



An
Bord
Pleanála

Inspector's Report

ABP-318303-23

| | |
|--------------------------------|--|
| Development | Amending Part 8 application to approved Part 8 (Ref: 2870-15) Royal Canal Greenway Phase 4. |
| Location | Between Cross Guns Bridge, Phibsborough, Dublin 7 and Ashtown, Dublin 15. |
| Planning Authority | Dublin City Council North |
| Applicant(s) | Jacqui McElhinney and Francis Mackey |
| Type of Application | Appropriate Assessment (AA) Screening Determination under Article 250(3)(b) of the Planning and Development Regulations 2001, as amended |
| Observer(s) | None |
| Date of Site Inspection | 9 th February 2024 |
| Inspector | David Ryan |

1.0 Introduction

- 1.1. Under the provisions of Article 250(3)(b) of the Planning and Development Regulations 2001, as amended, an application for an Appropriate Assessment Screening Determination was made to the Board as to whether the proposed amending Part 8 application of approved Part 8 (Ref 2870/15) Royal Canal Greenway Phase 4 between Cross Guns Bridge, Phibsborough, Dublin 7 and Ashtown, Dublin 15 by Dublin City Council would be likely to have significant effects on a European Site.
- 1.2. The proposed development is a local authority project which is subject to a Part XI process under the Planning and Development Act 2000, as amended, and Part 8 of the Planning and Development Regulations 2001, as amended. It is not a direct application to the Board. The Part 8 process has commenced under Ref. 4513/23.
- 1.3. The applicants, Jacqui McElhinney and Francis Mackey under the provisions of Article 250(3)(b) of the Planning and Development Regulations 2001, as amended has requested the Board make an AA screening determination. A separate application for an Environmental Impact Assessment (EIA) Screening Determination was received under ABP-318309-23.
- 1.4. Dublin City Council is of the opinion that the proposed development will not have a significant effect on a European Site and that Stage 2 AA is not required. In support of this opinion the Council has submitted an AA Screening Report (September 2023). The applicant contends the proposed development would likely have significant effects on European Sites.

2.0 Site Location and Description

- 2.1. The site includes for three locations along the northern bank of the Royal Canal between Cross Guns Bridge, Phibsborough Dublin 7 and Ashtown, Dublin 15.
- 2.2. **Section 1** located to the west of Lock 6, includes for a site distance of approx.600m and entails an existing towpath of 3.4 m in width, which extends along a length of an existing stone wall and tapers back to follow the existing embankment approx. 70m west of the Coke Oven Cottages. This section is of the Greenway is shared with vehicles and users, providing access to cyclists, pedestrians, residents of Coke

Oven Cottages, users of allotment gardens near Lock 7, Waterways Ireland and Iarnród Éireann maintenance vehicles, Cabra Kayak Club. The existing wall has one indent to allow for safe passing of vehicles and pedestrians/cyclists. The path has varying widths outside the Coke Oven Cottages (3.2m – 3.7m) and it narrows to the west beyond the cottages to 2.7m in width.

- 2.3. **Section 2** West of Broombridge includes for a site distance of approx.345m where the towpath measuring 1.8m-2m wide is above the level of adjoining industrial sites.
- 2.4. **Section 3** West of Lock 8 includes for a site distance of approx.85m where the towpath measures 2.8m wide and is above the level of adjoining Campbells Garage commercial and residential premises.
- 2.5. Habitats within the immediate vicinity of the scheme include canal, buildings and artificial surfaces, amenity grassland, flowerbeds and borders, stonewalls and other stonework, hedgerow, treelines and improved agricultural grassland.
- 2.6. The site is located within the proposed Natural Heritage Area Royal Canal (site code 002103).
- 2.7. The site is surrounded by developed land, including industrial, residential, commercial, transportation and St. Pauls Cemetery. Site Section 1 is located to the south of and adjacent to pending Railway Order for Metrolink (ABP-314724-22) and to the east of pending Railway Order for DART+ (ABP-316119-23). North of Site Section 3 includes for a permitted Strategic Housing Development (ABP 306167-19) which is complete.
- 2.8. The site is considered under the Catchment Flood Risk Assessment and Management (CFRAM) Programme. The Flood Mapping Review Program outlines mapping in the area is under review. The mapping also indicates a flooding event occurred to the east of Site 2 at Bloombridge Railway Station in 2011.

3.0 **Proposed Development**

- 3.1. The proposed development is seeking to provide a premium quality cycle and pedestrian facility with environmental enhancements to encourage and promote cycling and walking in the Dublin Region. As part of the Royal Canal Greenway Phase 4 (between Cross Guns Bridge, Phibsborough, Dublin 7 and Ashtown, Dublin

15 and which is 4.2km in length), a proposed amending Part 8 application to the approved Part 8 (Ref.2870/15) is sought to undertake the following:

- to widen the existing towpath by realigning the northern bank of the canal at the following three locations to overcome the need for third party land acquisition, along with associated works and associated ancillary services:
- West of Lock 6 for approximately 600 metres, realigning by up to 2.15 metres;
- West of Broombridge for approximately 345 metres, realigning by up to 1.4 metres; and
- West of Lock 8 for approximately 85 metres, realigning by up to 1.75 metres
- As part of the works it is proposed to include ducting and associated chambers to ESB standard along the proposed Royal Canal Greenway project. Any future installation and energisation of high voltage cables will be a separate matter for the ESB subject to its own planning processes (as applicable).

3.2. The proposed development at **Section 1** from Lock 6 along the length of the existing wall, will include the northern bank of the canal being realigned by approx. 1.4m to provide a 1m canal side green verge and a 4.8m wide path and a 0.5m wide green verge on the land side. This will permit 2 cars to pass at slow speed and space for pedestrian and cycle users. Outside the Coke Oven Cottages the northern bank of the canal channel will be realigned by up to 2.4m to provide a 1.5m canal side verge, a 5.5m wide shared route/service vehicle parking area and a 0.5m green verge on the land side. To the west of the Coke Oven Cottages the northern bank of the canal will be realigned by up to 1.2m. At **Section 2** West of Broombridge, the northern bank will be realigned by up to 1.4m over 345m to facilitate the widening of the towpath from approx. 1.8m at its narrowest to a 4.5m wide segregated greenway facility. A 0.5m wide verge strip will be provided at either side of the widened towpath. At **Section 3** it is proposed to realign the northern bank of the channel by up to 1.75 metres to facilitate the widening of the towpath from 2.85m to a 4.5m segregated walking and cycling facility with a 0.5m wide verge strip on either side.

- 3.3. The canal channel is to be dredged where the realignment is taking place. The project has the support of Waterways Ireland as owners of the facility, with the stipulation that a 10m (at the surface) and 5m (at the canal base) wide navigable channel is maintained within the canal, to facilitate two 4m wide barges to pass with sufficient clearance.
- 3.4. The reconstruction of the northern canal embankment to facilitate the towpath widening will occur prior to towpath construction. Methods of construction include the following:
- Carefully remove existing planting and sod on the northern bank, set aside to designated wet bed for re-use
 - Surplus silt material will be dredged from canal down to original lining (puddle clay in most instances) using tracked machines. This will most likely be done by dewatering the canal and dredging in the dry particularly where there is a potential or known risk of dredging contaminated materials
 - Dewatering shall be achieved through the construction of temporary watertight dams or by opening the locks at the downstream end where possible. Where the dewatered section is not bounded by a downstream lock (for example where a bund is established) the canal will need to be dewatered by pumping.
 - Electro fishing will be carried out prior to dewatering.
 - Prepare ground for installation of additional fill material;
 - Fill in northern side of canal with boulders and crushed stone to create the new embankment structure;
 - Install new puddle clay and HDPE lining over this crushed stone;
 - Install topsoil layer to the new embankment and reinstate planting from wet bed to integrate the Project into the area.
- 3.5. Canal towpath construction methods will include site clearance, removal of existing planting and sod, excavation of existing pavement and base layers and adjacent topsoil areas, install ducting, construction of ducting and associated chambers to ESB standard, deposit and compact fill layers, laying of kerbs, install lighting and CCTV columns, reinstate sod/planting.

3.6. All surface water will drain over edge into a grass verge. The scheme will also include for public lighting and complementary landscaping and planting works. A total of 2,500 sq m of canal habitat will be permanently lost to accommodate the widening of the existing towpath into the canal and there will be a minor loss of riparian habitat.

