows (EPA Code:IE_NW_37E030350) flows along the northern boundary of the site and through the southern boundary of the site. The Eany Water River flows into the sea at Inver Bay approximately 3km southwest of the subject site. Hydrological connection from the site to St Johns Point SAC and Donegal Bay SPA (see also section 11.0 of my report for Appropriate Assessment (AA) screening).

A small proportion of the runoff from the site flows north through a settlement pond, which has been unmanaged, and onwards into a tributary of the Eany Water River. The majority of the runoff from the footprint of the site flows into a settlement pond located in the central southern part of the site. The outflow from this settlement pond flows into a vegetated drainage ditch and into an open drain at the entrance of the site. This drain is then culverted and flows southwest into a tributary of the Eany Water.

Surface water sampling (Figure 8.5 illustrates the sampling point location) has indicated that both receiving watercourses downstream of the site outflows achieve 'high' status in relation to levels of Ammonia, Orthophosphate and Total Phosphorous. Some results for BOD for the northern tributary of Eany Water and results for Dissolved Inorganic Nitrogen for both receiving watercourses were outside

the acceptable range. It is concluded in the rEIAR that site influence cannot be responsible for the measured levels of these parameters downstream of the site. pH and suspended solids are all seen to be within accepted limits of 6-9 and <20 mg/l respectively.

Borehole logs presented in Appendix 8.2 and Figure 8.6 demonstrate that the groundwater levels at BH1 varies between c.52.5mOD and c.54mOD over the study period. BH02 groundwater level varies between c.54mOD and c.56mOD whilst BH03 which is positioned between 8-10 m horizontally from the top of the southeast quarry face varies between 62mOD and c.65mOD. In section 8.4.11.2 the rEIAR explains that the groundwater gradient has been affected by excavation at the site. Furthermore, it is stated that the excavated area has had the effect of a large diameter borehole creating a cone of depression in the water table on the site. The groundwater level is currently slightly below the existing quarry deck level at approximately c.54mOD.

The underlying groundwater body is the Frosses groundwater body and the aquifer underlying the application site is described by the GSI as a Locally Important Aquifer (Lm) – Bedrock which is Generally Moderately Productive. Groundwater is classified as 'X' Rock at or near surface or Karst and Extreme.

The nearest Source Protection Area is 13.9km southwest in a separate hydrological catchment area in Ballyshannon. There are approximately 8 recorded groundwater wells within 1km of the application site. The rEIAR states that there are no wells within the zone of influence of the site (Table 8.5). The application site and surrounding area is at low risk of river flooding events (Figure 8.8). It is estimated in the rEIAR that the main settlement pond and other voids and pools on the site provides a least 500m³ total storage volume.

A historical oil spill was investigated to assess the extent of any potential residual contamination (Table 8.4). The chemical analysis of the soil/stone indicate that the mineral oil value recorded on the site is below the trigger value as published by the EPA (Guidance on Waste Acceptance Criteria at Authorised Soil Recovery Facilities 2020) and as such the site is considered remediated. Groundwater chemical analysis indicates that the PAH levels are slightly elevated (BH3 and BH2) the rEIAR

considers that as BH1 is below the limits of the detected the source of PAH may be outside the site and not related to the historical oil spill.

10.7.11.4. Potential Effects

The rEIAR identifies the potential for a range of environmental effects on Water. Effects are summarised in the Table W 10.7.11.

Table W 10.7.11:

Project Phase	Significant effects, if any on the environment which have occurred, or which are occurring, or which can reasonably be expected to occur because the development for substitute consent was carried out (s.177F(1) of the Planning and Development Act 2000 (as amended)).
Do Nothing	• Not addressed within the chapter.
Substitute consent	• The construction of berms and earth movement may have led to discharge of suspended sediment load in runoff which may be directed to surface watercourses leading to the Eany Water River system and subsequently Inver Bay. <u>Characterised as moderate short-term negative effect.</u> • Extraction and processing discharges effluent off site directly to a surface watercourse leading to the Eany Water River system. • Surface water and ground water impacts from hydrocarbon contamination. <u>Moderate short-term negative effect.</u> • Groundwater impacts due to extraction below water table. The development extracts bedrock some of which may be at

	or close to the water table. <u>Imperceptible negative effect.</u> • Surface water ecology losses due to alteration of catchment flow regime. <u>Imperceptible permanent negative effect on a high sensitivity receptor.</u>
Decommissioning/Restoration	• Not addressed within this chapter
Cumulative	• Section 8.8.6.1 of the rEIAR considers other planned development and concludes that none represent <u>any 'significant negative effect' on the environment</u>

10.7.11.5. Mitigation

Mitigation measures are summarised in table within section 8.8.8. The measures include best practice Environmental Management Systems (EMS) and water management and control systems. It is noted that a single discharge point subject to the conditions of a trade discharge licence from Donegal County Council is proposed. A hydrocarbon interceptor is proposed within the main discharge channel immediately before discharging off-site.

In addition, measures for the safe storage of lubricants and best practice operations for re-fuelling are included to protect both surface and ground waters from accidental spillages/ leaks.

10.7.11.6. Residual Effects

Section 8.8 of the rEIAR outlines the residual effects, as follows:

- Short-term imperceptible negative effect on surface water quality with respect to impacts from suspended sediment load during construction phase earth movement & berm construction.
- Short-term imperceptible negative effect on surface water quality from suspended sediment load during extraction and processing phase.

- Short-term imperceptible negative effect on surface water quality with respect to impacts from hydrocarbon contamination.
- Imperceptible permanent negative effect on groundwater due to extraction below the water table.
- Imperceptible negative effect on tributaries of the Eany Water River system with respect to ecology losses due to alteration of catchment flow regime.

10.7.11.7. **Analysis, Evaluation and Assessment: Direct and Indirect Effects**

I have examined, analysed and evaluated Chapter 8 of the rEIAR, all of the associated documentation and submissions on file in respect of Water. I am satisfied that the applicant's understanding of the baseline environment, by way of desk and site surveys, is generally comprehensive for the purposes of this substitute consent application.

The rEIAR establishes that the groundwater gradient has been affected by excavation at the site and that a cone of depression in the water table on site has been created. Groundwater is a sensitive receptor (as per Table 8.1: receptor Sensitivity Criteria adapted from www.sepa.org.uk within the rEIAR) given the vulnerability of the groundwater and the locally important aquifer classification. Within the application site the water table in the bedrock has been shown to be at relatively shallow levels (section 8.7 of the rEIAR) and outside the quarry void the observed groundwater levels are similar to what would be expected (<7mbgl).

No active pumping, as a dewatering process, is presented in the rEIAR. Nevertheless, the low point created by excavation of the quarry bed creates a sump like condition. I highlight to the Commission that a c. 2.5m drop in groundwater level is presented in Table 8.3 for BH3 between the period from the initial recording in August 2023 to the last recording in July 2004. In section 8.7 of the rEIAR seepage and groundwater movement along bedding planes and fissures within the quarry faces of the extracted area was noted. The residual effect of the extraction at the quarry is characterised as imperceptible permanent negative effect on groundwater and that no significant effects on groundwater supply are expected (Section 8.8.4). Table 3.4 of the EPA's Guidelines for Environmental Impact Assessment Reports

describes 'imperceptible' as an effect capable of measurement but without significant consequences. Noting the historical quarrying at the subject and the more recent duration of the active quarrying on this site of approximately 20 years (2004 & 2007 noted) I can see how the rEIAR characterises the duration of effect as permanent 'Effects lasting over sixty years'

The rEIAR does identify eight recorded wells within proximity of the subject site (Table 8.5) and states that there are no wells within the zone of influence of the site (Section 8.5.5). These wells are not mapped respective to the stated zone of influence, and I note that no monitoring of water levels within same was undertaken as part of this substitute consent application. In the event that the applicant intends on making a separate application for continuation of the quarry activities I would be of the opinion that a monitoring period for wells within the vicinity of the site would be appropriate to evidence a baseline to measure future quarrying activities and their impacts against.

