



An
Bord
Pleanála

Inspector's Report ABP-320608-24

Development

The construction of the Bray Sustainable Transport Bridge, link road and associated works

Location

In the townlands of Bray, Bray Commons and Ravenswell

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

21/869 (Part VIII)

Applicant(s)

Aideen Fallon and others (60 no.)

Type of Application

EIA Screening Determination

Date of Site Inspection

13th November 2024

Inspector

Rachel Gleave O'Connor

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1.0 Introduction

- 1.1. Under the provisions of Article 120 (3)(b) of the Planning and Development Regulations, 2001 (as amended), a person may apply to the Board for a screening determination as to whether a development proposed to be carried out by the local authority would be likely to have significant effects on the environment.
- 1.2. The purpose of this report is to advise the Board on whether or not it should issue a Direction to Wicklow County Council that the proposed development of the Bray Sustainable Transport Bridge, link road and associated works in the townlands of Bray, Bray Commons and Ravenswell, Co. Wicklow should be subject to Environmental Impact Assessment (EIA).
- 1.3. The Board previously issued a determination for the same under ref. ABP-311071-21, by order dated 4th April 2022, determining that an EIAR was not required, with this decision subsequently quashed by the High Court on 8th May 2024. The case has been remitted by the Court back to An Bord Pleanála to determine the screening determination in accordance with the law under the current application ref. ABP 320608-24.

2.0 Site Location and Description

- 2.1. The subject site is located in Bray, County Wicklow, situated between the Bray pumping station and railway line, on the former golf club lands and traversing the River Dargle. The former golf club lands are made up of undeveloped and developed lands, with school buildings to the north-west, as well as construction underway of a new development referred to as 'Sea Gardens'. Bray Harbour is located to the east of the site and Bray pumping station is to the west.
- 2.2. To the south-east of the pumping station is Seapoint Court, a cul de sac housing estate of 26 no. apartments and 31 no. semi-detached houses. Commercial and industrial uses also feature in the wider area. Ravenswell Road is located adjacent to site.

3.0 Proposed Development

- 3.1. This screening determination for Environmental Impact Assessment (EIA) relates to a proposed Bray Sustainable Transport Bridge and associated link road. The bridge is proposed to cross the River Dargle and connect the Bray station area with Dublin Road. It is intended that this proposal will reduce traffic congestion experienced on the Main Street in Bray as it provides an alternative route into and out of the area. The proposed bridge and link road would be a two-lane road accessible to public transport, cyclists and pedestrians only.
- 3.2. The proposed carriageway comprises two 3.25m wide bus lanes, 2m (minimum) pedestrian path, 2m (minimum) cyclist path and shared facilities path, creating a link of 460m in length (dimensions approx. and vary along the route). It is intended that the bridge is constructed to allow future accommodation of a potential Luas B2 line extension.
- 3.3. The proposed bridge comprises a single span bow string arch structure, with a span of 63m (approx.) and max pitch height of 22m (approx.). The superstructure is proposed to be constructed with a steel girder and composite concrete deck slab, with steel cantilever ribs extending off the central box to support the deck, and the deck supported by a series of high strength alloy steel hangers connected into the steel arch.
- 3.4. The proposals include a new public lighting strategy and drainage network.

4.0 Legislation and Policy Context

4.1. Legislation

- 4.1.1. Planning and Development Act, 2000, as amended
- 4.1.2. Section 179 relates to local authority own development. Under subsection (b), where a local authority proposes to carry out a development, it shall comply with this section and any regulations under this section.

- 4.1.3. Under Section 179 (6)(d), this section shall not apply to proposed development which is development in respect of which an environmental impact assessment report is required under Section 175 or under any other enactment.
- 4.1.4. Planning and Development Regulations, 2001, as amended
- 4.1.5. Under Article 120 (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 significant effects on the environment, he or she may, at any time before the expiration of 4 weeks beginning on the date of publication of the notice referred to in article 81(2), apply to the Board for a screening determination as to whether the development would be likely to have such effects.”*
- 4.1.6. Subsection (c) states that an application for screening determination under the above shall state the reasons why the development would be likely to have significant effects on the environment and shall indicate the class in Schedule 5 within which the development falls.
- 4.1.7. Subsection (ca) requires the local authority to submit to the Board the information specified in Schedule 7A for the purposes of the screening determination. Under subsection (cb) this information shall be accompanied by any other relevant information and assessments, and the description of any features of the proposal and measures to avoid or prevent significant adverse effects.
- 4.1.8. Subsection (cc) requires the Board to carry out an examination of, at least, the nature, size or location of the development and shall make a screening determination. If the determination is that there is no real likelihood of significant effects on the environment arising from the proposed development, it shall determine that an EIA is not required. If there would be likely effects, it shall serve notice on the local authority to prepare an EIAR in respect of the proposed development.
- 4.1.9. Roads Act, 1993, as amended
- 4.1.10. Section 50(1)(a) of the Roads Act, lists the following forms of road development in respect of which there is a mandatory requirement to carry out EIA:
- (i) the construction of a motorway;
 - (ii) the construction of a busway;
 - (iii) the construction of a service area, or;

- (iv) any prescribed type of proposed road development consisting of the construction of a proposed public road or the improvement of any existing public road.

4.1.11. Article 8 of the Roads Regulations, 1994 sets out the prescribed types of proposed road for the above purposes and includes:

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

4.1.12. It is stated under Section 50(1)(b) that *“if An Bord Pleanála considers that any road development proposed (other than development to which paragraph (a) applies) consisting of the construction of a proposed public road or the improvement of an existing public road would be likely to have significant effects on the environment it shall direct that the development be subject to an environmental impact assessment.”*

4.1.13. Under Section 50(1)(c) of the Roads Act, 1993, (as amended) *“where a road authority or, as the case may be, the Authority considers that a road development that it proposes (other than development to which paragraph (a) applies) consisting of the construction of a proposed public road or the improvement of an existing public road would be likely to have significant effects on the environment, it shall inform An Bord Pleanála in writing prior to making any application to the Bord for an approval referred to in section 51(1) in respect of the development.”*

4.1.14. Planning and Development Regulations 2001 (as amended)

4.1.15. Schedule 5, Article 93 of the Planning and Development Regulations 2001 (as amended) describes development thresholds that require EIA on a mandatory basis. It reflects Annex I and II of the EIA Directive.