Accompanying Documents include:

- Correspondence from FPLOGUE Solicitors on behalf of applicants dated 17th October 2023
- Cover letter from Dublin City Council dated 20th November 2023 with attached copy of newspaper notice, Waterways Ireland letter of consent, Amending Part 8 Report
- Ecological Impact Assessment
- Environmental Impact Assessment Screening Report (Appendix C: Archaeological, Architectural and Industrial Heritage Assessment, Appendix D: Architectural Heritage Impact Assessment)
- Appropriate Assessment Screening Report
- Otter Derogation Licence and Otter Survey
- Photomontages
- Drawings and text description of drawings

4.0 Planning History

There are a number of recent planning applications made in the vicinity of the site, which relate to transport, residential, commercial and other developments. This includes the permitted ABP 306167-19 Strategic Housing Development which included 435 apartments at Ratoath Road and Hamilton View, Pelletstown, Dublin 11 which is complete, and the permitted ABP 307656-20 Strategic Housing Development which included 725 apartments at Pelletstown, Ashtown, Dublin 15, located to the west of the site. Part of the site is adjacent to the pending Railway Order for Metrolink (ABP-314724-22) and the pending Railway Order for DART+ (ABP-316119-23).

5.0 Policy Context

5.1. The Dublin City Development Plan 2022-2028 is the relevant plan.

The canal is zoned Z11 Waterways Protection with objective 'To protect and improve canal, coastal and river amenities'. The lands adjacent to the canal are zoned Z9 Amenity/Open Space Lands/Green Network with objective 'To preserve, provide and improve recreational amenity, open space and ecosystem services'. The canal is designated as a conservation area in the CDP.

5.2. Relevant provisions of the plan in respect of Natural Heritage include:

Policy G19 *European Union Natura 2000 Sites* 'To conserve, manage, protect and restore the favourable conservation condition of all qualifying interest/special conservation interests of all European sites designated, or proposed to be designated, under the EU Birds and Habitats Directives, as Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) (European / Natura 2000 sites)'.

Policy G110 *Flora and Fauna Protected under National and European Legislation Located Outside Designated Areas* 'To adequately protect flora and fauna (under the EU Habitats and Birds Directives), the Wildlife Acts 1976 (as amended), the Fisheries Acts 1959 (as amended) and the Flora (Protection) Order 2022 S.I No. 235 of 2022, wherever they occur within Dublin City, or have been identified as supporting the favourable conservation condition of any European sites'.

6.0 Legal Context

6.1. **The Habitats Directive (92/43/EEC)** deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. The Directive requires that any plan or project not directly connected with or necessary to the management of the European Site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. This process is designated 'Appropriate Assessment' and arises from obligations under Article 6(3) and 6(4) of the Habitats Directive.

6.2. Under Article 250 (3) (b) of the Planning and Development Regulations 2001 as amended, where any person considers that a development proposed to be carried out by a local authority would be likely to have a significant effect on a European site, he or she may apply to the Board for a determination as to whether the development would be likely to have such significant effect.

7.0 Request for Determination

7.1. Jacqui McElhinney and Francis Mackey have made an application under the provisions of Article 250 (3) (b) requesting the Board to make an AA Screening Determination. The application was prepared by FPLogue Solicitors.

7.2. The applicant's submission is summarised as follows:

- DCC published conclusion of its screening determination on 21 September 2023. Applicants outline letter sets out information to be provided under Regulation 250 (3)(c). Applicant rely in part on material published by DCC, however these are incomplete to make lawful screening determination. In event further information is sought applicants should be given opportunity to comment.
- Appellants are also making a separate application for EIA Screening Determination pursuant to Regulation 120(3)(b). AA screening should precede EIA Screening since if project is screened in for AA an EIAR is mandatory regardless of any other factor.

Preliminary Observation

- DCC has withheld from publication details of the Otter Survey Report and otter drawing locations in Ecological Impact Assessment Report. Is no legal basis in Irish Law for selective publication of application file, entire report should be published. Similarly Otter Derogation Licence refers to the application documents and these are not in the public domain.
- DCC has not published screening determination which is required by general principles of EU Law and AIE Directive (Directive 2003/4/EC) and these missing pieces of information are critical to AA Screening and required by applicants to inform application and their right to refer AA Screening to the

Board is thereby prejudiced. Board is prejudiced by not having access to this information without which lawful screening determination cannot be made.

Reasons for forming the view that the development would be likely to have significant effects on the environment

- Understood mitigation measures cannot be taken into account at screening stage, (People Over Wind), apart from features that have been incorporated into the project as standard features, inherent in such a plan or project, irrespective of any effect on a European Site (Eco Advocacy).
- With this in mind the applicant outlines the following:
- It appears to be clear that the project is not directly connected with or necessary to the management of a Natura 2000 site.
- Documentation does not describe adequately or at all the relevant elements of the project which may have a likely significant effect on European 2000 sites downstream of the Royal Canal.
- Contamination of canal bed sediment to be excavated has not been adequately characterised or chemically analysed, with applicants residents of Coke Oven Cottages noting it appears local authority intends to do post-consent. This is significant lacuna in the AA screening report since there is objective evidence that the canal bed is heavily contaminated with PAH (polycyclic aromatic hydrocarbons is on priority list of chemicals under Water Framework Directive (2000/60/EC)) due to creosote contamination (creosote is highly toxic and classified as a Grade 1B carcinogen by the European Union) near Coke Oven cottages. Information provided by DCC appears to have overlooked Waterways Ireland report (Royal Canal Level 6 Sediment Sampling Methodology and Results April/May/July 2013) indicating extremely high levels of PAH, arising from creosote contamination of the canal bed sediment.
- Noted DCC commissioned some sediment sampling, at two points either side of Coke Oven Cottages, with no results presented rendering it impossible to compare results with those of Waterways Ireland or to get impression of nature and degree of contamination and attendant risks to the environment.

- Information on file not specific and cannot objectively eliminate the risk of a likely significant effect on European sites from hazardous materials in the canal bed sediment. Control of hazardous materials will require specific mitigation measures which have not been specified and which may not be taken into account for AA Screening.
- The EIA Screening report indicates appropriate pollution prevention measures have not yet been specified since they are subject to future agreement with Waterways Ireland (2.6.3.1).
- Therefore there is not enough information on file to comply with identifying relevant element of project and their likely impacts.
- Appears that all European Site downstream are potentially affected given the toxic nature of the identified contamination and lack of information generally about contamination in the canal.
- Due to the lack of information on nature of contaminants in canal, precise construction methodology and description of the measures aimed at preventing downstream pollution, is impossible to screen out the necessity of AA.
- Seems clear that mitigation measures are required in relation to the canal bed contamination and appears are contemplated although not identified in AA Screening report or elsewhere. For example, EIA Screening report states at s.2.6.2 that “appropriate mitigation measures will be in place to ensure that (the proposed development) does not impact the relative abundance, quality and regenerative capacity of the pNHA”, however measures are not identified, described or assessed.
- The EIA Screening report states probability of any impact on marine environment in Dublin Bay is unlikely as mitigation measures will be in place to prevent disturbed silt being transported downstream and are issues with this. First there are clearly mitigation measures required and these cannot be taken into account for AA Screening, second the EIA report doesn't rule out impacts on the marine environment in Dublin Bay but merely states such an impact is unlikely (C-127/02 Waddenzee ruling cited) and third it only deals

with disturbed silt and ignores soluble contaminants which may travel further than suspended solids such as silt.

- In light of the lack of detailed information, risk of water borne contamination, reliance on mitigation measures, the failure to describe the mitigation measures, significant effects on European sites cannot be ruled out as a matter of scientific certainty based on objective evidence at this stage.
- Correspondence concludes for the reasons set out above an NIS and Appropriate Assessment are required.

The Royal Canal Level 6 Sediment Sampling Methodology and Results April/May/July 2013, Waterways Ireland 2013 accompanies submission.