For the purposes of the assessment of this substitute consent application, which for clarity I shall restate is limited in its scope to the development that has already occurred on site and does not take into account continuation of quarrying activities and by inference any further extraction of the quarry floor, I note the fluctuation in groundwater levels has not been raised as concern by third parties in terms of impact on water supplies dependent on the groundwater resource. It is accepted that there is a cone of depression in the water table and that the quarry activities have had an impact on same. I would concur with the rEIAR assessment that the seepage and groundwater movement evident on site is consistent with the GSI categorisation of the aquifer and expected groundwater movement.

In respect to surface water from my site visit I would concur that the majority of the surface water flow is to the southern boundary of the site. Table 8.2: Water Quality Analysis of Site Discharge illustrates that both receiving watercourses downstream of the site outflows achieve 'high' status in relation to levels of Ammonia, Orthophosphate and Total Phosphorus. In the summary of the analysis results within section 8.4.10 of the rEIAR sets out that some results for BOD for the northern tributary of the Eany Water and results for Dissolved Inorganic Nitrogen for both receiving watercourses were outside the acceptable range. However, in these cases,

the upstream values for these parameters were also outside the acceptable range. I would agree with the rEIAR findings that the site influence does not appear to be responsible for the measured levels of these parameters downstream of the site. The proposed remedial measures including drainage and water management measures to regularise the drainage by construction for a capture drain catching any unregulated flow and directing this flow to the main settlement pond (Figure 8.9) and the provision of a hydrocarbon interceptor as best practice will further attenuate flow and provide a main site discharge point to filter for hydrocarbon pollutants. I highlight to the Commission that a dedicated monitoring point where grab samples for chemical analysis and flow rate measures can be taken is recommended to be installed at the outflow of the interceptor.

As such, I am of the view that the key impacts in respect of effects on water, as a consequence of the development have been identified.

10.7.11.8. Conclusion: Direct and Indirect Effects

Having regard to the examination of environmental information as above I conclude that significant direct and indirect effects on water have not occurred, are not occurring and are not likely to occur from the development carried out by virtue of the footprint of the development.

Taking into account the remedial mitigation measures included within the rEIAR I am satisfied that there is no potential for any significant direct, indirect or cumulative effects on water as a result of the development.

10.7.12. Noise and Vibration

10.7.12.1. Issues raised

No issues raised in respect to noise and vibration.

10.7.12.2. Examination of the rEIAR

Chapter 9 of the rEIAR assesses the noise impacts of the quarry development and an Environmental Noise Report is included within Appendix 9.1.

10.7.12.3. Baseline

The baseline environment is described in section 9.3 and section 9.6 of Chapter 9 of the rEIAR in respect to noise. In terms of vibration the baseline considers ground vibration, air-overpressure noise and fly rock and is considered in section 9.15.

Noise

The application site is adjacent to the national N56 route so the area would not be considered as a 'Quiet Area' as defined in the EPA's NG4 (Jan'16). Strategic noise maps as part of the production of the action plan³ indicate that the application site lies in the 60-64dB zone and the remainder of the site lies in the 55-59 dB zone of noise mapping along the N56.

As already set out in my report the extraction of the product is by mechanical means using a ripping claw on an excavator and occasionally boulders may have to be broken down further using an impact breaker mounted on an excavator. Section 9.3.1.2 states that occasionally blasting occurred on site to win rock but that this practice was discontinued after it was seen to induce unwanted fracture patterns into the rock lessening its value as cut-stone product. The rEIAR outlines that most of the activity takes place on the quarry floor and in the processing area to the west of the site.

The predicted historical worst-case scenario (set out in section 9.6.5 of the rEIAR) is likely to have been when extraction and processing occurring at the same time as shot holes were being drilled for a blast⁴. Blasting is reported to have occurred once every year from 2004 until c. 2007 and approximately once every 5 years prior to 2004.

The times of operation of the quarry are between 0800 hours and 1700 hours Monday to Friday. The quarry is shut on Saturday, Sunday and public holidays.

A noise survey, as contained in Appendix 1 of Chapter 9, was conducted and three noise sensitive locations (Figure 9.3) were chosen surrounding the quarry. At section 9.6.2 it is outlined that during the noise survey the operator was asked to perform the noisiest operations so that a worst-case- scenario can be considered i.e. extraction

³ Previous Noise Action Plan 2018-2023 and mapping referred to in rEIAR.

⁴ Values for the noise associated with shot hole drilling is taken from the average over a number of field measurements on various sites and is 63dBA at 40m (Section 9.6.5 of the rEIAR).

activities with a ripping claw and the processing of rock by sawing and by guillotine taking place simultaneously.

Section 9.6.6 of the rEIAR outlines that the predicted noise levels are maximum levels and include the cumulative effects of all activity. Table 9.4 presents the historical cumulative impacts for Noise Sensitive location N1, N2 and N3, without reference to acoustic screening and highlights that the measured noise levels at each receptor have a considerable contribution from passing traffic. This scenario is stated to be unlikely given the nature of quarrying at the site that not all plant will normally be in operation at the same time and that blasting has not taken place at the quarry since c. 2007. I would concur with this view and note the historical blasting no longer occurs at the site.

In terms of road traffic noise impacts the rEIAR states that the application site contribution to the traffic flow is minimal and that peak production traffic movements will not have increased the overall contribution from quarry related activity beyond the 55dBA threshold.

Vibration

The substitute consent activity included the occasional extraction of underlying rock by blasting. Blasting ceased in 2007. Between 2004 and 2007 approximately one blast per year was carried out. Prior to 2004 the applicant reports that approximately one blast was used every five years. No blast vibration measurements carried out at the time.

There were no measurements of air overpressure made.

It is stated that there were no breaches relating to fly rock during the development of the quarry.

10.7.12.4. Potential Effects

Section 9.6.1 of the rEIAR sets out the potential noise sources on site and summarised in Table NV 10.7.12. It is stated in this section of the rEIAR that the principal potential noise impact arising from the operation of the quarry in the past is increased noise nuisance likely to have arisen on account of:

- Initial phase of development will have included all overburden removal, placement of all site infrastructure and development of settlement ponds and access routes.
- Increased traffic along existing access roads to the site and internally across the applicant's landholding.
- Operation of plant within the site for rock extraction and processing activities.
- Drilling of blast holes and blasting.
- Excavations and earthmoving for any preliminary restoration works including construction of screening berms.

Table: NV 10.7.12

Project Phase	Significant effects, if any on the environment which have occurred, or which are occurring, or which can reasonably be expected to occur because the development for substitute consent was carried out (s.177F(1) of the Planning and Development Act 2000 (as amended)).
Do Nothing	• Noise • Local construction end users will have to source quarry product from further afield. • Reduced noise impacts in the vicinity of the site but increased noise and vibration impacts elsewhere. • Vibration • No ground vibration or air overpressure impacts. • Local community would be required to source their rock material from a more distant source.
Substitute consent	• Historical noise from shot holes being drilled for a blast and blasting • Noise from extraction and processing

	- Noise survey summary all the La90 values (representative of background noise levels and noise levels would include operational noise from the quarry) were below the 55dBA threshold. - Noise sources from the application site are acoustically screened from most noise sensitive receptors. The LAeq values are also below the 55dBA threshold for N1 but above for N2 and N3.
Decommissioning/Restoration	Not addressed within this chapter.
Cumulative	Historical cumulative noise level predictions exceed the 55 dBA Leq, 1 hour
Unplanned events	No emergencies were encountered with respect to the historical extraction process by blasting.