4.1.16. EIA Directive 2014/52/EU

4.1.17. Annex III of EIA Directive 2014/52/EU as set out in Schedule 7 of the Planning and Development Regulations, 2001 (as amended), sets out criteria for determining

whether a project should be subject to environmental impact assessment. These are as follows:

1. The characteristics of the proposed development.
2. Location of the proposed development.
3. Types and characteristic of potential impacts.

4.2. National Policy

- 4.2.1. Project Ireland 2040 National Planning Framework is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. National Strategic Outcome 4 relates to Sustainable Mobility and the expansion of attractive public transport alternatives to car transport to reduce congestion.
- 4.2.2. Climate Action Plan 2024: As part of its functions, the Board must, in so far as practicable, perform its functions in a manner that is consistent with the most recent approved climate action plan, most recent approved national long term climate action strategy, national adaptation framework, sectoral plans, furtherance of national climate objective and the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State [section 15(1) of the Climate Action and Low Carbon Development Act 2015 (as amended)].
- 4.2.3. Water Action Plan 2024: A River Basin Management Plan for Ireland, a plan that responds to the requirements of the Water Framework Directive, to accelerate the identification and implementation of the right measures in the right places to both restore and protect all water bodies. The catchments.ie website provides substantial background information for this plan and the most current and up-to-date information on the status of local rivers, lakes and water bodies.
- 4.2.4. The National Biodiversity Action Plan (NBAP) 2023-2030 includes five strategic objectives aimed at addressing existing challenges and new and emerging issues associated with biodiversity loss. Section 59B(1) of the Wildlife (Amendment) Act 2000 (as amended) requires the Board, as a public body, to have regard to the objectives and targets of the NBAP in the performance of its functions, to the extent that they may affect or relate to the functions of the Board. The impact of development on biodiversity, including species and habitats, can be assessed at a

European, National and Local level and is taken into account in our decision-making having regard to the Habitats and Birds Directives, Environmental Impact Assessment Directive, Water Framework Directive and Marine Strategy Framework Directive, and other relevant legislation, strategy and policy where applicable.

4.3. Regional Planning Policy

4.3.1. The Eastern and Midlands Regional Spatial and Economic Strategy (RSES) 2019-2031 identifies Bray as a Key Town, being economically active, with high quality public transport links and capacity to act as growth drivers to complement regional growth centres. Page 72 states with respect to 'Metropolitan Key Towns' that 'The Key Metropolitan Towns of Swords, Maynooth and Bray are important in a regional and in a county context and they have the capacity and future growth potential to accommodate above average growth in the Region with the requisite investment in employment creation, services, amenities and sustainable transport.'

4.3.2. Regional Policy Objective – RPO 4.40: To support ongoing investment in public transport infrastructure, including the appraisal, planning and design of the LUAS extension to Bray. The development of Bray-Fassaroe should be undertaken in collaboration between Wicklow County Council, Dún Laoghaire-Rathdown County Council and the transport agencies to ensure the delivery of enabling transportation infrastructure and services.

4.4. Local Planning Policy

4.4.1. Development Plan

4.4.2. The Wicklow County Development Plan 2022-2028 provides for the local planning policy for the area. Bray is identified as a level 1 settlement, metropolitan key town where growth can be accommodated and is encouraged, with expansion linked to the delivery of high-quality public transport connections and infrastructure upgrades. The expansion of the Luas network to Bray is supported under the plan. (Section 4.2 pages 75-76).

4.4.3. Section 5.6 'Town & Village Centre Objectives': Town and Village Regeneration & Rejuvenation Priorities (page 130). Bray... Key projects include Bray Central

(formerly known as the Florentine), Bray Public Transport Bridge and regeneration of the harbour...

4.4.4. Local Area Plan

4.4.5. The Bray Municipal District Local Area Plan 2018-2024 came into effect in June 2018 for a period of 6 years, 'but framed with a longer horizon' (page 1). While the plan has subsequently expired, points of note with respect to the policy context of the site are detailed below:

4.4.6. The part of the site to the north of the River Dargle has a mixed-use zoning. There is also a specific local objective (SLO3) to develop these lands as a mixed commercial, residential, education / community facilities and open space zone.

4.4.7. There are road objectives pertaining to the site including RO5 which states as follows:

"With respect to the major development area at the former Bray Golf Course, excellent linkages shall be provided from the site to surrounding areas; multiple access points for both vehicles and cyclists / pedestrians shall be developed and in particular, the development shall include linkages through the site between the Dublin Road and Bray seafront / the DART station and public walking route along the river."

4.4.8. RO9 also seeks to promote and support the development of enhanced or new greenways and to require development in the vicinity of same to enhance existing routes and / or provide new links at the south bank of the Dargle River and North Beach – Ravenswell – People's Park.

4.4.9. Objective R10 seeks to provide new foot and cycle links (as funding allows) at various locations in Bray, e.g. across the River Dargle in Bray town centre via improvements to Bray Bridge or a new pedestrian/ cycle only bridge.

4.4.10. It is a public transport objective of the LAP (PT5) *"to facilitate, through the zoning of land, the tie-in of new facilities with the development of land and the application of supplementary development contributions, the extension of the LUAS or other mass transit to Bray town centre, Bray train station and Fassaroe."*

4.5. Natural Heritage Designations

- 4.5.1. Bray Head SAC (site code: 000714) and proposed Natural Heritage Area are located approximately 1.67km to the south-east of the proposed development site. Ballyman Glen SAC (Site code: 000713) and proposed Natural Heritage Area is approximately 2.65km to the west.

5.0 Planning History

Subject Site: ABP-313685-22

- 5.1. An Bord Pleanála undertook a Stage 1 Screening for Appropriate Assessment for a proposed development comprising the construction of the Bray Sustainable Transport Bridge, link road and associated works. On 5th December 2022 it was determined that a Stage 2 Appropriate Assessment and submission of a Natura Impact Assessment is required.