8.0 Planning Authority Response

8.1. In response the Planning Authority by way of correspondence has set out details in relation to the project. The submission is summarised as follows:

- DCC outline a Part 8 process has commenced for a development under Plan No. 4513/23 for the following with notice given of proposed amendment of approved Part 8 (Ref.2870/15), which proposes to widen the existing towpath by realigning the northern bank of the canal at three locations to overcome the need for third party land acquisition, along with associated works and associated ancillary services, with works proposed to include ducting and associated chambers to ESB standard. Outline an Appropriate Assessment Screening has been undertaken in accordance with Habitats Directive (92/32/EEC).
- DCC confirm it will not be concluding the CE Report, prior to ABP making a determination, having regard to the P&D Act 2000, as amended
- An AA Screening Report (dated September 2023) was prepared by Roughan & O'Donovan on behalf of DCC. The potential for likely significant effects was examined with regard to the Conservation Objectives of four European Sites. Since publication site specific Conservation Objectives for the North-West

Irish Sea cSPA have been published with no statutory instrument published for this site.

- Having reviewed submission, DCC of opinion the conclusion of the AA Screening report remains valid and that Stage 2 AA is not required. AA Screening report is appended for consideration.
- DCC response to two key points raised in submission are as follows:
- **Preliminary Observations (Paragraphs 7-9)**
- Regarding locations in Otter Survey Report not made public and no legal basis for this, DCC outline as advised by NPWS and in accordance with Habitats Directive and Habitat Regulations, information on otter shelters are not made public, to avoid disturbance and persecution of otter. This is not relevant to A.250(3) request to carry out Screening for AA. Otter is not a Qualifying Interest of European Sites within zone of influence, so issues raised not relevant
- Regarding DCC not publishing AA screening determination, DCC outline AA Screening Determination was made and included in Pre-Part VIII Planners Report dated 18th July 2023, and approved by A/Senior Planner and Deputy City Planner 19th July 2023. Report is part of internal consultation process carried out prior to proposing department lodging formal Part 8 and this is appended. Process includes determination is issued to proposed Dept. Once Planning Decision made, determination is again included in Planner Report and published.
- It is outlined points made are not relevant to AA Screening Determination to be carried out by Board under A.250(3).
- **Reasons for forming the view that the development would be likely to have significant effects on the environment (Paragraphs 10-26)**
- Paragraphs points can be summarised as follows: - the presence of creosote contamination in the Royal Canal has not been addressed in the AA Screening Report; - the control of hazardous material will require mitigation measures which may not be taken into account at the AA Screening Stage

- The risk of contaminated sediment in the canal is referred to in the Construction Methodology (Section 2.3) in the AA Screening Report, and describes how the canal will be dammed, electrofished, dewatered and dredged down to puddle clay lining. Section 2.5 of the AA Screening Report, 'Likely Effects on the Natural Environment' refers to the source of impact which include the release of pollutants and sediments into the Royal Canal.
- Regarding contaminated sediment, the area being dredged (at Coke Oven Cottages) will be sealed off from the rest of the canal by dams. Even if sediments/pollutants were to get into canal, they would have to travel downstream in very slow moving watercourse, through 19 lock gates before reaching River Liffey 3.5km downstream. At this point any pollutants/sediments would have settled or been diluted significantly. From this point water from the Royal Canal is diluted further by the River Liffey, River Dodder, the Grand Canal and tidal waters of Dublin Bay, all watercourses that flow through Dublin City, before flowing through Dublin Port and reaching the European Sites in the open water of Dublin Bay. Table 3.1 of AA Screening Report presents pathways for effects arising. Hydrological distances between the proposed development and European Sites in Dublin Bay are between 6.6km and 9.2 km.
- Risk of pollution is recognised in AA Screening Report, however given the location, nature and scale of the proposed development and assimilative capacity of watercourses between proposed development and European Sites, no mitigation measures are required/presented to reduce or avoid likely significant effects on any European Site. This assessment is detailed for European sites in AA Screening Report.
- Paragraphs 20, 24, 25, 26 relate to mitigation measures contained in EIA Screening Report and these are permitted in EIA Screening and necessary to reduce and avoid effects on the environment and has no bearing on AA Screening Report which deals solely with the integrity of European sites. Mitigation measures in EIA Screening Report and Ecological Impact Assessment not considered in AA Screening Report, the conclusion of which has relied solely on: the nature and scale of the proposed development; the

location of the proposed development relative to European sites, excluding ex-situ supporting habitat for Light-bellied Brent Goose; the assimilative capacity of the Royal Canal, the River Liffey and Dublin Bay.

- Nature of proposed development included the fact that the canal will be dewatered and dredged to puddle clay before being realigned. Any contaminated material will be isolated from the Royal Canal by the dams necessary for the works to be undertaken. This is an inherent part of the design and not intended to avoid or reduce significant effects on European sites.

9.0 Screening for Appropriate Assessment

- 9.1. The proposal comprises development to widen the existing towpath by realigning the northern bank of the Royal Canal at three locations including West of Lock 6, West of Broombridge, West of Lock 8, to facilitate the development of a cycle and pedestrian route. The scheme will include associated works and associated ancillary services and it is also proposed to include ducting and associated chambers to ESB standard along the proposed Royal Canal Greenway project. The site is described in Section 2.0 of this Inspectors Report, in Section 2 of the AA Screening Report and in Sections 2 of the Amending Part VIII Report, Ecological Impact Assessment and EIA Screening Report accompanying the Part 8 scheme.
- 9.2. Roughan & O'Donovan on behalf of Dublin City Council prepared an AA Screening Report for the scheme.
- 9.3. The AA screening report provides a description of the proposed development, its receiving environment and identifies European Sites within a zone of influence.
- 9.4. The proposed development is not directly connected with or necessary to the management of any European site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).
- 9.5. Section 3 of the AA screening report identifies potential impacts that could arise. In relation to direct impacts, the site is not located within or adjacent to any Natura 2000 sites and the report outlines there will be no habitat loss, fragmentation or any

other direct impacts. Indirect impacts identified include potential changes in water quality at construction phase through the spillage/release of contaminants and sediment, however significant effects on QI are screened out. Significant indirect effects on mobile QI species by way of noise and disturbance are also screened out.

9.6. The AA screening report concludes that the project, either individually or in combination with other plans and projects, is not likely to have significant effects on any European site, in view of best scientific knowledge and the Conservation Objectives of the sites concerned, and it is the recommendation that the Competent Authority (in this case DCC) may determine that AA is not required.

9.7. Relevant European Sites

9.8. The AA screening report submitted considers 4 European Sites within a distance of 9.2km of the proposed development, with this potential zone of influence considered to be proportionate due to the nature, size and location of project, sensitivities of ecological receptors, and potential for cumulative effects. These European Sites include South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, North Dublin Bay SAC, North-West Irish Sea cSPA.

9.9. Table 9.1 below sets out my assessment of the European Sites within a potential zone of influence and the potential for pathways between the subject site and these European Sites. For completeness European Sites within 15km of the proposed development site are set out.

9.10 - Table 9.1 European Sites within a Potential Zone of Influence

| European site (SAC/SPA) | Distance | Connections/source/pathways |
|----------------------------------|----------|--|
| South Dublin Bay SAC (000210) | 5.15km | Yes – via Royal Canal, River Liffey, Dublin Bay coastal waters |

| European site (SAC/SPA) | Distance | Connections/source/pathways |
|--------------------------------|----------|---|
| North Dublin Bay SAC (000206) | 6km | Yes – via Royal Canal, River Liffey, Dublin Bay coastal waters |
| Baldoyle Bay SAC (000199) | 9.7km | There is a hydrological pathway but this is not viable given the separation distance of the proposed development from this site, the dilution and dispersion action of watercourses and seawaters, and the potential for significant effects on this site to arise from the proposed development is unlikely. |
| Glenasmole Valley SAC (001209) | 13.4km | Given the separation distance of the proposed development from this site, no potential for hydrological connectivity to this site, and the absence of an alternative viable pathway, the potential for significant effects on this site to arise from the proposed development is unlikely. |
| Wicklow Mountains SAC (002122) | 14km | Given the separation distance of the proposed development from this site, no potential for hydrological connectivity to this site, and the absence of an alternative viable pathway, the potential for significant effects on this site to arise from the proposed development is unlikely. |
| Howth Head SAC (000202) | 11.6km | There is a hydrological pathway but this is not viable given the separation distance of the proposed development from this site, the dilution and dispersion action of watercourses and seawaters, and the potential for significant effects on this site to arise from the proposed development is unlikely. |