10.7.12.5. Mitigation

Noise

Mitigation measures implemented are set out in section 9.7 and summarised in 9.13.2 of the rEIAR. Existing mitigation measures employed include acoustic berms along the extraction boundary of the site that have been constructed where possible, location of processing plant in the quarry floor giving maximum attenuation effect, all mobile plant on site must have well maintained silencers, machinery must be throttles down or turned off when not in use and a noise buying standard must be in place where any replacement of mobile or fixed plant is considered.

It is recommended that annual noise monitoring is undertaken at the three noise sensitive locations (N1, N2 and N3) (section 9.10 of the rEIAR).

Vibration

The rEIAR sets out in section 9.15.9 that the applicant states that an experienced and competent blasting contractor was always used by the family for its historical blasts. Controls identified as likely to be in place in respect to minimising ground vibration, air overpressure and noise are listed in section 9.15.9.

An emergency response plan is proposed to be implemented for the site for unplanned events.

10.7.12.6. Residual Effects

Section 9.11 of the rEIAR states that it is not expected that there has been an adverse impact on noise quality in the vicinity of the application site assuming that mitigation measures and best practice has been applied.

Section 9.15.13 of the rEIAR states that it is not anticipated that there was an adverse impact on the vibration quality in the vicinity of the application site as no complaints were reported.

10.7.12.7. Analysis, Evaluation and Assessment: Direct and Indirect Effects

I have examined, analysed and evaluated Chapter 9 of the rEIAR, all of the associated documentation and submissions in respect of Noise and Vibration. I am satisfied that the applicant's understanding of the baseline environment, by way of desk and site surveys, is comprehensive and that the key aspects in respect of likely effects in terms of noise and vibration on sensitive receptors as a consequence of the development have been identified.

Noise

In the worst-case scenario (excluding historical shot hole drilling associated with blasting which it is stated has not occurred since 2007 at the site) the noise levels exceed 55dBA threshold for the noise sensitive receptors N2 and N3 when extraction activity is taking place simultaneously with the processing of rock by sawing and by guillotine. The rEIAR considers that the traffic noise from the N56 will have contributed most of the noise. I note that the LA90, 15min values are below the

55dBA threshold and are representative of background noise levels and include operational noise from the quarry.

Vibration

No records were taken of the historical blast activity at the quarry and no measurements of air overpressure made. I note that blasting ceased in 2007, as per the submitted rEIAR. Section 9.15.15 of the rEIAR concludes that given the lack of complaints and infrequent nature of the blasting regime blasting is likely to have had a slight negative temporary effect.

No parties to the application have raised any issues with respect to noise and vibration.

I highlight that Condition 5a as recommended by Donegal County Council seeks to limit noise levels emanating from the quarry and attributable to on-site operations to 50dB(a) when measured from any residential building. As above (see section 1.0 and 4.0 of my report), this substitute consent application is limited in its scope and the continuation of quarrying activities and potential noise from same is not considered here.

10.7.12.8. Conclusion: Direct and Indirect Effects

Having regard to the examination of environmental information it is considered that by virtue of the relatively small footprint, the nature of quarrying post 2007 (defined blasting period end) and the surveyed noise levels, with the full implementation of mitigation measures that significant environmental effects have not occurred, are not occurring and are not likely to occur from the development carried out in respect to noise and vibration.

10.7.13. Air and Climate

10.7.13.1. Issues raised

No issues were raised in the course of the planning application in respect to the adequacy of the Air and Climate chapters of the rEIAR.

10.7.13.2. Examination of the rEIAR

Chapter 10 of the rEIAR deals with Air and associated Appendix 10.1 contains the Dust Monitoring Report. Chapter 11 of the rEIAR deals with Climate.

The assessment, in respect to Air, is undertaken in accordance with government and industry best practice guidelines. The assessment methodology includes site walkovers and assessment of site and dust monitoring (location of dust monitoring shown in Figure 10.3). One a point of clarity Section 10.5 of the rEIAR states that four dust monitors were installed in August 2022, however the dust monitoring results only refer to three monitors (DM1, DM2 and DM3 as shown in Figure 10.3) and Appendix 1: Aqualab Berghoff Dust Analysis contains only three samples.

In establishing the current climate in the region of the development a desk study of the available data from Met Eireann, The Environmental Protection Agency (EPA) and other bodies which have a responsibility for climate records in Ireland and Europe.

Chapter 11 of the rEIAR deals with Climate.

No limitations are identified or technical difficulties encountered.

10.7.13.3. **Baseline**

Section 10.1 sets out that for quarrying related activities, the most likely emission to the air environment is dust which arises predominantly from the excavation, processing and transportation of aggregate.

The baseline with respect to dust deposition is given in Table 10.2, as of August 2023 and test results (Appendix 1) I note are dated are being issued 6 September 2023. In section 4 of the of the Dust Monitoring Report it is explained that the dust monitors were installed on 1st August 2023 and were left in place for 30 days and removed on the 31st August 2023.

Noting the submitted Dust Monitoring Report there appears to be typographical errors by reference to August 2022 in section 10.5 and in the title of Table 10.2 which refers to a dust monitoring period of between January 2022-June 2022 of Chapter 10 of the rEIAR.

In respect to Climate section 11.3 sets out the policy context and legal framework within which climate change is considered. I highlight to the Commission that a

typographical error referencing Letterkenny town centre in section 11.3.4 as not being relevant to the subject application.

10.7.13.4. Potential Effects

The rEIAR identifies the potential for a range of environmental effects on air and climate. No likely significant effects are identified in the rEIAR (Table 10.2) pre-mitigation measures. Dust within the air and its effect on human health is considered to be of moderate significance pre-mitigation. Table AC 10.7.13 below includes a summary of the potential effects as set out in the rEIAR.

As per the impact assessment methodology (section 10.3 of the rEIAR) the descriptive terminology draws from Table 3.4: Descriptions of Effects of the EPA Guidelines on Information to be included in Environmental Impact Assessment Reports (May 2022).

Table: AC 10.7.13

Project Phase	Significant effects, if any on the environment which have occurred, or which are occurring, or which can reasonably be expected to occur because the development for substitute consent was carried out (s.177F(1) of the Planning and Development Act 2000 (as amended)).
Do Nothing	• Local construction end users will have to source quarry product from further afield, resultant higher carbon footprint for these products. • Local job loss and the secondary benefits that this brings to the local community.
Substitute consent - Construction and operational	• Dust deposition on local dwellings determined to have a <u>slight effect</u> in terms of significance.

	• Dust within the area and its impact on human health is determined to be of <u>moderate significance</u>. • Dust deposition on local vegetation is determined to be of <u>slight significance</u>. • Loss of vegetation with site clearance impacts on carbon sequestration. Characterised as having a <u>slight impact pre-mitigation (section 11.8)</u>. • Emissions associated with the plant and movement of vehicles during construction of site infrastructure and screening berms are assessed as <u>imperceptible and not significant in terms of impact</u> to the local micro-climate or the broader macro climate. • The emissions during operation of the quarry. Priority was given to energy efficient low emission vehicles and plant when considering replacements. As the quarry supplies product to a local market the overall impact is assessed as having a <u>slightly positive impact</u>.
Decommissioning/Restoration	• Not addressed within this chapter.
Cumulative	• None. No planned development which may result in significant cumulative impact in the vicinity. Other quarries in the general area but none within dust deposition range to be considered for cumulative impact.

10.7.13.5. Mitigation

Mitigation measures are set out in section 10.13 of the rEIAR in respect to Air and section 11.6 of the rEIAR in respect to climate.

Measures include dust monitoring to be carried out monthly at the designated monitoring locations if required, timing of the operations in relation to meteorological conditions and screening berms to be grass seeded and planted to eliminate wind-blown dust. Good operation practices are included in the mitigation measures to switch off plant and vehicles when not in use and take into account energy consumption ratings when upgrading to new vehicles. In respect to mitigation measures to reduce impacts on climate a landscaping plan, set out in Chapter 15, is proposed to offset the vegetation loss and increase net biodiversity.