Dún Laoghaire Rathdown County Council Reg. Ref: D07A/1495 (PL06D.230215)

- 5.2. Permission granted in June 2010 for 348 no. residential units, retail, car parking, demolition of outbuildings, new access off the Dublin Road and associated works at the north-eastern portion of the Bray Golf Club lands and part of Industrial Yards site.
- 5.3. An extension of duration application was lodged (D07A/1495/E1); however, no response was received following a further information request.

Bray Town Council Reg. Ref: 07630194 (PL06D.230246)

- 5.4. Permission granted in June 2010 for a mixed-use development comprising 601 no. residential units, c.58,243 sq. metres of retail, c.5,800 sq. metres of office, cinema (5,237 sq. metres), hotel, bars, restaurants, 2 x creches, medical surgery, community building and GAA pitch on the former Bray Golf Club lands. An extension of duration of permission was granted until 2025 (Reg. Ref: 20672).

Dún Laoghaire Rathdown County Council Reg. Ref: D15A/0112 (PL06D.244874)

- 5.5. Permission granted on 19th November 2015 for development consisting of a new vehicular access road off the Dublin Road including dedicated pedestrian and cycling routes which will link into the proposed new road to serve the proposed school site within the former Bray Golf Club Lands, Bray, County Wicklow. The proposal also

included the demolition of an outbuilding at the Industrial Yarns Complex and part of the extension to number 70 Corke Abbey and the provision of a new access road to the Saint John of Gods site off the proposed new internal road (for which a separate concurrent planning application is being made by the Board of Managements of Saint Philomena's Primary School and Coláiste Raithín Post Primary School on behalf of the Department of Education and Skills to Wicklow County Council), all within the planning permission granted under planning register reference number D07A/1495 of circa 1.46 hectares within the former Industrial Yarns Complex, County Dublin.

An Bord Pleanála Ref: PL39.YA0003 / XA0001

- 5.6. Permission granted by the Board in August 2008 for the River Dargle (Bray) Flood Defence Scheme and boardwalk.

An Bord Pleanála Ref: HA0020 / KA0013

- 5.7. The Board approved an application by DLRCC in October 2009 for the Dublin Road Improvement Scheme (DRIS) and confirmed the compulsory purchase order. The scheme extends over a distance of 1km, following the route of the existing Dublin Road from just south of Sunnybank junction (with the Upper Dargle Road) to just north of the Wilford roundabout and including works at Sunnybank, Saint Peter's Road, Old Connaught Avenue, Corke Abbey Avenue and Wilford junctions with the Dublin Road and other works and the upgrading of Wilford roundabout to an enhanced capacity signalised junction under the scheme.

An Bord Pleanála Ref: ABP-311181-21

- 5.8. Permission was sought for 591 no. residential units (76 no. houses, 515 no. apartments), childcare facility and associated site works at the former Bray Golf Club lands.
- 5.9. A split decision was issued on 9th December 2021 refusing permission for Blocks A & B (containing 166 no. and 191 no. units respectively) and granting permission for the remainder of the development.

6.0 Request for Direction

6.1. Following notice of the proposed Bray Sustainable Transport Bridge in the Wicklow People newspaper on 21st July 2021, a total of 60 submissions were received from the following applicants under Article 120 (3)(b) of the Planning and Development Regulations, 2001, as amended, requesting the Board to undertake a screening assessment as to whether the development would be likely to have significant effects on the environment:

1. Aideen Fallon	22. Elva Murphy	41. Lisa McAuley
2. Aisling Farrell	23. Eugene Raeside	42. Louise Reilly
3. Alf Thomain	24. Florence Signorini	43. Marcia Nicholson
4. Anita Tuesley	25. Florence O'Sullivan	44. Mary Dorothy
5. Anna Baker	26. Ger Heffernan	45. Megan Fitzsimons
6. Anna Deveney	27. Grace McManus &	46. Michael Heffernan
7. Anne Kearns	others	47. Mireia Guardino
8. Ben Clifford	28. Graeme Murphy	48. Moira Ward
9. Bird Watch Ireland (Fintan Kelly)	29. Graham Pole – Mute Swan Project	49. Noeleen McManus
10. Breda Kelly	30. Hazel Longmore	50. Pat & Mark Shortt
11. Brigid O'Brien	31. Jane Golden	51. Paula Doyle
12. Bryan Glynn	32. Joan Conway	52. Pearse Stokes
13. Caroline Smyth	33. John Bateman	53. Sarah McLean
14. Catherine Foley	34. Justin Ivory	54. Sharon Hoefig
15. Claire Dalton	35. Karin Forsyth	55. Sheila Keatings
16. Conleth Gent	36. Keith O'Bradaigh	56. Siobhan Quigley
17. Daniel Michael	37. Keith Scanlon	57. Sophie Wynn Evans
18. Darren Deveney	38. Kirsten Brennan	58. Tessa Stewart
19. Dave McFarlane	39. Kirsta O'Connell	59. Valerie Metcalfe
20. Dermot Howard	40. Laoise Ní Chléirigh	60. Yiming Meghan McDonald Roberts
21. Dr. Anne Marie Byrne		

6.2. A summary of individual responses is set out in Appendix 1 of this report, with a combined list of main points raised listed below:

- The proposal will result in significant effects on the environment.
- Adverse effect on human, animal and bird life.
- Bridge design can lead to horrific fatal injuries to swans. Collision risk to bird species has not been assessed and was not taken into account in the design stage. The location of the bridge is proximate to nationally important flocks, a sanctuary, on a flight path and breeding populations of swans.
- Risk to salmonids and other freshwater species during the construction and operation phase not adequately considered including risks to species protected under the Habitats Directive.
- Increased flood risk as a result of reduced size of flood storage area on the floodplain. Particularly to Little Bray as the proposed access road from the north will reduce the size of the floodplain.
- Disturbance to otter.
- Design of the pedestrian/cycle ways and vehicular access points is dangerous (refer to Appendix I Road Safety Audit).
- Proposed lighting (specifically use of LEDs) will result in glare, adversely impacting humans, animals, bats and moths.
- The design and placement of the bridge will be detrimental to wildlife and habitats.
- The operational impact of use of the infrastructure by the Luas have not been adequately assessed.
- A Luas expansion to Bray won't happen in the near future. The proposed bridge cannot accommodate a Luas expansion in reality.
- Dangerous alignment between the railway bridge and Seapoint Road, the proposal will exacerbate this.