| European site (SAC/SPA) | Distance | Connections/source/pathways |
|---|----------|---|
| Malahide Estuary SAC (000025) | 11.7km | There is a hydrological pathway but this is not viable given the separation distance of the proposed development from this site, the dilution and dispersion action of watercourses and seawaters, and the potential for significant effects on this site to arise from the proposed development is unlikely. |
| Irelands Eye SAC (002193) | 14km | There is a hydrological pathway but this is not viable given the separation distance of the proposed development from this site, the dilution and dispersion action of watercourses and seawaters, and the potential for significant effects on this site to arise from the proposed development is unlikely. |
| Rockabill to Dalkey Island SAC (003000) | 12km | There is a hydrological pathway but this is not viable given the separation distance of the proposed development from this site, the dilution and dispersion action of watercourses and seawaters, and the potential for significant effects on this site to arise from the proposed development is unlikely. |
| Rye Water Valley/Carton SAC 001398 | 14.5km | Hydrological connection exists between site and SAC. Flow of watercourse is from west to east, therefore the project can have no effect on the upstream SAC |
| South Dublin Bay and River Tolka Estuary SPA (004024) | 2.8km | Yes – via Royal Canal, River Liffey, Dublin Bay coastal waters Yes-Potential ornithological connection exists. |
| North Bull Island SPA (004006) | 6km | Yes – via Royal Canal, River Liffey, Dublin Bay coastal waters |

| European site (SAC/SPA) | Distance | Connections/source/pathways |
|--------------------------------|----------|---|
| | | Yes-Potential ornithological connection exists. |
| Baldoyle Bay SPA (004016) | 10.2km | There is a hydrological pathway but this is not viable given the separation distance of the proposed development from this site, the dilution and dispersion action of watercourses and seawaters, and the potential for significant effects on this site to arise from the proposed development is unlikely. |
| Wicklow Mountains SPA (004040) | 14.2km | Given the separation distance of the proposed development from this site, no potential for hydrological connectivity to this site, and the absence of an alternative viable pathway, the potential for significant effects on this site to arise from the proposed development is unlikely. |
| Howth Head Coast SPA (004113) | 14.4km | There is a hydrological pathway but this is not viable given the separation distance of the proposed development from this site, the dilution and dispersion action of watercourses and seawaters, and the potential for significant effects on this site to arise from the proposed development is unlikely. |
| Irelands Eye SPA (004117) | 14.1km | There is a hydrological pathway but this is not viable given the separation distance of the proposed development from this site, the dilution and dispersion action of watercourses and seawaters, and the potential for significant effects on this site to arise from the proposed development is unlikely. |
| Malahide SPA (004025) | 11.6km | There is a hydrological pathway but this is not viable given the separation distance of the proposed development from this site, the dilution and dispersion action of watercourses and seawaters, and the potential for significant effects on this site to |

| European site (SAC/SPA) | Distance | Connections/source/pathways |
|------------------------------------|----------|--|
| | | arise from the proposed development is unlikely. |
| North-West Irish Sea cSPA (004236) | 8.4km | <p>Yes – via Royal Canal, River Liffey, Dublin Bay coastal waters</p> <p>Yes-Potential ornithological connection exists.</p> |

9.11. In establishing the zone of influence, I have had regard to the nature, scale and location of the proposed development, the separation distances to Natura 2000 Sites, the source-pathways-receptor model and likely direct, indirect and in-combination effects. A large number of the sites as set out in Table 9.1 above can be screened out from further assessment because of the nature and scale of the proposed works, their separation distances from the proposed development site, the lack of a substantive hydrological linkage between the proposed works and the European sites, that dilution and dispersion of any potential pollutants in watercourses and seawaters would occur, and the lack of suitable habitat for qualifying interests within the subject site. It is therefore considered that the potential for significant effects on these sites to arise from the proposed development are unlikely.

9.12. Having regard to the details set out in table 9.1 and the source-pathway-receptor model, I consider that there are 5 European Sites within the zone of influence which have a potential for hydrological or ecological linkage to the proposed development. These sites are identified in Table 9.2.

9.13. Table 9.2 European sites considered for Stage 1 screening

| European site (SAC/SPA) | Distance to site and any potential pathway | Qualifying Interests QI / Special conservation interests (SCI) | Conservation Objective |
|----------------------------------|--|--|--|
| South Dublin Bay SAC (000210) | 5.15km Yes - hydrological link c.10.4km via Royal Canal, River Liffey, Dublin Bay coastal waters | Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110] | To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in South Dublin Bay SAC |
| North Dublin Bay SAC(000206) | 6km Yes - hydrological link c.8.3km via Royal Canal, River Liffey, Dublin Bay coastal waters | 1140 Mudflats and sandflats not covered by seawater at low tide 1210 Annual vegetation of drift lines 1310 salicornia and other annuals colonising mud and sand 1330 Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) 1395 Petalwort 1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>) 2110 Embryonic shifting dunes | To maintain or restore the favourable conservation condition |

| European site (SAC/SPA) | Distance to site and any potential pathway | Qualifying Interests QI / Special conservation interests (SCI) | Conservation Objective |
|---|---|--|---|
| | | 2120 Shifting dunes along the shoreline with <i>Ammophila Arenaria</i> (white dunes) 2130 Fixed coastal dunes with herbaceous vegetation (grey dunes) 2190 Humid dune slacks | |
| South Dublin Bay and River Tolka Estuary SPA (004024) | 2.8km Yes - hydrological link c.6.6km– via Royal Canal, River Liffey, Dublin Bay coastal waters Yes-Potential ornithological connection exists. | A046 Light Bellied Brent Goose A130 Oystercatcher A137 Ringed Plover A141 Grey Plover A143 Knot A144 Sanderling A149 Dunlin A157 Bar-tailed Godwit A162 Redshank A179 Black-headed Gull A192 Roseate Tern <i>Sterna</i> A193 Common Tern <i>Sterna</i> A194 Arctic Tern <i>Sterna</i> A999 Wetlands | To maintain the favourable conservation condition |
| North Bull Island SPA (004006) | 6km | A046 Brent Goose A048 Shelduck | To maintain the favourable conservation condition |

| European site (SAC/SPA) | Distance to site and any potential pathway | Qualifying Interests QI / Special conservation interests (SCI) | Conservation Objective |
|------------------------------------|---|---|--|
| | <p>Yes - hydrological link c.8.3km— via Royal Canal, River Liffey, Dublin Bay coastal waters</p> <p>Yes-Potential ornithological connection exists.</p> | <p>A052 Teal</p> <p>A054 Pintail</p> <p>A056 Shoveler</p> <p>A130 Oystercatcher</p> <p>A140 Golden Plover</p> <p>A141 Grey Plover</p> <p>A143 Knot</p> <p>A144 Sanderling</p> <p>A149 Dunlin</p> <p>A156 Black-tailed Godwit</p> <p>A157 Bar-tailed Godwit</p> <p>A160 Curlew</p> <p>A162 Redshank</p> <p>A169 Turnstone</p> <p>A179 Black-headed Gull</p> <p>A999 Wetlands</p> | |
| North-West Irish Sea cSPA (004236) | <p>8.4km</p> <p>Yes – hydrological link c.9.2km— via Royal Canal, River Liffey, Dublin Bay coastal waters</p> | <p>A001 Red-throated Diver</p> <p>A003 Great Northern Diver</p> <p>A009 Fulmar</p> <p>A013 Manx Shearwater</p> <p>A017 Cormorant</p> <p>A018 Shag</p> | To maintain or restore the favourable conservation condition |

| European site (SAC/SPA) | Distance to site and any potential pathway | Qualifying Interests QI / Special conservation interests (SCI) | Conservation Objective |
|-------------------------|---|--|------------------------|
| | Yes-Potential ornithological connection exists. | A065 Common Scoter A179 Black-headed Gull A182 Common Gull A183 Lesser Black-backed Gull A184 Herring Gull A187 Great Black-backed Gull A188 Kittiwake A192 Roseate Tern A193 Common Tern A194 Arctic Tern A195 Little Tern A199 Guillemot A200 Razorbill A204 Puffin A862 Little Gull | |

9.14. Potential Effects on European Sites

9.15. The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. Conservation objectives are set out in the South Dublin Bay SAC Conservation Objective Series (NPWS, 2013). The conservation objective seeks to maintain the favourable conservation condition of mudflats and sandflats, subject to a list of targets and attributes. In the North Dublin Bay SAC Conservation Objective Series (NPWS,

2013) conservation objectives seek to maintain or restore the favourable conservation condition of the QI, subject to a list of targets and attributes.