10.7.13.6. Residual Effects

Within the implementation of mitigation measures the residual effects are set out in section 10.14 and section 11.7. The impact on air quality and in particular dust generation and dust deposition from the site is assessed as having no significant negative effects. No residual impacts are expected with respect to climate, other than the slight positive impact on climate due to the reduced travel distance customers have to travel for quarry products.

10.7.13.7. Analysis, Evaluation and Assessment: Direct and Indirect Effects

I have examined, analysed and evaluated Chapter 10 and Chapter 11 of the rEIAR, all of the associated documentation and submissions on file in respect of air and climate. I am satisfied that the applicant understanding of the baseline environment, by way of desk and site surveys, is comprehensive and that the key impacts in respect of likely effects on air and climate, as a consequence of the development have been identified.

10.7.13.8. Conclusion: Direct and Indirect Effects

Having regard to the examination of environmental information it is considered that by virtue that the dust deposition results are well below the guideline threshold of 350mg/m²/day there is no potential for significant environmental effects on air quality as a result of quarry generated dust.

Having regard to the examination of environmental information it is considered that by virtue of the relatively small footprint, the nature of quarrying post 2007 (defined blasting period end) and the with the full implementation of mitigation measures that

significant environmental effects have not occurred, are not occurring and are not likely to occur from the development carried out in respect to air and climate.

10.7.14. **Material assets**

10.7.14.1. **Issues raised**

As already noted in section 7.0 of my report Transport Infrastructure Ireland (TII) have made a submission in respect to the substitute consent application and note having regard to the extent of the operations presented in the rEIAR and the location of the subject quarry operations accessing the local road network, the Authority has no specific comment to make in relation to the subject development in terms of impacts relating to the safe and efficient operation of the existing or planned national road network in the area.

10.7.14.2. **Examination of the rEIAR**

Material assets are considered in Chapters 12: Traffic and Chapter 13: Site Services. Chapter 13 evaluates the impact of the development on surface water drainage, foul drainage, water supply, power, gas and telecommunications. Section 13.2 outlines that there is an element of cross-over between Chapter 13 and Chapter 7: Lands, Soils and Geology and Chapter 14: Cultural Heritage and Chapter 15: Landscape & Restoration.

10.7.14.3. **Baseline**

Section 13.4 sets out that there is no mains water supply to the site and no welfare facilities are provided on site. The applicant's home (c. 130m to the west) adjacent to the subject site is used for welfare and canteen facilities. A small amount of water is recycled from the sump in the processing area for use in the cooling of cutting saw. Water is occasionally used for dampening down surfaces in exceptionally dry weather and water is sourced from the sump or the settlement ponds in this scenario. There are no toilet facilities on site, and therefore no wastewater is generated. Effluent from the processing area is captured in the sump and recycled.

There is no ESB connection or telecommunications connection to the site (section 13.4.3), all office work related to the quarry is stated as being carried out at the applicant's dwelling.

Section 12.6 describes the road network surrounding the subject site and Figure 12.1 shows the network of local roads and the overall distribution of roads in the general area. The L-6115-1 leads northwards towards the village of Frosses. The quarry is served by a slip road of the L-6115-1 and the recently upgraded N56 regional road which is adjacent to the site and runs parallel to the southern boundary of the site (Photographs 12.1 and 12.2 of the rEIAR illustrate).

Vehicle movements for the period 07:00 to 19:00 were 10,768 for an average workday in July 2023 and slightly lower in March 2023 at 9,319 movements this difference is assigned to tourism related traffic in the summertime. With peak traffic movement between 8am and 5pm regardless of the time of year. The principal number of movements are by cars (referring to July 2023) and vehicle light goods vehicle movements (LGVs) representing 14.3% of traffic flows and heavy good vehicles (Both rigid HGVs and Articulated HGVs) accounting for 3.5% of the traffic volumes.

The HGV movements associated with the quarry would represent 0.1% of the weekly HGV movements on the N56 and van/LGV movements associated with the quarry would make up 0.2% of the weekly van/LGV movements on the N56. The car movements relating to the staff employed at the quarry would contribute 0.05% of the total daily car movements on the N56.

Figure 13.2 illustrates the 40-no. dwellings within 500m of the quarry boundary and the commercial premises 'Kelly's Toyota dealership' to the southwest.

10.7.14.4. Potential Effects

The impact of quarry traffic is set out in Section 12.11 of the rEIAR. Murray Stone, the applicants, do not have any delivery vehicles and most of the customers arrange their own collection usually by smaller pick-up 3.5T lorries or using vans and trailers.

Table: MA 10.7.14

Project Phase	Significant effects, if any on the environment which have occurred, or which are occurring, or which can reasonably be expected to occur because the development for substitute consent was carried out (s.177F(1) of the Planning and Development Act 2000 (as amended)).
Do Nothing	• Not addressed within Chapter 12.
Substitute consent - Construction and operational	• Impact on existing residential properties: Visual impact and potential noise • Loss of geological resources. • Road safety considerations: Sightlines. • Surface run-off: The quarry entrance is topographically lower than both the access slip road and the N56 as such surface water cannot leave the quarry site to affect the slip road or N56. • Parking: Staff parking located in the westernmost part of the site near the processing area and site entrance. • Impact on road network by quarry traffic: The impact of the development on roads and traffic is assessed as <u>imperceptible</u>.
Decommissioning/Restoration	• Not addressed within Chapter 12.
Cumulative	• Not addressed within Chapter 12.

10.7.14.5. Mitigation

Section 13.6 states that mitigation measures are detailed in the relevant chapters of the rEIAR to ameliorate impacts on site services. In section 13.5 the proposed management measures in relation to regular environmental monitoring of noise,

vibration and dust emissions will be carried out in order to ensure that the development is compliant in relation to any threshold level set.

No specific mitigation measures or remedial mitigation measures are identified in section 12.12 of the rEIAR as the quarry traffic expected will not pose any significant impact on the N56, L-6115-1 road or surrounding area.

10.7.14.6. Residual Effects

Section 12.11 states that the contribution of quarry traffic to the road traffic network is negligible. No residential impacts in respect to site services are envisaged (section 13.7).

10.7.14.7. Analysis, Evaluation and Assessment: Direct and Indirect Effects

I have examined, analysed and evaluated Chapter 12 and Chapter 13 of the rEIAR, all of the associated documentation and submissions on file in respect of Material Assets – Traffic and Site Services. I am satisfied that the applicant understanding of the baseline environment, by way of desk and site surveys, is comprehensive and that the key impacts in respect of likely effects on the local and national road network, as a consequence of the development have been identified.

Carrying capacity, safety and function of the national road

The applicant's traffic survey identifies that the contribution of quarry traffic is negligible therefore, having regard to the extent of the operations presented in the rEIAR and the location of the subject quarry operations accessing the local road network, Transport Infrastructure Ireland (TII) has no specific comment to make in relation to the subject development in terms of impacts relating to the safe and efficient operation of the existing or planned national road network in the area.

Donegal County Council in their section 177I report similarly note the small, localised nature of the quarrying activity at this location and do raise the impact of same on local roads as an issue.

10.7.14.8. Conclusion: Direct and Indirect Effects

No issues have been raised by any party to the appeal/application in respect of material assets. I have examined Chapter 12 and 13 of the rEIAR which deals with this topic. Having regard to the location of the site in rural environment, the absence of built services that will be impacted on by the proposed development, I am satisfied that there is no potential for any significant direct, indirect or cumulative effects on material assets as a result of the proposed development.

10.7.15. Cultural heritage and the landscape.

10.7.15.1. Issues raised

No issues raised in respect of the rEIAR by parties to the application.