- Seapoint Road does not have capacity to accommodate two way bus traffic every 10 mins.
- Current greenspace at Seapoint Court will be reduced and become to dangerous for children to play on. Removal of a reinforced concrete wall will increase noise from the pumping station. Historical subsidence caused to Seapoint Court Apartments as a result of the pumping station being built, no analysis that the proposed changes to underground topography will be minor.
- No information on anticipated bus volumes and frequencies or details / locations of proposed bus stops or pedestrian routes to from the stops.
- Double decker buses cannot go under the railway bridge at Seapoint Road, therefore buses will have to travel in both directions through 5 junctions blocking up the road. The traffic audit states Seapoint Road will not safely accommodate two-way movement for buses 2.2.2. Slow moving traffic will cause air emissions and poor air quality.
- Noise and visual nuisance from increased traffic and headlights on Seapoint Road.
- Seapoint Road is too narrow to accommodate heavy traffic and pedestrians / cyclists, refer to 2.2.2 of traffic audit.
- Increased congestion at Strand Road with cumulative effect of the Plaza and the proposed bus route from Seapoint Court joining traffic at Strand Road.
- Significant adverse visual impact in the context of Victorian architecture in Bray.
- Impeded access to public and community spaces due to traffic congestion.
- Light pollution blocking the night sky.
- The proposed development is a road development and therefore EIA screening is required under the Roads Act. Mandatory EIA required as construction of a busway. Section 10(h) of Part 2 of Schedule 5 under Part 10

of the regulations state the requirement for an EIA for all tramways, elevated railways, or similar, used for public transport.

- The traffic study was undertaken during the covid pandemic when there was little traffic on the roads.
- No response from prescribed bodies.
- A Stage 2 AA should be required.
- Lack of notices. No planning notices placed in Bray Harbour and no date of publication on notices that were placed at boundaries to the site.
- Request for an SEA assessment due to interaction of potential environmental impacts.

7.0 Planning Authority Response

7.1. Wicklow County Council was invited by the Board to indicate whether the proposed development has or is intended to be subject to the process set out at Part XI of the Planning and Development Act, 2000, as amended, and Part 8 of the Planning and Development Regulations, 2001, as amended. The Council was also requested to furnish the Board with any documents relating to this process and to submit its opinion as to whether or not the proposed development would be likely to have significant effects on the environment. Further correspondence was sent to the Council requesting the submission of the information as specified in Schedule 7A of the Planning and Development Regulations, 2001, as amended.

7.2. Wicklow County Council responded to the Board's request by confirming that the Part 8 process has not been completed and will be suspended until the Board has concluded its deliberations. The following documentation is submitted for the Board to consider in its deliberations:

- AA Screening Report
- EIA Screening Report
- WCC AA Screening Determination

- WCC EIA Screening Determination

7.3. The following documentation has also been provided as part of the Council's submission:

- Part 8 Application Report
- Civil drawings
- Bridge drawings
- Preliminary Design Report
- Architectural Design Statement
- Flood Risk Assessment
- Road Safety Audit
- Microdrainage Output

7.4. It is noted within the EIA Screening Determination carried out by Wicklow County Council that the proposed bridge and link road development is considered to be a "road development" under the meaning of the Roads Act, 1993 (as amended) and therefore the requirements of EIA Screening under this legislation were followed.

7.5. Wicklow County Council's EIA Screening Determination states that the proposed project does not meet or exceed the thresholds outlined in Section 50(1)(a) of the Roads Act to trigger a mandatory EIA/ EIAR. Section 50(1)(b) to (f) of the Roads Act set out the requirements for an EIA Screening Report. Given that the proposed project is interpreted under legislation as the "construction of a public road", Wicklow County Council's Screening Determination had regard to Annex III of the EIA Directive.

7.6. The basis for the Screening Determination is set out in the Screening Report prepared on behalf of Wicklow County Council. The Screening Report recommends that this project, individually, and in combination with other plans and projects, does not require EIA. The key issues addressed in the Screening Report in arriving at the recommendation are summarised as follows:

Characteristics of the Proposed Development

- 7.7. The EIA Screening Report prepared on behalf of Wicklow County Council outlines the characteristics of the proposed development during construction and operational phases. This includes the intended use of the proposed development, the total area required for the proposal, and details of the new bridge structure. The construction timeframe is also set out, together with methods, materials, construction management practices and expected construction disturbance. The operational phase of the link road and bridge will facilitate the movement of pedestrians, cyclists and public transport, and sensitive receptors include residential units and a school complex.
- 7.8. The Part 8 Report also provides a general description of the scheme, principal design, architectural and geotechnical considerations, surface water drainage and flood risk assessment.

Location of the Proposed Development

- 7.9. The location of the proposed development is described in the EIA Screening Report, including the main activities and facilities in the vicinity. Natural and man-made features are identified, along with recent development objectives pertaining to the golf club lands. Habitat classifications for the site are listed, as well as the distances to designated sites, and features of archaeological / architectural significance in the wider area. It is also noted that development proposals within a view/ prospect will be required to provide an assessment and evaluation of how the development would change or interfere with that view / prospect.
- 7.10. The location and site context are described in the Part 8 Application Report to include existing roads and junctions, public transport, pedestrian and cyclist facilities, the River Draggie and boundary constraints.

Characteristics of Potential Impacts

- 7.11. The characteristics of potential impacts are included in the EIA Screening Report for construction and operational phases for the following aspects:
- Population and human health;
 - Biodiversity;
 - Archaeological, Architectural and Cultural Heritage;

- Water Quality;
- Landscape and Visual;
- Land, Soils and Geology;
- Air Quality and Climate;
- Noise and Vibration; and
- Land Use and Material Assets.