9.16. For South Dublin Bay and River Tolka Estuary SPA (NPWS, 2015), conservation objectives seek to maintain the favourable conservation condition of the bird species and wetland habitat listed as qualifying interests. In the North Bull Island SPA Conservation Objective Series (NPWS, 2015) conservation objectives seeks to maintain the favourable conservation condition of the QI, subject to a list of targets and attributes. In the North-West Irish Sea cSPA Conservation Objective Series (NPWS, 2023) conservation objectives seeks to maintain or restore the favourable conservation condition of the QI, subject to a list of targets and attributes.

9.17. The proposed development is not located within or adjacent to any Natura 2000 Sites and therefore will not result in any direct impacts on Natura 2000 sites or their qualifying interests.

9.18. The following sections contain my assessment of the likely significant effects of the above identified 5 European Sites in light of their conservation objectives.

9.19. **North Dublin Bay SAC (000206)**

9.19.1. Construction Stage

9.19.2. The site is located upstream (hydrological connection 8.3km) of **North Dublin Bay SAC** and this raises the potential for indirect effects on this site and its qualifying interests during the construction phase. Potential impacts could arise from any deterioration in water quality as a result of the uncontrolled or unmitigated release of sediments and pollutants to the onsite watercourse, from proposed dredging works which have the potential to disturb sediment from the base of the canal and impact water quality, and general disturbance during the works, which could in turn have localised adverse impacts on qualifying interests.

9.19.3. The EIA Screening Report outlines to inform the project design, sediment sampling was undertaken within canal in 2020 for Waste Acceptance Criteria, chemical heavy metal and pesticide analysis. The heaviest contaminated sediment was indicated at locations along canal including sites 1-3, which are adjacent to and to the west of Coke Oven Cottages. The EIA Screening Report outlines during construction, the exact disposal avenue for contaminated material excavated from the site will be

determined in accordance with the actual level of contamination and Waste Acceptance Criteria following a comprehensive laboratory analysis of the material taking place prior to construction. I note the actual level of contamination is not outlined in the EIA Screening Report or AA Screening Report. Furthermore, the Royal Canal Level 6 Sediment Sampling Methodology and Results April/May/July 2013 (Waterways Ireland 2013) accompanying the applicants submission indicates the canal bed is contaminated with PAH (polyaromatic hydrocarbons) and creosote contaminated material in the canal adjacent Coke Oven cottages. From the above it is considered there is uncertainty in relation to the existing physical characteristics of the contaminated sediment to be disturbed, dredged, excavated and removed from the canal.

9.19.4. The AA screening report outlines surplus silt material will be dredged most likely from dewatering the canal and dredging in the dry particularly where there is a potential or known risk of dredging contaminated materials. While the dewatering process would enable the works program avail of an existing design feature (opening of downstream locks), the proposal to dewater canal sections where they are not bounded by a downstream locks by the construction of temporary watertight dams can be considered to be a mitigation measure, given that it would enable water levels be lowered and in turn prevent silt being transported downstream to designated Natura Sites (as highlighted in Section 2.5 of AA Screening Report). It is noted that the viability of using only existing locks has not been demonstrated and that the use of proposed dams cannot be taken into account in the assessment. Taking the above in combination with the uncertainty regarding sediment/pollution, it is considered that significant effects on the European Site due to water quality impacts cannot be ruled out.

9.19.5. Loss/degradation of habitats: The North Dublin Bay SAC is hydrologically connected to the development site and the conservation objectives seek to maintain or restore the favourable conservation condition of the Qualifying Interests (QI) and habitats. I consider there is a potential for QI habitats within the SAC to be impacted as a result of surface water pollution such as suspended solids, silt, hydrocarbons during the construction phase of the proposed development, which could potentially impact on protected habitats within the SAC by way of habitat loss/degradation. I consider this would be an indirect impact of the proposed development.

9.19.6. Having regard to the information available, the nature, scale and extent of the proposed development, the sites proximity and hydrological connectivity to the European Site and source-pathway-receptor principle, the uncertainty in relation to the physical characteristics of contaminated sediment onsite which is to be dredged, and the potential for pollutants to reach the Natura 2000 Site, I consider that the potential for likely significant effects on the North Dublin Bay SAC arising from the construction phase cannot be excluded, in view of the sites conservation objectives, and Appropriate Assessment Stage 2 is required.

9.19.7. Operational stage

9.19.8. The AA Screening Report outlines there are no water quality impacts associated with the operational phase of the project. While the development would increase the run off rates at this location, I consider this increase would be relatively small. It is considered that no significant effects will occur to the SAC from surface water arising during the operational phase, given the nature of the proposed development, its distance to the SAC and that dilution and dispersion of any potential pollutants in watercourses and seawaters would occur. I therefore consider that the proposed development would not be likely to have a significant effect on the SAC at the operational stage.

9.20. **South Dublin Bay SAC (000210)**

9.20.1. Construction Stage

9.20.2. The site is located upstream (hydrological connection 10.4km) of **South Dublin Bay SAC** and this raises the potential for indirect effects on this site and its qualifying interests during the construction phase. Potential impacts could arise from any deterioration in water quality as a result of the uncontrolled or unmitigated release of sediments and pollutants to the onsite watercourse, from proposed dredging works which have the potential to disturb sediment from the base of the canal and impact water quality, and general disturbance during the works, which could in turn have localised adverse impacts on qualifying interests.

9.20.3. The EIA Screening Report outlines to inform the project design, sediment sampling was undertaken within canal in 2020 for Waste Acceptance Criteria, chemical heavy

metal and pesticide analysis. The heaviest contaminated sediment was indicated at locations along canal including sites 1-3, which are adjacent to and to the west of Coke Oven Cottages. The EIA Screening Report outlines during construction, the exact disposal avenue for contaminated material excavated from the site will be determined in accordance with the actual level of contamination and Waste Acceptance Criteria following a comprehensive laboratory analysis of the material taking place prior to construction. I note the actual level of contamination is not outlined in the EIA Screening Report or AA Screening Report. Furthermore, the Royal Canal Level 6 Sediment Sampling Methodology and Results April/May/July 2013 (Waterways Ireland 2013) accompanying the applicants submission indicates the canal bed is contaminated with PAH (polyaromatic hydrocarbons) and creosote contaminated material in the canal adjacent Coke Oven cottages. From the above it is considered there is uncertainty in relation to the existing physical characteristics of the contaminated sediment to be disturbed, dredged, excavated and removed from the canal.

9.20.4. The AA screening report outlines surplus silt material will be dredged most likely from dewatering the canal and dredging in the dry particularly where there is a potential or known risk of dredging contaminated materials. While the dewatering process would enable the works program avail of an existing design feature (opening of downstream locks), the proposal to dewater canal sections where they are not bounded by a downstream locks by the construction of temporary watertight dams can be considered to be a mitigation measure, given that it would enable water levels be lowered and in turn prevent silt being transported downstream to designated Natura Sites (as highlighted in Section 2.5 of AA Screening Report). It is noted that the viability of using only existing locks has not been demonstrated and that the use of proposed dams cannot be taken into account in the assessment. Taking the above in combination with the uncertainty regarding sediment/pollution, it is considered that significant effects on the European Site due to water quality impacts cannot be ruled out.

9.20.5. Loss/degradation of habitats: While I note the presence of the Great South Wall in Dublin Bay, the South Dublin Bay SAC is hydrologically connected to the development site via the Royal Canal, River Liffey and coastal waters and it is noted the site also overlaps with the South Dublin Bay and River Tolka Estuary SPA

(004024). The conservation objective seeks to maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in the SAC. I consider there is a potential for the QI habitats within the SAC to be impacted as a result of surface water pollution such as suspended solids, silt, hydrocarbons during the construction phase of the proposed development, which could potentially impact on protected habitats within the SAC by way of habitat loss/degradation. I consider this would be an indirect impact of the proposed development.