10.7.15.2. Examination of the rEIAR

Chapter 14 of the rEIAR deals with cultural heritage and Chapter 15 deals with Landscape and Restoration. In Chapter 14 the assessment of known or potential cultural heritage resources within the general area has been undertaken. Chapter 15 aims to identify and assess the effects of the quarry on the appearance and character of the local environs following a landscaping and visual assessment which involved field work and a desk-based study.

10.7.15.3. Baseline

The baseline environment in respect to cultural heritage is described in section 14.4-14.9 and Figure 14.1 of the rEIAR illustrates protected structures and recorded monuments near the subject site. There are two recorded archaeological monuments (SMR R176073 and SMR R176070 both Barrow – ring barrow) within 1km distance from the subject site south of the N56 and a third recorded monument approximately 600m to the east of the site (SMR R176085 records of a ‘wooden house’ buried in the bog). The closest two protected structures are 1.4km and 1.7km west of the subject site (Inver Creamery Managers House and Corn Mill).

Section 15.4 sets out the baseline existing environment and section 15.5 contains a landscape character assessment with reference to the Landscape Character Assessment for County Donegal May 2016. The application site is located in the Donegal Bay Drumlins Landscape Character Area (LCA) (see Figure 15.3). The subject site is located in the rural townland of Drumbeagh an area classed as a 'Structurally Weak Rural Area' and an area designated as 'High Scenic Amenity' (HSA).

This LCA is framed by the Bluestack mountains to the north, the bog covered uplands to the east and the coastal edge around Donegal Bay. Agriculture and fishing remain the dominant land use in this area however tourism (based on landscape, seascape, history and cultural qualities of the area) also contributes to the local and wider economy.

The Ordnance Survey of Ireland historical mapping series, referred to within the supporting remedial Environmental Impact Assessment Report (rEIAR), in the 25" series mapped between 1863 and 1924 the site is seen as partially excavated ground.

10.7.15.4. Potential Effects

The rEIAR considers the potential for a range of environmental effects on cultural heritage cross referencing also Chapter 6: Biodiversity, Chapter 7: Land, Soils and Geology, Chapter 8: Water, Chapter 10: Air, Chapter 12: Material Assets - Traffic, Chapter 13: Material Assets – Site services and Chapter 15: Landscape and Restoration.

The rEIAR identifies the potential visual impact of the development on the landscape in Chapter 15.

Table CHLR 10.7.15

Project Phase	Significant effects, if any on the environment which have occurred, or which are occurring, or which can reasonably be expected to occur because the development for substitute consent was carried
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	out (s.177F(1) of the Planning and Development Act 2000 (as amended)).
Do Nothing	• Not addressed in Chapter 14. • Upon decommissioning the subject site would be reclaimed by nature and the seedbank will have the opportunity to germinate and vegetation in the surrounding area will spread into the bare soils. • The vertical faces of the quarry after use could provide potential nesting sites for birds and other small mammals.
Substitute consent - Construction and operational	• <u>No likely significant effects</u> due to quarrying activity at the site on cultural heritage. • Visual impact is considered <u>slight to moderate</u>. • Loss of habitat from stripping from quarrying is determined to be of <u>moderate effect</u>. • Loss of soils/subsoils and bedrock due to extraction and effects <u>determined to be moderate</u>.
Decommissioning/Restoration	• Not addressed in Chapter 14. • Chapter 15 includes details for a phased programme restoration plan in section 15.10.3 for: -Restoration of the c. 2.49ha excavation area. - Restoration of the entire subject site of c. 3.45ha.
Cumulative	• Not addressed in Chapter 14 or Chapter 15.

10.7.15.5. Mitigation

No mitigation measures are stated in respect to cultural heritage.

Existing mitigation measures are described in section 15.9 which include screening berms. In relation to the remedial landscape mitigation measures these include supplementing the existing screening berms and planting native wildflower seed to soften the visual impact of existing berms to the east. To the west it is proposed to supplement the screening on the western boundary with native trees/shrubs so that the entire quarry is screened from view from the dwelling to the northwest (Species to be planted listed in section 15.8.2). See Figure 15.6 of the rEIAR for schematical supplementary planting.

Section 15.10.4 details the mitigation measures and monitoring proposed incorporating the restoration of the site as follows:

- Quarry faces brought to form maximum 70-degree angles.
- Suitable areas covered with soil and allowed to revegetate naturally with selected supplementary planting of native trees and shrubs.
- The restoration works will be carried out in accordance with the EPA Guidelines (2006).
- The applicant will clearly define the management responsibility for the site restoration work and will ensure that this person has the necessary information (from the planning application) and authority to manage the whole restoration process.
- Relevant staff will be briefed on the scheme and will be adequately supervised/controlled.
- A system for record keeping for the key restoration activities will be put in place.
- The site will be securely fenced on all sides with secure and cloaked entrance gates to prevent unauthorised third-party access.
- Redundant structures, plant equipment and stockpiles will be removed from site on permanent cessation of extraction activity.

10.7.15.6. Residual Effects

With the implementation of mitigation measures, residual effects are set out in section 15.11 and Tables 15.9 and 15.10. These provide that no significant residual effects on landscape will arise except for the loss of soils/subsoils and loss of bedrock due to extraction.

10.7.15.7. Analysis, Evaluation and Assessment: Direct and Indirect Effects

I have examined, analysed and evaluated Chapters 14 and 15 of the rEIAR, all of the associated documentation and submissions on file in respect of cultural heritage and landscape and visual effects. I have inspected the application site, the surrounding area, each of the viewpoints referred to in the Visual Impact Assessment. I have also had regard to landscape character and sensitivity as set out in the policy framework in the County Donegal Development Plan and the sensitive receptors identified in these.

The proposed site restoration plan is not acceptable as it provides for the continued excavation and extraction of the site which cannot be authorised under the substitute consent process. A site restoration plan addressing safety concerns may be agreed with the planning authority, having regard to the EPA's environmental management guidelines 2006.

In the event the Commission is minded to grant substitute consent a condition should be attached requiring the submission of a detailed site restoration plan addressing safety concerns including a reasonable timeframe for implementation of same for the written agreement of the planning authority.

10.7.15.8. Conclusion: Direct and Indirect Effects

Having regard to the examination of environmental information it is considered that by virtue capacity of the existing landscape to absorb the existing development and the proposals to supplement existing screening planting and berms there is no potential for significant environmental effects on cultural heritage or landscape.

10.7.16. Interactions (including consideration of Vulnerability to risk of accidents and/or disasters).

Chapter 16 of the rEIAR considers the likely environmental effects arising from the interaction between the environmental factors. Table 16.1 of the rEIAR provides a summary of the main interaction. These are considered in detail in the individual chapters and key interactions are identified as:

- Population and Human Health with water, climate, air, noise & vibration, traffic, landscape and restoration, material assets.
- Biodiversity and water, air, noise and vibration, landscape & restoration.
- Land, Soils and geology with water, air, landscape & restoration and materials assets.
- Water with air.
- Climate with air.
- Air with traffic (Material Assets).
- Noise and vibration with traffic (Material Assets)
- Landscape and Restoration with material assets.
- Material Assets with cultural heritage.

No potential effects are identified because of interactions, over and above those already identified in the individual chapters of the rEIAR and no further mitigation measures are proposed. No residual effects are identified as a consequence of interaction of environmental factors.

Section 11.5.3 of the rEIAR sets out the assessment of the development in relation to unplanned events and vulnerability to the risks of major accidents or disasters relevant to the project. The types of events considered include flooding, extreme temperatures and storm events. The site has been assessed in terms of a basic flood risk assessment as part of Chapter 8 water and found to be not at risk of flooding. The quarry does not operate when a 'red' level weather warning is issued by Met Eireann and operational plans are in place with respect to low temperatures and extreme windy conditions.

I have examined, analysed and evaluated Chapter 16 of the rEIAR and the associated chapters and appendices of the rEIAR. I am satisfied that the main interactions have been identified and addressed in the rEIAR.