7.12. It is noted in the EIA Screening Assessment Report that there will be some disturbance to the local population during the construction phase of the proposed development. Local traffic restrictions will be put in place and there will be disruption to existing pedestrian and cycle infrastructure. There will also be some air, noise and vibration emissions during construction that may impact on population and human health. All of these impacts will be of a temporary nature. It is considered that the proposed development will have a positive impact on the population of Bray during its operational phase.

7.13. Potential impacts during the construction phase on biodiversity are assessed within the Ecological Impact Assessment Report appended to the EIA Screening Report. It is concluded that there will be no significant adverse effects on biodiversity as a result of the construction of the proposed development. A Screening Report for Appropriate Assessment rules out likely significant effects on European Sites and a Stage 2 Appropriate Assessment is not considered necessary. It is also concluded in the Ecological Impact Assessment Report that the proposed development will result in a minor net loss of common terrestrial habitats and there will be no permanent loss of habitat within the Dargle River. No significant impacts on fauna are envisaged and trees to be removed have limited nesting and roosting value for birds or bats. It is noted that harbour seal and a number of cetacean species are likely to occur in close proximity to the marine works area; however, any species are considered to be habituated to a level of disturbance in the area.

7.14. It is stated that there is potential for unrecorded archaeological remains to be impacted upon by the proposed development in previously undisturbed greenfield locations and along the riverbed or banks. Archaeological monitoring will be carried out, together with an underwater survey and metal detector survey.

- 7.15. The River Dargle is a designated salmonid watercourse; however, it is noted that there is no spawning potential for fish in proximity to the proposed development area. Water quality in the River Dargle was good to moderate within recent EPA monitoring. There is potential for minor release of sediments to water through disposition of rock infill material and the tidal nature of the river at this location is not extremely sensitive to sediment loading. The risk for accidental spillages is considered to be low and overall, there will be no significant adverse impacts on water quality.
- 7.16. In terms of landscape and visual impact, it is noted that urban areas have already been deemed suitable for development and therefore a landscape and visual impact assessment is considered unnecessary. An assessment of the development in locations within a view/ prospect is required, together with an evaluation of how the development would change or interfere with that view. It is considered that the proposed development will have a minor adverse visual effect on the surrounding landscape.
- 7.17. Excavations will be required for the construction stage; however, no excavations will take place in-stream. Excavated material will be disposed to appropriately licenced facilities where it cannot be re-used/ recycled. No significant potential for land contamination arising from the proposed development is expected.
- 7.18. Control measures will be used to minimise the risk of dust emissions. Control measures will also be used to reduce noise emissions and monitoring will be carried out at nearby sensitive receptors. No rock breaking will be required, and no significant vibration impacts are envisaged. Operational emissions will occur from certain users of the proposed development; however, the proposed development will encourage a modal shift from the private car.
- 7.19. There will be a limited area of land take and minor changes to topography for the proposed development. Additional areas will be required for a temporary construction compound and ancillary works. The pedestrian and cycle track on the northern bank of the Dargle River will be repaired and reinstated following completion of works. The flood defence works will not be altered by the proposed development.

- 7.20. The Environmental Impact Assessment Screening Report concludes that there will be negligible effects to land, soils and geology, and no significant adverse impacts on water quality as a result of the construction of the proposed development. The Ecological Impact Assessment concludes that there will be no significant adverse effects on biodiversity.

8.0 Assessment

8.1. Overview

- 8.1.1. On 21st July 2021 Wicklow Council County gave notice of a proposed Bray Sustainable Transport Bridge and link road, with reference to Section 179 of the Planning and Development Act, 2000 (as amended) concerning local authority own development, and with notice under Part 8, Article 81 of the Planning and Development Regulations, 2001 (as amended). Article 81 of the Planning and Development Regulations, 2001 (as amended), requires the local authority to indicate a conclusion with respect to a screening determination for EIA in relation to local authority own development. Wicklow County Council concluded in its screening determination that there is no real likelihood of significant effects on the environment arising from the proposed development and that therefore an Environmental Impact Assessment is not required.
- 8.1.2. Under Article 120 (3)(b) of the Planning and Development Regulations, 2001 (as amended), a person may apply to the Board for a screening determination, where they consider that a development proposed to be carried out by the local authority would be likely to have significant effects on the environment. The Board has received a total of 60 applications under Article 120 (3)(b) for a screening determination as to whether the proposed development would be likely to have significant effects on the environment.
- 8.1.3. This assessment will address both the mandatory and sub-threshold requirements for Environmental Impact Assessment (EIA) development as they relate to the proposed development.

8.2. Schedule 5 Mandatory EIA Thresholds

- 8.2.1. Schedule 5, Article 93 of the Planning and Development Regulations 2001 (as amended) describes development thresholds that require EIA on a mandatory basis. It reflects Annex I and II of the EIA Directive.
- 8.2.2. The proposed development would not fall under the type of projects described in Part 1 of the schedule. Section 10 of Part 2 of Schedule 5 describes other infrastructure projects, and this includes at section (h) tramways. I note a submission that asserts that the proposed development should require mandatory EIA with reference to this part of Schedule 5. However, while the proposed bridge will be 'future proofed' to allow accommodation of a potential Luas extension to Bray in future, the proposed development itself does not incorporate the rail tracks or overhead lines that would be necessary for a tramway development. In addition, the proposed bridge is not solely related to the potential Luas extension and is proposed regardless of whether an extension of the Luas service occurs or not. Therefore, the proposed development would not fall under the definition of a tramway at this time, and only at the point in time that trams are proposed to be accommodated, and the associated infrastructure for such functioning (i.e. rails / overhead lines) is required. Only then, would such works amount to the construction of a tramway for the purposes of Schedule 5.
- 8.2.3. Overall, I am satisfied that the proposed development does not fall under any of the development thresholds set out in either Part 1 or 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended).