9.20.6. Having regard to the information available, the nature, scale and extent of the proposed development, the sites proximity and hydrological connectivity to the European Site and source-pathway-receptor principle, the uncertainty in relation to the physical characteristics of contaminated sediment onsite which is to be dredged, and the potential for pollutants to reach the Natura 2000 Site, I consider that the potential for likely significant effects on the South Dublin Bay SAC arising from the construction phase cannot be excluded, in view of the sites conservation objectives, and Appropriate Assessment Stage 2 is required.

9.20.7. Operational stage

9.20.8. The AA Screening Report outlines there are no water quality impacts associated with the operational phase of the project. While the development would increase the run off rates at this location, I consider this increase would be relatively small. It is considered that no significant effects will occur to the SAC from surface water arising during the operational phase, given the nature of the proposed development, its distance to the SAC and that dilution and dispersion of any potential pollutants in watercourses and seawaters would occur. I therefore consider that the proposed development would not be likely to have a significant effect on the SAC at the operational stage.

9.21. **South Dublin Bay and River Tolka Estuary SPA (004024)**

9.21.1. Construction Stage

9.21.2. The site is located upstream (hydrological connection 6.6km) of **South Dublin Bay and River Tolka Estuary SPA** and this raises the potential for indirect effects on this site and its qualifying interests during the construction phase. Potential impacts could

arise from any deterioration in water quality as a result of the uncontrolled or unmitigated release of sediments and pollutants to the onsite watercourse, from proposed dredging works which have the potential to disturb sediment from the base of the canal and impact water quality, and general disturbance during the works, which could in turn have localised adverse impacts on qualifying interests.

9.21.3. The EIA Screening Report outlines to inform the project design, sediment sampling was undertaken within canal in 2020 for Waste Acceptance Criteria, chemical heavy metal and pesticide analysis. The heaviest contaminated sediment was indicated at locations along canal including sites 1-3, which are adjacent to and to the west of Coke Oven Cottages. The EIA Screening Report outlines during construction, the exact disposal avenue for contaminated material excavated from the site will be determined in accordance with the actual level of contamination and Waste Acceptance Criteria following a comprehensive laboratory analysis of the material taking place prior to construction. I note the actual level of contamination is not outlined in the EIA Screening Report or AA Screening Report. Furthermore, the Royal Canal Level 6 Sediment Sampling Methodology and Results April/May/July 2013 (Waterways Ireland 2013) accompanying the applicants submission indicates the canal bed is contaminated with PAH (polyaromatic hydrocarbons) and creosote contaminated material in the canal adjacent Coke Oven cottages. From the above it is considered there is uncertainty in relation to the existing physical characteristics of the contaminated sediment to be disturbed, dredged, excavated and removed from the canal.

9.21.4. The AA screening report outlines surplus silt material will be dredged most likely from dewatering the canal and dredging in the dry particularly where there is a potential or known risk of dredging contaminated materials. While the dewatering process would enable the works program avail of an existing design feature (opening of downstream locks), the proposal to dewater canal sections where they are not bounded by a downstream locks by the construction of temporary watertight dams can be considered to be a mitigation measure, given that it would enable water levels be lowered and in turn prevent silt being transported downstream to designated Natura Sites (as highlighted in Section 2.5 of AA Screening Report). It is noted that the viability of using only existing locks has not been demonstrated and that the use of proposed dams cannot be taken into account in the assessment.

Taking the above in combination with the uncertainty regarding sediment/pollution, it is considered that significant effects on the European Site due to water quality impacts cannot be ruled out.

9.21.5. Loss/degradation of habitats: The South Dublin Bay and River Tolka Estuary SPA is hydrologically connected to the development site. The conservation objective seeks to maintain the favourable conservation condition of the wetland habitat in South Dublin Bay and River Tolka Estuary SPA as a resource for the regularly occurring migratory waterbirds that utilise it. I consider there is a potential for the QI habitat within the SPA to be impacted as a result of surface water pollution such as suspended solids, silt, hydrocarbons during the construction phase of the proposed development, which could potentially impact on protected habitats within the SAC by way of habitat loss/degradation. I consider this would be an indirect impact of the proposed development.

9.21.6. Impairment of water quality/surface water pollution: The South Dublin Bay and River Tolka Estuary SPA is hydrologically connected to the development site. I consider there is a potential for receiving waters within the SPA to be impacted as a result of surface water pollution such as suspended solids/silt/hydrocarbons during the construction phase of the proposed development, which could potentially impact on protected habitats and species within the SPA. I consider this could lead to the loss of food supply/availability for SCI. I have examined the South Dublin Bay and River Tolka Estuary SPA conservation objective document and the conservation objectives supporting documents for the site through the NPWS website for the SCI species, which includes for 13. no. protected bird species. In the event of pollution to watercourses, prey species could be negatively impacted in the SPA. Given the potential for water quality to affect foraging of SCI species, I consider this would be an indirect impact of the proposed development.

9.21.7. Disturbance /displacement to species: The AA Screening Report outlines there are three areas of amenity grassland within the immediate vicinity of the proposed development site which are considered to be feeding sites for QI Light-bellied Brent Goose. The AA screening report outlines the project will not lead to any impacts on this species as the project involves upgrading of existing public paths, there will be no loss of suitable foraging habitat at any feeding site used by this species and therefore the construction and operation of the project will not lead to a change in

distribution of this QI species. It is outlined areas habitually used by the species along the route of the project are separated by natural and artificial screening and therefore the construction and operation of the project will not lead to visual disturbance. The AA screening report outlines the construction phase will create elevated noise levels and/or vibration at certain times, however the proposed works are small scale and relatively unobtrusive in nature, with impacts being temporary and localised. The screening report outlines the QI Light-bellied Brent Goose species which currently use inland feeding sites are habituated to the presence of people, noise and visual disturbance. The AA Screening report has ruled out likely significant effects arising on remaining SCI species due to separation distances from breeding and roosting sites, and the habitat suitability/type in the area. I note an indirect physical pathway to the project area exists via mobile SCI species of the SPA. However, having regard to the temporary nature of the works, the details presented in the AA screening report in relation to the SCI, site, feeding sites in the area and physical screening of the project, I consider there is no real likelihood of any significant effects to arise on SCI by way of indirect noise/visual disturbance at the construction stage.

9.21.8. In conclusion, I therefore consider there is a potential for indirect effects to occur on SCI species and on Wetlands and Waterbirds Habitat by way of impacts on water quality only. I consider there is no real likelihood of any significant effects to arise on SCI species by way of indirect noise/visual disturbance. I also consider there will be no direct loss of habitat. Having regard to the information available, the nature, scale and extent of the proposed development, the sites proximity and hydrological connectivity to the European Site and source-pathway-receptor principle, the uncertainty in relation to the physical characteristics of contaminated sediment onsite which is to be dredged, and the potential for pollutants to reach the Natura 2000 Site, I consider that the potential for likely significant effects on the South Dublin Bay and River Tolka Estuary SPA arising from the construction phase cannot be excluded, in view of the sites conservation objectives, and Appropriate Assessment Stage 2 is required.

9.21.9. Operational stage

9.21.10. The AA Screening Report outlines there are no water quality impacts associated with the operational phase of the project. While the development would

increase the run off rates at this location, I consider this increase would be relatively small. It is considered that no significant effects will occur to the SPA from surface water arising during the operational phase, given the nature of the proposed development, its distance to the SPA and that dilution and dispersion of any potential pollutants in watercourses and seawaters would occur. In relation to SCI species, the AA Screening Report outlines the operational phase does not provide for a significant increase in noise, visual disturbance or vibration. Having regard to the nature of the proposed development and details presented in the AA screening report, I consider there is no real likelihood of any significant effects to arise on SCI by way of indirect noise/visual disturbance at the operational stage. I therefore consider that the proposed development would not be likely to have a significant effect on the SPA at the operational stage.

9.22. **North Bull Island SPA (004006)**

9.22.1. Construction Stage

9.22.2. The site is located upstream (hydrological connection 6km) of **North Bull Island SPA** and this raises the potential for indirect effects on this site and its qualifying interests during the construction phase. Potential impacts could arise from any deterioration in water quality as a result of the uncontrolled or unmitigated release of sediments and pollutants to the onsite watercourse, from proposed dredging works which have the potential to disturb sediment from the base of the canal and impact water quality, and general disturbance during the works, which could in turn have localised adverse impacts on qualifying interests.