Having regard to the foregoing, I am satisfied that no significant adverse direct, indirect or cumulative environmental effects have arisen and/or will arise from its vulnerability to risks of major accidents and/or disasters.

10.7.17. **Reasoned Conclusions**

Having regard to the examination of environmental information contained above, and in particular to the rEIAR and supplementary information provided by the applicant, and the submission from the planning authority and prescribed bodies in the course of the application, it is considered that the main significant direct and indirect effects of the substitute consent development on the environment, with the implementation of mitigation and remedial mitigation measures are:

- Land, Soils and Ecology: Permanent loss of bedrock geology as extracted product.
 - Water: Historical oil spill that impacted on groundwater that has been remediated as evidenced by the bore hole sampling.

Notwithstanding the conclusion reached in respect to the inability of the proposed measures to mitigate the permanent loss of bedrock it is considered that the environmental effects would not justify a refusal of substitute consent having regard to nature and scale of the quarrying activities undertaken at the subject site.

11.0 **Appropriate Assessment (AA) Screening**

Screening Determination (Please also refer to Appendix 2 of this report).

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on St. John's Point SAC, Donegal Bay SPA, Donegal Bay (Murvagh) SAC and Durnesh Lough SAC European Sites in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- Nature of works
- Location-distance from nearest European site and lack of direct connections.

12.0 Water Framework Directive

The subject site is located immediately adjacent to minor watercourses within the Eany Water catchment flow along the site's northern red line boundary and through the southern portion of the site. The Eany Water (IE_NW-37E030350) is considered an important catchment within the Ballyshannon fisheries district, as it provides habitat and spawning habitat for various species of fish including:

- Sea Trout (*Salmo trutta*), and
- Atlantic Salmon (*Salmo salar*), listed in Annex II of the EU Habitats Directive (92/43-EEC)

The overall ecological status of this catchment has been determined as 'Good' in the most recent EA report. The relevant groundwater body is Frosses Ground Waterbody IE_NW_G_067 (WFD status - Not at risk).

The quarry development is described in section 3.0 of my report. No water deterioration concerns were raised in the substitute consent application.

I highlight to the Commission that the groundwater gradient has been affected by extraction at the site. Notwithstanding, it is considered that the alteration to the groundwater gradient would not give risk to a significant risk to the ground water body having regard to:

- a) the dewatering of groundwater occurring is not being pumped away but being returned to the surface water on site,
- b) no issues have been raised with respect to impact on capacity of nearby wells, and
- c) the subject site (3.45ha) represents 0.15% of the total groundwater body (2341.17ha).

An historical oil spill was investigated to assess the extent of any potential residual contamination and evidence provided of no significant hydrocarbon contamination. (Composite soil/stone sample in the general area of the oil spill and a sample taken

from each of the groundwater monitoring boreholes) (See Table 8.4 of the submitted rEIAR). I am satisfied that the area has been remediated and mitigation measures are now in place.

I have assessed the substitute consent application and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

The reason for this conclusion is as follows:

- Nature and characteristics of the quarrying activity and the relatively small scale of quarry works in relation to the scale of the groundwater body.
- Mitigation measures and remedial mitigation measures contained within the submitted remedial Environmental Impact Assessment Report (rEIAR).

Conclusion

I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

13.0 Overall conclusion

13.1. As already outlined in my assessment, see sections 4.0 and 10.6 of my report, in this case the substitute consent regime addresses solely the regularisation of development carried out, i.e. retrospective permission in this case given that the quarry does not hold any prior planning permission which was defective. Therefore, the Commission does not have the power to grant continued extraction by way of a decision on this application for substitute consent. I further highlight that the substitute consent application is supported

solely by remedial Environmental Impact Assessment Report (rEIAR) of which its scope is limited to the development concerned i.e. development carried out and does not assess future continuation of quarrying at the site. The applicant/operator in the event they seek to continue quarrying activities at the site may consider making a separate application in this respect supported by the appropriate environmental assessments.

- 13.2. Having regard to the nature of the development, the operations and arrangements evident on site, the site's location relative to sensitive receptors and the capacity of the landscape to absorb the development, it is likely that localised impacts may have occurred and / or may be occurring or may occur on human beings (on amenities from noise and vibration and from the quarry dust during prolonged dry spells), on water (from fuel/chemical spillages) and ecology (through interactions with water impacts). I am satisfied that these impacts are not of such significance that would warrant a refusal of substitute consent and can be satisfactorily remediated through, (i) the implementation of the mitigation measures contained within the rEIAR and (ii) the implementation of an appropriate site restoration plan within a reasonable timeframe, the details of which should be agreed with the local planning authority.
- 13.3. In this regard, the site restoration plan submitted with the substitute consent application (Chapter 15) is unacceptable as it includes for the continued extraction of the site, whereas the substitute consent process can only authorise the development already carried out.
- 13.4. Therefore, in conclusion I am of the opinion that the development as carried out accords with Policy EX-P-2 of the Donegal County Development Plan 2024-2030 having regard to the preceding environmental impact assessment (section 10.7), given the identified relevant and robust mitigation measures in respect of the environmental impacts of the development, and furthermore the development does not visually impact on the area of High Scenic Amenity (HSA) and, as such, the development, as carried out, is in accordance with the proper planning and sustainable development of the area.

14.0 Recommendation

I recommend that the Commission GRANT substitute consent for the quarry development undertaken within the substitute consent boundary for the reasons and considerations set out in section 15.0.

In their Section 177I report Donegal County Council (DCC) have recommended 12 no. conditions in the event the Commission recommends a grant of substitute consent (Conditions listed in section 8.0 of my report). As already set out (see section 4.0, 5.0 and section 10.6 of my report) conditions as recommended by DCC relating to continued operation of the quarry are not applicable to this substitute consent application given the quarry does not hold any prior planning permission which was defective. Therefore, in the interests of clarity I have included and/or incorporated those recommended conditions of the planning authority as relevant to the scope of the substitute consent application. Furthermore, the recommended conditions included within Inland Fisheries Ireland's submission have been included and/or incorporated as appropriate.

15.0 Reasons and Considerations

Having regard to:

- a. the provisions of the Planning and Development Acts, 2000 (as amended) and in particular Part XA Substitute Consent,
- b. the policies and objectives of the Donegal County Development Plan, 2024-2030 that seek to facilitate the sustainable and appropriate extraction of aggregates;
- c. the policy provisions of the Climate Action Plan 2025 (in conjunction with Climate Action Plan 2024), Ireland's 4th National Biodiversity Action Plan 2023–2030, National Planning Framework (First Revision published April 2025), Regional Spatial and Economic Strategy 2020-2031 Northern & Western Regional Assembly, the Quarries and Ancillary Activities - Guidelines for Planning Authorities 2004 and the 'Environmental Management Guidelines: Environmental Management in the Extractive Industry (Non-Scheduled Minerals)' (EPA, 2006);

- d. the remedial Environmental Impact Assessment Report (rEIAR) and the Appropriate Assessment (AA) Screening Report and supporting documentation submitted with the application;
- e. the report and opinion of the planning authority submitted under Section 177I and the applicant's response to the report;
- f. the submissions made in connection with the application;
- g. the nature, scale characteristics and location of the development, as set out in planning application documentation; and
- h. the mitigation measures and remedial mitigation measures outlined in the rEIAR, and the restoration scheme proposed,

it is concluded that subject to compliance with the conditions set out below, that significant effects have not occurred or which are occurring or could reasonably be expected to occur because the development concerned was carried out on the environment, including population & human health, biodiversity, land (including soils and geology), water, air, climate, material assets, landscape and cultural heritage, would not seriously injure the residential amenities of the area, in particular with respect to associated noise impacts and would be acceptable in terms of traffic safety and convenience. The development as carried out, i.e. the subject of this substitute consent application would, therefore, not be contrary to the proper planning and sustainable development of the area

16.0 Conditions

1. The grant of substitute consent shall be in accordance with the plans and particulars submitted with the application to An Bord Pleanála (now An Coimisiún Pleanála) on the 22 September 2023 except as may otherwise be required in order to comply with the following conditions. For the avoidance of doubt this grant of substitute consent:
 - a. relates only to development undertaken as described in the application, does not authorise any future extraction activity, or continuation of quarrying and does not relate to any other development on the subject site.