8.3. The Roads Act 1993 (as amended) EIA Thresholds

- 8.3.1. Section 50 (1)(a) of the Roads Act 1993 (as amended) states that a proposed road development that comprises the following shall be subject to an environmental impact assessment:
- (i) *"The construction of a motorway;*
 - (ii) *The construction of a busway;*
 - (iii) *The construction of a service area;*
 - (iv) *Any prescribed type of road development consisting of the construction of a public road or the improvement of an existing public road.*

(b) If An Bord Pleanála considers that any road development proposed (other than development to which paragraph (a) applies) consisting of the construction of a proposed public road or the improvement of an existing public road would be likely to have significant effects on the environment it shall direct that the development be subject to an environmental impact assessment.”

8.3.2. Many of the submissions received have referred to this section of the Roads Act.

8.3.3. The proposed development does not comprise a motorway or service area. In relation to a ‘busway’ as set out above, this is defined under section 44 of the Roads Act 1993 (as amended) as follows:

“44 (1) A busway means a public road or proposed public road specified to be a busway in a busway scheme approved by the Minister under section 49.

(2) Save as is provided in subsection (4)(a) a person shall not have or be entitled to direct access from any land adjoining a busway to the busway, or from the busway to such land nor shall a right to such direct access be granted at any time.

...(4)(a) Pedestrians (other than for the purposes of access to or from vehicles prescribed under subsection (3)) and pedal cyclists shall not use a busway.”

8.3.4. The proposed development is not described as a busway and is intended for use by a variety of modes of sustainable transport, including buses, but also by pedestrians and cyclists. As such, the proposed development does not fall under the definition of a busway for the purposes of the Roads Act.

8.3.5. With regard to the ‘prescribed type of proposed road’ as set out above, this is defined under Article 8 of the Roads Regulations 1994 as follows:

“PART V. ENVIRONMENTAL IMPACT ASSESSMENT.

8. The prescribed types of proposed road development for the purpose of subsection (1)(a)(iii) of section 50 of the Act shall be—

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

(b) the construction of a new bridge or tunnel which would be 100 metres or more in length.”

- 8.3.6. The proposed development is situated in an urban area and comprises two vehicular lanes formed of a bridge and link road over a distance of approximately 460m (including a bridge span of 63m).
- 8.3.7. While the proposed development does not exceed the threshold set out in the Roads Act, the proposed bridge span of 63m is approaching the threshold of 100m (over 50% of the threshold), which coupled with its max height of 22m, makes it a considerable structure in terms of scale. The Roads Act does not specify a height for bridges with respect to EIA thresholds. As such, it is necessary to consider whether the proposal is likely to have significant effects on the environment with reference to s.50(1)(b) of the Act.
- 8.3.8. In relation to section 50(1)(b) of the Roads Act, section 50(1)(e) directs An Bord Pleanála to take account of the selection criteria specified in Annex III of the EIA Directive with respect to determining the likelihood of significant effects on the environment, and I address these criteria further below.

8.4. Annex III of the EIA Directive

- 8.4.1. The EIA Directive includes Annex III which outlines considerations in determining the likelihood of significant effects upon the environment as required under the Roads Act (set out above). These criteria are grouped under 3 headings, and I address these in further detail below.
- 8.4.2. 1. Characteristics of projects
- 8.4.3. The characteristics of projects must be considered, with particular regard to:
- 8.4.4. (a) the size and design of the whole project;
- 8.4.5. A description of the proposed development is set out in section 3 of this report above. As highlighted in section 9.3, there are size thresholds under the Roads Act that would trigger the need for mandatory EIA and the submission of an EIAR (Environmental Impact Assessment Report). The proposed development does not meet or exceed those thresholds, however there is no threshold stated with respect to bridge height.

- 8.4.6. The Local Authority has provided a Preliminary Bridge Design Report which describes the design considerations for the project. This describes on page 10 that 'It is proposed to use a relatively high-pitched arch geometry (approximately 22m in height) to help accentuate its position relative to surrounding buildings.' The design intention is therefore to use height to accentuate the visual impact of the bridge and create a 'landmark' structure. The proposed scale is described by the Local Authority itself as relatively high to accentuate the bridge relative to surrounding buildings. The submitted Architectural Design Statement confirms the Local Authority intention of creating a 'landmark structure' (section 4). The Architectural Design Statement describes design options considered for the bridge, which includes a low-rise steel truss beam bridge, and other vertical bridge forms. The low rise steel truss beam bridge and other options were discounted as they were not 'eye catching' and did not create a 'visual gateway' to Bray (section 5).
- 8.4.7. Therefore, in my view the proposed height is not a regular approach and is intended to be high relative to its surroundings to act as a visual marker. While this may not trigger the need for EIA in itself, any subsequent environmental effect as a result of the proposed height to the bridge, may require specific consideration through EIAR. This is considered further below with respect to related potential effects.
- 8.4.8. (b) cumulation with other existing and/or approved projects;
- 8.4.9. The Local Authority has submitted an EIA Screening Report which at section 5.11 addresses cumulative effects. This includes reference to a planning search of online records undertaken in March 2020, with a conclusion that there are no other major projects in the vicinity of the proposed development which would interact with the proposed development and result in significant in-combination or cumulative effects.
- 8.4.10. I note that a number of years has passed since the preparation of the Local Authority's EIA Screening Report, and I have undertaken my own search of online records. The Board received an application on adjoining lands for 591 no. residential units (76 no. houses, 515 no. apartments), a childcare facility and associated site works (ABP-311181-21). A split decision was issued on 9th December 2021 refusing permission for Blocks A & B (containing 166 no. and 191 no. units respectively) and granting permission for the remainder of the development. The Board received a further application, (ABP-314686-22) on the same lands, for change of use from

former golf course, construction of 586 no. residential units (76 no. houses, 348 no. apartments, 162 no. Built-to-Rent apartments) creche and associated works. On the 19th of August 2024 the Board granted permission, with conditions, including requiring the reduction in maximum height by 3 storeys.