9.22.3. The EIA Screening Report outlines to inform the project design, sediment sampling was undertaken within canal in 2020 for Waste Acceptance Criteria, chemical heavy metal and pesticide analysis. The heaviest contaminated sediment was indicated at locations along canal including sites 1-3, which are adjacent to and to the west of Coke Oven Cottages. The EIA Screening Report outlines during construction, the exact disposal avenue for contaminated material excavated from the site will be determined in accordance with the actual level of contamination and Waste Acceptance Criteria following a comprehensive laboratory analysis of the material taking place prior to construction. I note the actual level of contamination is not outlined in the EIA Screening Report or AA Screening Report. Furthermore, the

Royal Canal Level 6 Sediment Sampling Methodology and Results April/May/July 2013 (Waterways Ireland 2013) accompanying the applicants submission indicates the canal bed is contaminated with PAH (polyaromatic hydrocarbons) and creosote contaminated material in the canal adjacent Coke Oven cottages. From the above it is considered there is uncertainty in relation to the existing physical characteristics of the contaminated sediment to be disturbed, dredged, excavated and removed from the canal.

- 9.22.4. The AA screening report outlines surplus silt material will be dredged most likely from dewatering the canal and dredging in the dry particularly where there is a potential or known risk of dredging contaminated materials. While the dewatering process would enable the works program avail of an existing design feature (opening of downstream locks), the proposal to dewater canal sections where they are not bounded by a downstream locks by the construction of temporary watertight dams can be considered to be a mitigation measure, given that it would enable water levels be lowered and in turn prevent silt being transported downstream to designated Natura Sites (as highlighted in Section 2.5 of AA Screening Report). It is noted that the viability of using only existing locks has not been demonstrated and that the use of proposed dams cannot be taken into account in the assessment. Taking the above in combination with the uncertainty regarding sediment/pollution, it is considered that significant effects on the European Site due to water quality impacts cannot be ruled out.
- 9.22.5. Loss/degradation of habitats: The North Bull Island SPA is hydrologically connected to the development site. The conservation objective seeks to maintain the favourable conservation condition of the wetland habitat in North Bull Island SPA as a resource for the regularly occurring migratory waterbirds that utilise it. I consider there is a potential for the QI habitat within the SPA to be impacted as a result of surface water pollution such as suspended solids, silt, hydrocarbons during the construction phase of the proposed development, which could potentially impact on protected habitats within the SAC by way of habitat loss/degradation. I consider this would be an indirect impact of the proposed development.
- 9.22.6. Impairment of water quality/surface water pollution: The North Bull Island SPA is hydrologically connected to the development site. I consider there is a potential for receiving waters within the SPA to be impacted as a result of surface water pollution

such as suspended solids/silt/hydrocarbons during the construction phase of the proposed development, which could potentially impact on protected habitats and species within the SPA. I consider this could lead to the loss of food supply/availability for SCI. I have examined the North Bull Island SPA conservation objective document and the conservation objectives supporting documents for the site through the NPWS website for the SCI species, which includes for 17. no. protected bird species. In the event of pollution to watercourses, prey species could be negatively impacted in the SPA. Given the potential for water quality to affect foraging of SCI species, I consider this would be an indirect impact of the proposed development.

9.22.7. Disturbance /displacement to species: The AA Screening Report outlines there are three areas of amenity grassland within the immediate vicinity of the proposed development site which are considered to be feeding sites for QI Light-bellied Brent Goose. The AA screening report outlines the project will not lead to any impacts on this species as the project involves upgrading of existing public paths, there will be no loss of suitable foraging habitat at any feeding site used by this species and therefore the construction and operation of the project will not lead to a change in distribution of this QI species. It is outlined areas habitually used by the species along the route of the project are separated by natural and artificial screening and therefore the construction and operation of the project will not lead to visual disturbance. The AA screening report outlines the construction phase will create elevated noise levels and/or vibration at certain times, however the proposed works are small scale and relatively unobtrusive in nature, with impacts being temporary and localised. The AA screening report outlines the QI Light-bellied Brent Goose species which currently use inland feeding sites are habituated to the presence of people, noise and visual disturbance. The AA Screening report has ruled out likely significant effects arising on remaining SCI species due to separation distances from suitable habitat. I note an indirect physical pathway to the project area exists via mobile SCI species of the SPA. However, having regard to the temporary nature of the works, the details presented in the AA screening report in relation to the SCI, site, feeding sites in the area and screening of the project, I consider there is no real likelihood of any significant effects to arise on SCI by way of indirect noise/visual disturbance at the construction stage.

9.22.8. In conclusion, I therefore consider there is a potential for indirect effects to occur on SCI species and on Wetlands and Waterbirds Habitat by way of impacts on water quality only. I consider there is no real likelihood of any significant effects to arise on SCI species by way of indirect noise/visual disturbance. I also consider there will be no direct loss of habitat. Having regard to the information available, the nature, scale and extent of the proposed development, the sites proximity and hydrological connectivity to the European Site and source-pathway-receptor principle, the uncertainty in relation to the physical characteristics of contaminated sediment onsite which is to be dredged, and the potential for pollutants to reach the Natura 2000 Site, I consider that the potential for likely significant effects on the North Bull Island SPA arising from the construction phase cannot be excluded, in view of the sites conservation objectives, and Appropriate Assessment Stage 2 is required.

9.22.9. Operational stage

9.22.10. The AA Screening Report outlines there are no water quality impacts associated with the operational phase of the project. While the development would increase the run off rates at this location, I consider this increase would be relatively small. It is considered that no significant effects will occur to the SPA from surface water arising during the operational phase, given the nature of the proposed development, its distance to the SPA and that dilution and dispersion of any potential pollutants in watercourses and seawaters would occur. In relation to SCI species, the AA Screening Report outlines the operational phase does not provide for a significant increase in noise, visual disturbance or vibration. Having regard to the nature of the proposed development and details presented in the AA screening report, I consider there is no real likelihood of any significant effects to arise on SCI by way of indirect noise/visual disturbance at the operational stage. I therefore consider that the proposed development would not be likely to have a significant effect on the SPA at the operational stage.

9.23. **North-West Irish Sea cSPA (004236)**

9.23.1. Construction Stage

9.23.2. The site is located upstream (hydrological connection 9.2km) of North-West Irish Sea cSPA and this raises the potential for indirect effects on this site and its qualifying

interests during the construction phase. Potential impacts could arise from any deterioration in water quality as a result of the uncontrolled or unmitigated release of sediments and pollutants to the onsite watercourse, from proposed dredging works which have the potential to disturb sediment from the base of the canal and impact water quality, and general disturbance during the works, which could in turn have localised adverse impacts on qualifying interests.

9.23.3. The EIA Screening Report outlines to inform the project design, sediment sampling was undertaken within canal in 2020 for Waste Acceptance Criteria, chemical heavy metal and pesticide analysis. The heaviest contaminated sediment was indicated at locations along canal including sites 1-3, which are adjacent to and to the west of Coke Oven Cottages. The EIA Screening Report outlines during construction, the exact disposal avenue for contaminated material excavated from the site will be determined in accordance with the actual level of contamination and Waste Acceptance Criteria following a comprehensive laboratory analysis of the material taking place prior to construction. I note the actual level of contamination is not outlined in the EIA Screening Report or AA Screening Report. Furthermore, the Royal Canal Level 6 Sediment Sampling Methodology and Results April/May/July 2013 (Waterways Ireland 2013) accompanying the applicants submission indicates the canal bed is contaminated with PAH (polyaromatic hydrocarbons) and creosote contaminated material in the canal adjacent Coke Oven cottages. From the above it is considered there is uncertainty in relation to the existing physical characteristics of the contaminated sediment to be disturbed, dredged, excavated and removed from the canal.

9.23.4. The AA screening report outlines surplus silt material will be dredged most likely from dewatering the canal and dredging in the dry particularly where there is a potential or known risk of dredging contaminated materials. While the dewatering process would enable the works program avail of an existing design feature (opening of downstream locks), the proposal to dewater canal sections where they are not bounded by a downstream locks by the construction of temporary watertight dams can be considered to be a mitigation measure, given that it would enable water levels be lowered and in turn prevent silt being transported downstream to designated Natura Sites (as highlighted in Section 2.5 of AA Screening Report). It is noted that the viability of using only existing locks has not been demonstrated and

that the use of proposed dams cannot be taken into account in the assessment. Taking the above in combination with the uncertainty regarding sediment/pollution, it is considered that significant effects on the European Site due to water quality impacts cannot be ruled out.