- b. excludes the unexcavated areas to the east of the subject site within the redline boundary identified as 'GA1' (improved grassland) in Table (6.12): *Habitats on site and surrounding environs* and as illustrated in Figure (6.3): *Habitats within the red line boundary* of the remedial Environmental Impact Assessment Report (rEIAR).

Reason: To define the permission and in the interest of clarity.

2. The mitigation measures and remedial mitigation measures identified in the remedial Environmental Impact Assessment Report (rEIAR) submitted and other plans and particulars submitted with the planning application, shall be implemented in full by the applicant/operator in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this permission.

Reason: To protect the environment.

3. Within one month of the date of this decision, the applicant/operator shall submit a detailed invasive species management plan, including a timeline for implementation, for the removal of the invasive species recorded on site, Himalayan Knotweed (*Persicaria wallichii*) and Giant Rhubarb (*Gunnera tinctoria*) for the written agreement of the planning authority.

Reason: In the interest of protecting biodiversity.

4. The applicant / operator shall comply with the requirements of the planning authority regarding the undertaking, recording and timely reporting of the results of all environmental monitoring to the authority.

Reason: To mitigate the risk of significant impacts on factors of the environment.

5. (a) Within three months of the date of this decision, the applicant/operator shall submit detailed proposals, including drawings, for the restoration of the substitute consent site for the approval of the planning authority. The details shall include:

- I. The identification of all areas to be levelled or graded;

- II. The identification of all items of plant and machinery, scrap metal, stockpiles, chemicals/fuels, contaminated materials including any contaminated soil, and waste materials to be removed;
- III. Details of measures to ensure the stability of the faces of the quarry;
- IV. Details of landscaping / screening/ improvements to perimeter fencing and safety notices to be implemented; and,
- V. The timescale for the implementation of the restoration scheme.

(b) The restoration scheme shall be based on the current finished levels within the quarry, as detailed in '*Digital Topographical Survey*' (Drawing no. 12321) received 22 September 2023 and shall not provide for extraction, or excavation other than for site levelling / grading purposes, of the substitute consent application site.

(c) The restoration of the subject quarry area shall be completed within a period of twelve months after the date of the approval of the restoration plan by the planning authority unless permission is first granted for the continuation of quarry activity within the substitute consent area.

All restoration proposals shall be undertaken in accordance with the relevant sections of the following publications:

- A Guide to the Protection of Watercourses through the use of Buffer Zones, Sustainable Drainage Systems, Instream Rehabilitation, Climate/Flood Risk and Recreational Planning. <https://irishriverproject.com/2021/10/11/ifi-urban-watercourses-planning-guide/>
- Guidelines on Protection of Fisheries During Construction Works in and Adjacent to Waters. <https://www.fisheriesireland.ie/media/guidelines-on-protection-of-fisheries-during-construction-works-in-and-adjacent-to-waters>

Reason: In the interest of landscape restoration and the proper planning and sustainable development.

6. During the implementation of the site restoration plan the applicant/operator shall:
 - I. Inspect all vehicles leaving the site and ensure that they are clean;

- II. Inspect the public road network used by the quarry on a daily basis and shall remove any debris or material deposited on the network from vehicles travelling from the site;
- III. Provide, subject to the agreement of the local authority, appropriate temporary signage to warn vehicles on approach to the quarry entrance;
- IV. Ensure that adequate visibility is maintained at the entrance and the implementation of appropriate safety procedures for the egress of vehicles during the period of site restoration, the details of which shall be agreed with the planning authority.

Reason: In the interest of road safety.

- 7. Within three months of the date of this order, the applicant/operator shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory restoration of the site, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Coimisiún Pleanála for determination.

Reason: To ensure the satisfactory restoration of the development.

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.

Claire McVeigh
Planning Inspector

24 October 2025

Appendix 1: Screening for Appropriate Assessment

Screening for Appropriate Assessment Test for likely significant effects

Step 1: Description of the project and local site characteristics				
Brief description of project		Application for Substitute Consent for the continuation of existing quarrying works, consisting of the extraction and grading of stone for the building industry, and all associated site development works. A remedial EIAR accompanies this application. Please refer to section 3.0 of my report for detail.		
Brief description of development site characteristics and potential impact mechanisms		The quarry extraction area is stated as 2.49ha and total application site area stated as 3.45ha.		
Screening report		Y/ N Prepared by Greentrack Environmental Consultants		
Natura Impact Statement		Y/ N		
Relevant submissions		None		
The submitted Ecological Report (prepared by <i>Greentrack Environmental Consultants</i>) which includes a Screening Report for Appropriate Assessment clarifies that Substitute Consent is a retrospective process and the considerations within the report relate to whether the proposed is likely to or has had a significant effect on the Natura 2000 Network.				
Step 2. Identification of relevant European sites using the Source-pathway-receptor model				
The submitted AA Screening report prepared by Greentrack Environmental Consultant sets out in Table 5.1 all listed Natura 2000 sites within 15km of the subject site. Following consideration of Source Pathway Receptor links four Natura sites are identified for further screening. I concur with the AA screening selection of Natura 2000 as being within the zone of influence for further screening and include same in the table below.				
European Site (code)	Qualifying interests ¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections ²	Consider further in screening ³ Y/N
St. Johns Point SAC (Site Code: 000191)	https://www.npws.ie/protected-sites/sac/000191 (NPWS, March 2015)	12km SW 13.67km hydrological distance	Indirect hydrological link.	Y

Donegal Bay SPA (Site Code: 004151)	https://www.npws.ie/protected-sites/spa/004151 (NPWS, May 2012)	2.96km SE 9.17km hydrological distance.	Indirect hydrological link.	Y
Donegal Bay (Murvagh) SAC (Site Code: 000133)	https://www.npws.ie/protected-sites/sac/000133 (NPWS, July 2012)	2.93km SE 15.43km hydrological distance.	Indirect hydrological link.	Y
Durnesh Lough SAC (Site Code: 000138)	https://www.npws.ie/protected-sites/sac/000138 (NPWS, October 2016)	8.2km S 15.43km hydrological distance	Indirect hydrological link.	Y

¹ Summary description / **cross reference to NPWS website** is acceptable at this stage in the report

² Based on source-pathway-receptor: Direct/ indirect/ tentative/ none, via surface water/ ground water/ air/ use of habitats by mobile species

³if no connections: N

Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

[From the AA Screening Report or the Inspector's own assessment if no Screening Report submitted, complete the following table where European sites need further consideration taking the following into account:

- (a) Identify potential direct or indirect impacts (if any) arising from the project alone that could have an effect on the European Site(s) taking into account the size and scale of the proposed development and all relevant stages of the project (See Appendix 9 in Advice note 1A).
- (b) Are there any design or standard practice measures proposed that would reduce the risk of impacts to surface water, wastewater etc. that would be implemented regardless of proximity to a European Site?
- (c) Identify possible significant effects on the European sites in view of the conservation objectives (alone or in combination with other plans and projects)

AA Screening matrix

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
Site 1: St. John's Point (000191) Large shallow inlets and bays [1160] Reefs [1170]	The hydrological distance from the subject site to the SAC is 13.7km. No negative effects on water resource quality in the SAC are envisaged to have occurred or to occur in the future due to the distance and	No negative effects on water quality in the SPA are envisaged due to the distance and presence of impeded pathway.

Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210] Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410] Alkaline fens [7230] Limestone pavements [8240] Submerged or partially submerged sea caves [8330] Euphydryas aurinia (Marsh Fritillary) [1065] Tursiops truncatus (Common Bottlenose Dolphin) [1349]	presence of the impeded pathway of grasses and rushes.	Due to the separation of the quarry site from the SAC and the extent of the drainage pathway that comprises the avenue of connectivity to the SAC, there is no potential for direct effects on the SAC such as fragmentation, habitat loss or ex situ habitat loss. No noise or dust emissions are predicted to impact species within the SAC.
	Likelihood of significant effects from proposed development (alone): N	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No	
	Impacts	Effects
Site 2: Donegal Bay SPA (004151) Great Northern Diver (Gavia immer) [A003] Light-bellied Brent Goose (Branta bernicla hrota) [A046] Common Scoter (Melanitta nigra) [A065] Sanderling (Calidris alba) [A144] Wetland and Waterbirds [A999]	The Eany Water River system provides an impeded pathway to the SPA as it is heavily vegetated with grasses and rushes, providing natural filtration for runoff from the site before this reaches the SPA boundary. Noise levels from quarry activities.	No negative effects on water quality in the SPA are envisaged due to the distance and presence of impeded pathway. Due to the distance from the subject site to the SPA noise from quarrying activities would not be audible at the nearest boundary of the SPA and would not have caused any disturbance to the protected species within the SPA.

	Likelihood of significant effects from proposed development (alone): N	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No.	
	Impacts	Effects
Site 3: Donegal Bay (Murvagh) SAC (000133) Mudflats and sandflats not covered by seawater at low tide [1140] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Dunes with <i>Salix repens</i> ssp. <i>argentea</i> (<i>Salicion arenariae</i>) [2170] Humid dune slacks [2190] <i>Phoca vitulina</i> (Harbour Seal) [1365]	The Eany Water River system provides an impeded pathway to the SPA as it is heavily vegetated with grass and rushes, providing natural filtration for runoff from the site before this reaches the SPA boundary. Noise levels from quarry activities.	No negative effects on water quality in the SPA are envisaged due to the distance and presence of impeded pathway. Due to the separation of the quarry site from the SAC and the extent of the drainage pathway that comprises the avenue of connectivity to the SAC, there is no potential for direct effects on the SAC such as fragmentation, habitat loss or ex situ habitat loss. No noise or dust emissions are predicted to impact species within the SAC.
	Likelihood of significant effects from proposed development (alone): N	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No	
	Impacts	Effects
Site 4: Durnesh Lough SAC (Site Code: 000138) Coastal lagoons [1150] Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]	The Eany Water River provides an indirect hydrological link to the SAC in the form of runoff.	Due to the separation of the quarry site from the SAC and the extent of the drainage pathway that comprises the avenue of connectivity to the SAC there is no potential for effects on the SAC such as fragmentation, habitat loss or ex situ habitat loss. No noise or dust emissions are predicted to impact species within the SAC.
	Likelihood of significant effects from proposed development (alone): N	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No	

Step 4 Conclude if the proposed development could result in likely significant effects on a European site
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I conclude that the proposed development (alone) would not result in likely significant effects on St. John's Point SAC, Donegal Bay SPA, Donegal Bay (Murvagh) SAC and Durnesh Lough SAC. The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). No further assessment is required for the project.
--

No mitigation measures are required to come to these conclusions.

Screening Determination

Finding of no likely significant effects

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on St. John's Point SAC, Donegal Bay SPA, Donegal Bay (Murvagh) SAC and Durnesh Lough SAC European Sites in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required.
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This determination is based on:

- | |
|---|
| <ul style="list-style-type: none">• Nature of works• Location-distance from nearest European site and lack of direct connections |
|---|

Appendix 2: WFD Impact Assessment Stage 1: Screening

WFD IMPACT ASSESSMENT STAGE 1: SCREENING			
Step 1: Nature of the Project, the Site and Locality			
An Bord Pleanála ref. no.	318082-23	Townland, address	Drumbeagh, Co. Donegal
Description of project		Application for Substitute Consent for the continuation of existing quarrying works, consisting of the extraction and grading of stone for the building industry, and all associated site development works. A remedial EIAR accompanies this application.	
Brief site description, relevant to WFD Screening,		Site is located within a rural area. The natural lie of the land in this area is rising from the west to east. The lowest level of the subject site is indicated at c 54mOD and c 73mOD moving east within the site and the land then falls gradually further to the east and northeast within the site. As set out in section 5.3.3 of the rEIAR there are several lithologies present in the quarry and the dominant rocks are brown sandstone and a blue sandstone. A mature line of hedgerows and trees mark the southern boundary with the access road off the N56. A steeply sloping bank falls from the access roadway to a stream which runs across the subject site from east to west in the southern section of the site, culverted under the principal access to the quarry. There is also a stream running along the	

	northern boundary (EPA Name/Code Drumbeagh/37D14) a tributary of the Eany Water River system and through the southern portion of the site. The Eany Water (IE_NW-37E030350) is considered an important catchment within the Ballyshannon fisheries district, as it provides habitat and spawning habitat for various species of fish including: • Sea Trout (<i>Salmo trutta</i>), and • Atlantic Salmon (<i>Salmo salar</i>), listed in Annex II of the EU Habitats Directive (92/43-EEC)
Proposed surface water details	A small area in the northwest of the site drains through a screening berm to a linear settlement pond in the northwest to the northern tributary of Eany Water. The main surface water discharge from the central settlement pond discharges to the southern tributary. The southern tributary is piped in several places through the site. It is proposed to regularise the drainage by construction of a capture drain catching any unregulated flow and directing this flow to the main settlement pond (Figure 8.9 of the rEIAR illustrates). A hydrocarbon interceptor is proposed to be installed immediately prior to the discharge of treated effluent off site.
Proposed water supply source & available capacity	Not applicable
Proposed wastewater treatment system & available capacity, other issues	Not applicable

Others?			Not applicable			
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body.	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
River Waterbody	Immediately adjacent (N)	Eany Water_020	Good	Review	None identified	Hydrologically connected to surface watercourse.
Groundwater waterbody	Underlying site	Frosses IE_NW_G_067	Good	Not at risk	No pressures	Groundwater gradient has been affected by extraction at the site.

Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.

CONSTRUCTION PHASE

No.	Component	Water body receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.
1.	Surface	Eany Water_020	Existing direct discharge	Surface water pollution with soil clearance and Hydrocarbon spillages	Standard Construction Measures / Conditions	No	Screened out
2.	Ground	Frosses IE_NW_G_067	Drainage	Hydrocarbon spillages	Standard Construction Measures / Conditions	No	Screened out

OPERATIONAL PHASE							
3.	Surface	Eany Water_020	As above	Hydrocarbon contamination through accidental spillages/leaks.	As above	No (see comment below in respect to historical oil spill)	Screened out
4.	Ground	Frosses IE_NW_G_067	As above	Hydrocarbon contamination through accidental spillages/leaks. With the extraction of bedrock the excavated area has had the effect of a large diameter borehole creating a cone of depression in	As above	No, historical oil spill was investigated to assess the extent of any potential residual contamination, evidence provided of no significant hydrocarbon contamination (Composite soil/stone sample in the general area of the oil spill and a sample taken from each of the groundwater monitoring boreholes) (See Table 8.4 of the	Screened out

				the water table on the site. Some dewatering is occurring on site from groundwater being returned to surface water.		submitted rEIAR). I am satisfied that mitigation measures are now in place. No, the dewatering occurring is being returned to the surface water on site. Groundwater body area is 2341.17ha. The subject site (3.45ha) represents 0.15% of the total groundwater body.	
DECOMMISSIONING PHASE (Restoration)							
5.	Surface and ground water	Eany Water_020 (River body)	As above	As above	As above	No	Screened out

		Frosses IE_NW_G_067 (Groundwater body)					