- 8.4.11. The Board conducted an EIA in relation to both these proposed developments and concluded that, subject to implementation of mitigation measures and compliance with conditions, the effects on the environment of this proposal, by itself and cumulatively with other development in the vicinity would be acceptable. Those EIA's was informed by submitted EIAR's for the respective developments which included consideration of the proposed Bray Sustainable Transport Bridge. Any in-combination effects that might occur should construction of the projects occur at the same time, would be suitably mitigated through the implementation of construction management measures.
- 8.4.12. There are no other major projects proximate to the site that have been granted planning permission since the preparation of the Local Authority's EIA Screening Report.
- 8.4.13. (c) the use of natural resources, in particular land, soil, water and biodiversity;
- 8.4.14. The submitted EIA Screening Report considers the use of land and material assets in section 5.9. Small areas of land will be permanently required to facilitate the construction of the proposed bridge, with 17 trees removed and an area of semi-greenfield land adjacent to the Bray pumping station. Construction works will also require the temporary use of lands, which will be reinstated following the completion of works. A pedestrian and cycle track on the norther bank of the River Dargle will also be repaired and reinstated following its use during the construction phase. There will be minor topography cages and no acquisition of land is required, with no diversion of utility services. As such no significant negative impact upon land use and material assets is envisaged.
- 8.4.15. Section 5.6 of the submitted report considers land, soils and geology. It is proposed to re-use any excavated material as part of the project, or where this is not possible transfer this for recovery or recycling where practical. Section 5.3.5 of the submitted EIA screening report considers water quality and identifies the EPA monitoring status for the River Dargle as good with the estuary as moderate. A specific Water

Framework Directive Assessment has not been submitted for the proposed project. However, the submitted report states that the river is not extremely sensitive to sediment loading, and the proposal would result in minor emissions to the water, the Water Framework Directive is considered as part of the Ecological Impact Assessment for the proposal, which is appended to the submitted EIA screening report. No significant adverse impact upon water quality or habitats is identified. Any other biodiversity impact is considered with respect to the location of the project and set out further below.

8.4.16. (d) the production of waste;

8.4.17. Page 21 of the submitted EIA screening report confirms that the contractor for the construction of the project will ensure that the appropriate waste licences or waste facility permits are in place and that excavated material will be reused where possible. No significant waste streams are identified.

8.4.18. (e) pollution and nuisances;

8.4.19. The construction phase is liable to give rise to the most potential for pollution and nuisances. These impacts can be addressed through a Construction Environmental Management Plan.

8.4.20. (f) the risk of major accidents and/or disasters which are relevant to the project concerned, including those caused by climate change, in accordance with scientific knowledge;

8.4.21. A Flood Risk Assessment was carried out for the proposed scheme to identify the risk of flooding and concludes that the subject site is outside of Flood Zones A and B and therefore a justification test would not be required. However, the submitted details to support this assertion rely on design features of the proposal, rather than geographical considerations and records, which are the appropriate matters to be used in determining flood risk characteristics. The submitted information relates to the location of the proposed bridge abutment foundations behind the existing flood defence walls and features being situated above flood levels, which would amount to design mitigation rather than matters to determine flood risk.

8.4.22. Appendix A to the Planning System and Flood Risk Management Guidelines for Planning Authorities, includes Table A4 'Information sources appropriate for the

identification of flood risk', which describes sources of information to be relied upon in determining flood risk such as OPW maps, historic and predictive flood maps, Strategic Flood Risk Assessments, flood defences, local knowledge and other recorded information. The design of a proposed project is not a determining factor in assigning a flood zone categorisation.

- 8.4.23. The flood mapping for the area is under review and therefore cannot be used to determine the flood zone. Strategic Flood Risk Assessment mapping appended to the Bray Municipal District Local Area Plan 2018-2024 suggests that the site may overlap with Flood Zone A areas, associated with coastal flooding, and a number of submissions raise the matter of flood risk with respect to the Little Bray area.
- 8.4.24. While a site-specific Flood Risk Assessment (FRA) has been submitted for the project by the Local Authority, the information it contains is imprecise. For the Board to carry out the required sequential approach and justification test set out under the flood risk management guidelines, it would require reliance upon the information set out in the submitted report, which is flawed. Therefore, the Local Authority has not demonstrated that significant environmental effects would not arise with respect to flood risk. This in itself does not trigger a need for EIA, however, should the Board determine that there are no other matters that trigger the need for EIA (contrary to my recommendation below) then further information would need to be sought to resolve this matter, seeking a revised FRA, and allowing for application of the justification test prior to issuing a determination with respect to this EIA Screening. As it is, I am recommending that a sub-threshold EIA is required with respect to an unrelated matter, which I discuss further below, and therefore I have not sought further information with respect to flood risk. However, I have included a note with respect to this matter in my reasons and considerations below.
- 8.4.25. (g) the risks to human health (for example due to water contamination or air pollution).
- 8.4.26. As outlined above, the construction phase has the greatest potential for emissions which could have associated impact upon human health due to air/dust pollution, releases of contaminants to water bodies and traffic impacts. Such impacts will be addressed through a Construction Environmental Management Plan and Traffic Management Plan and adherence to best practice and protocols. It is envisaged that

once operational, the proposed development is likely to result in benefits to human health, arising from increased reliance upon sustainable transport modes.

8.4.27. 2. Location of projects

8.4.28. The environmental sensitivity of geographical areas likely to be affected by projects must be considered, with particular regard to:

8.4.29. (a) the existing and approved land use;

8.4.30. Section 4 of the submitted EIA screening report considers the location of the site.

This identifies its situation proximate to Bray Town Centre, adjacent to the golf course lands and a mix of residential and commercial uses, as well as school further to the north. The main Dublin to Bray railway line is immediately to the east of the subject site, with Bray Harbour further to the east. The golf course lands have planning consent for extensive new mixed-use with residential development as described in section 5 of this report. The subject site was identified as the preferred location for the routing of a potential Luas Line extension in the former Local Area Plan. Habitats for the site include 'Spoil and Bare Ground', 'Recolonising Bare Ground', 'Building and Artificial Surfaces', 'Scrub', 'Scattered Trees and Parkland', 'Amenity Grassland', 'Tidal River' and 'Sea Walls, Piers and Jetties' (Fossit habitat classifications).