9.23.5. Impairment of water quality/surface water pollution: The North-West Irish Sea cSPA is hydrologically connected to the development site. I consider there is a potential for receiving waters within the SPA to be impacted as a result of surface water pollution such as suspended solids/silt/hydrocarbons during the construction phase of the proposed development, which could potentially impact on protected species within the SPA. I consider this could lead to the loss of food supply/availability for SCI. I have examined the North-West Irish Sea cSPA conservation objective document and supporting documents for the site through the NPWS website for the SCI species, which includes for 21. no. protected bird species. The conservation objectives outlines a number of QI species, including Red-throated Diver, Great Northern Diver, Kittiwake, Roseate Tern, Common Tern, Artic Tern, Little Tern are piscivorous. In the event of pollution to watercourses, prey species could be negatively impacted in the SPA. Given the potential for water quality to affect foraging of SCI species, I consider this would be an indirect impact of the proposed development.

9.23.6. Disturbance /displacement to species: The AA Screening Report outlines Cormorant feed in the Royal Canal and are accustomed to noise and visual disturbance, with the number feeding in the Canal insignificant in the context of the SPA population which accounts of 30% of the Irish population during the breeding season. It is outlined Gulls are widespread in the environs of Dublin City as well as suburban areas, towns, parks and agricultural areas in the vicinity of the proposed development. The screening report outlines these species are accustomed to disturbance and the proposed development will not have any effect on these species. I note an indirect physical pathway to the project area exists via mobile SCI species of the SPA. However, having regard to the temporary nature of the works and the details presented in the AA screening report in relation to the SCI and site, I consider there is no real likelihood of any significant effects to arise on SCI by way of indirect noise/visual disturbance at the construction stage.

9.23.7. In conclusion, I therefore consider there is a potential for indirect effects to occur on SCI species by way of impacts on water quality only. I consider there is no real

likelihood of any significant effects to arise on SCI species by way of indirect noise/visual disturbance. Having regard to the information available, the nature, scale and extent of the proposed development, the sites proximity and hydrological connectivity to the European Site and source-pathway-receptor principle, the uncertainty in relation to the physical characteristics of contaminated sediment onsite which is to be dredged and the potential for pollutants to reach the Natura 2000 Site, I consider that the potential for likely significant effects on the North-West Irish Sea cSPA arising from the construction phase cannot be excluded, in view of the sites conservation objectives, and Appropriate Assessment Stage 2 is required.

9.23.8. Operational stage

9.23.9. The AA Screening Report outlines there are no water quality impacts associated with the operational phase of the project. While the development would increase the run off rates at this location, I consider this increase would be relatively small. It is considered that no significant effects will occur to the SPA from surface water arising during the operational phase, given the nature of the proposed development, its distance to the SPA and that dilution and dispersion of any potential pollutants in watercourses and seawaters would occur. In relation to SCI species, having regard to the details presented in the AA screening report on QI, I consider there is no real likelihood of any significant effects to arise on SCI by way of indirect noise/visual disturbance at the operational stage. I therefore consider that the proposed development would not be likely to have a significant effect on the SPA at the operational stage.

9.24. Otter Species

9.24.1. The Part 8 Report submitted outlines given the proximity of the proposed development to otter holts and couches, there is a potential to disturb otter resting places. It is outlined a derogation licence will be required from the NPWS in advance of works in these areas. An Otter Derogation License from the Department of Housing, Local Government and Heritage dated 12th September 2023 is attached to the DCC submission. DCC outline as advised by NPWS and in accordance with the Habitats Directive and Habitat Regulations, information on otter shelters are not made public, to avoid disturbance and persecution of otter. I consider that the proposed development has the potential to affect otter by way of disturbance and

water quality. It is considered the above approach in relation to otter species and measures undertaken in the Part 8 process are standard. I also note that otter is not a QI of any of the European Sites set out in Table 9.2 European Sites considered for Stage 1 screening.

9.25. In-Combination Effects

9.25.1. The AA screening report which takes into account Dublin City Council Eplanning website and the EIA portal does not consider there would be in-combination effects. I have had regard to the Dublin City Development Plan 2022-2028 and land use zonings applicable to the site in same. Having reviewed the details submitted in the AA Screening Report, the Dublin City Council website and the Department of Housing, Local Government and Heritages EIA map portal, I note there are a number of projects of varying scale in the general works area. This includes the consented Strategic Housing Developments (306167-19, 307656-20) which were screened out from the requirement for AA. Part of the site is adjacent to pending Railway Order for Metrolink (ABP-314724-22) and pending Railway Order for DART+ (ABP-316119-23), which may only be consented if adverse effects on the integrity of European Site(s) can be objectively ruled out during the AA process. Other schemes in the vicinity of the site include pending Bus Corridor Schemes (ABP-314610, ABP-317679). Having regard to the foregoing, the online resources referred to, the nature and scale of the proposed development and the examination of same carried out heretofore, I am not satisfied that the proposed development in-combination with plans and projects would not be likely to give rise to significant effects on any European Sites.

9.26. Mitigation Measures

9.26.1. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise. The construction of temporary watertight dams in the canal as outlined in the AA screening report is considered to constitute a measure which is intended to avoid or reduce a harmful potential effect on a Natura 2000 Site and mitigation measures cannot apply to the Stage 1 AA screening process.

9.27. Conclusion

9.27.1. Having regard to the foregoing, it is reasonable to conclude, on the basis of the information on file and other sources, which is considered adequate in order to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects would be likely to have a significant effect on the European Sites identified in Table 9.2, in view of the sites conservation objectives and a Stage 2 Appropriate Assessment is therefore required.

9.28. Procedural Matters

9.28.1. The applicant has requested an opportunity to comment on the Council submission. Having regard to the applicant's submission and the response from DCC, I am satisfied that there is sufficient information on the file and from other sources to enable for a screening determination to be carried out under Article 250 (3) (b) of the P&DR 2001, as amended in this case.

9.28.2. The applicant has outlined DCC has not published its screening determination. DCC have outlined an AA Screening Determination was made and that screening reports are included in Planning Pack for Part VIII and once the planning decision is made, the determination is again included in Planner Report and published. As the Board is the competent authority in relation to a screening determination under Article 250 (3) (b) of the P&DR 2001, as amended, it is considered that the information on file and from other sources has enabled a comprehensive assessment of the scheme and the Board can make its own determination in this instance.

9.28.3. It is noted regard can be had to mitigation measures in EIA Screening.

9.29. Recommendation

9.29.1. Having regard to the above assessment, I consider that the proposed development would be likely to have significant effects on European Sites North Dublin Bay SAC (site code 000206), South Dublin Bay SAC (site code 000210), South Dublin Bay and River Tolka Estuary SPA (site code 004024), North Bull Island SPA (site code 004006), North-West Irish Sea cSPA (site code 004236), and accordingly, an AA is required.

9.29.2. It is therefore recommended that DCC be advised that the preparation of an NIS is required in respect of the proposed development.

9.30. Reasons and Considerations

Having regard to the following:

- Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directives)
- The nature and scale of the proposed development
- The location of the proposed development and the separation distances from the Natura 2000 Sites
- The hydrological connections between the site and the European sites
- The uncertainty regarding contaminated sediment proposed to be removed as part of the works
- The reliance on construction measures (dams) which are considered to comprise mitigation measures
- The submission made by the local authority, including the AA Screening Report prepared on behalf of the local authority
- The Dublin City Development Plan 2022-2028
- The submission made by the applicant requesting a determination
- The report and recommendation of the person appointed by the Board to make a report and recommendation on the matter

It is considered reasonable to conclude that on the basis of the information available, which is considered adequate to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects, would be likely to have a significant effect on the identified Natura 2000 sites North Dublin Bay SAC (site code 000206), South Dublin Bay SAC (site code 000210), South Dublin Bay and River Tolka Estuary SPA (site code 004024), North Bull Island SPA (site code 004006), North-West Irish Sea cSPA (site code 004236), in view of the conservation objectives of these sites and that a Stage 2 AA and the submission of a NIS for the proposed development is required.

Professional Declaration

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.

David Ryan
Planning Inspector

12th February 2024