8.4.31. The proposed development would result in a change in character to the site, with a new movement corridor attracting increased movement and activity. However, the site has an urban character and is capable of absorbing a change of character.

8.4.32. (b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground;

8.4.33. The land over which the proposed bridge and link road will be situated does not contain any rare habitats or natural uses with poor capacity. While there will be some land clearance associated with the proposal, including the removal of 17 trees, this will not be to a significant scale and therefore in itself would not warrant examination through EIA.

8.4.34. (c) the absorption capacity of the natural environment, paying particular attention to the following areas:

- (i) wetlands, riparian areas, river mouths;
- (ii) coastal zones and the marine environment;
- (iii) mountain and forest areas;
- (iv) nature reserves and parks;
- (v) areas classified or protected under national legislation; Natura 2000 areas designated by Member States pursuant to Directive 92/43/EEC and Directive 2009/147/EC;
- (vi) areas in which there has already been a failure to meet the environmental quality standards, laid down in Union legislation and relevant to the project, or in which it is considered that there is such a failure;
- (vii) densely populated areas;
- (viii) landscapes and sites of historical, cultural or archaeological significance.

8.4.35. The proposed development is situated proximate to the mouth of the River Dargle and its associate riparian areas. The Dargle is part of the Ovoca-Vartry catchment area and is one of 8 high status waters with a High Ecological Status Objective in the catchment area. The sections of the Dargle proximate to the subject site is identified on catchments.ie as 'Not at Risk' and with a 'Good' status.

8.4.36. The River Dargle is a designated salmonid watercourse under S.I. No. 293/1988 – European Communities (Quality of Salmonid Waters) Regulations 1988 and Atlantic Salmon is listed on Annex II of the EU Habitats Directive. A number of submissions, including from Bird Watch Ireland, highlight that there is potential for significant negative impact upon water quality during construction and operation phases that would impact water ecology, which they assert is not adequately accounted for in the submitted documentation, alongside a lack of reference to appropriate mitigation in this regard.

8.4.37. The submitted Ecological Impact Assessment (EclA) identifies potential effects, and on page 38 states that during construction there could be minor spills of hydrocarbons or increases in surface water run-off that could impact groundwater or surface water quality with resultant impacts on aquatic ecology. The submitted EclA addresses potential impacts on water quality and aquatic ecology in section 12. This states that temporary instream works will generate increased levels of silt due to re-

suspension of estuarine sediments, but that this would not impact on fish species, and therefore would be no significant effect in the context of available dilution in a tidal environment (page 42). Section 15 describes Environmental Protection Measures, which comprise best practice and standard construction environmental protection measures which includes a supervising ecologist to liaise with the contractor and use of measures to prevent, control and monitor potential for silt and spills etc. during construction.

8.4.38. I am satisfied that while the subject site is sensitive with respect to water quality and aquatic environments, the submitted EclA has given consideration to this and outlines appropriate mitigation in this regard, and therefore this matter in itself would not necessitate EIA.

8.4.39. The majority of submissions received requesting an EIA Screening Determination from the Board raise concern related to collision risk posed to swans as a result of the proposed bridge structure. In their submission, Bird Watch Ireland confirm that recent counts of the Bray Harbour Mute Swan population recorded 119 individuals and that the international and national importance threshold for Mute Swan is 90 birds. Bird Watch Ireland state that the Bray Harbour Mute Swan population is one of the most significant sites on the east coast and is of national significance. Bird Watch Ireland and other submissions contend that the proposed scale of the bridge, at 22m in height with horizontal suspension cables, pose a significant collision risk to Mute Swans, with a significant movement of swans between the River Dargle and Bray Harbour. Examples of other bridges that have been injurious to swans are cited, however it is highlighted by Bird Watch Ireland that the location of the proposed bridge would have greater impact and be more significant given there are breeding swans and flocks of swans downstream of the bridge.

8.4.40. The potential for collision risk posed by the proposed bridge is not specifically addressed in the submitted documents from the Local Authority. The EclA does not refer to the potential impact of the scale of proposed structures upon birds and focuses upon potential impact arising from activities associated with construction and operation phases. I accept that there is a known risk to birds, particularly swans, arising from structures that appear in flight paths. I also accept that there has been recorded instances of collisions between swans and other bridges similar in design to that proposed for the site. Mute Swans have Amber Conservation Status and are

protected (alongside all birds) in Ireland under the Wildlife Acts. Of significance, is the location of the subject site, in an area where there are significant numbers and breeding populations of Mute Swan as confirmed by Bird Watch Irelands submission. This is also supported by numbers set out in the EclA reflecting the Irish Wetland Bird Survey (I-WeBS) between winter of 2006/2007 and 2012/2013 (albeit noting that these are not recent counts). I also acknowledge that there is a cascade effect upon bird populations that mate for life, such as Mute Swan, where the loss of a small number of individuals from breeding pairs can have a significant consequence upon offspring numbers for following years. This is because a new mate may not be taken by the surviving swan in a pair, for a number of years, or at all, in future. I consider the potential significance of this effect further below with respect to the third criterion 'type and characteristic of potential impact' below. With respect to other considerations under this criterion, I continue with my assessment below.

- 8.4.41. Section 12.2 of the submitted EclA considers potential effects upon otter and I note submissions with respect to the same. The site does overlap areas that would be suitable habitat for otter to forage and potential short-term temporary negative effects are noted in the EclA with respect to the construction phase the project. There is no suitable holt or couche sites proximate to the site. During operation the increase in activity would be in keeping with the urban character of the area and would not be likely to have significant negative effects upon otter populations. There is no suitable roosting habitat for bats, although the site is probably used by bats for feeding. Both otter and bat species are listed in Annex IV of the Habitats Directive and otter are also listed in Annex II of the Habitats Direct. The proposed development is not likely to have significant effect upon otter or bat at a population level due to the characteristics of the site. Mitigation measures also incorporate the liaison between an ecologist and the contractor which will minimise risk of impact to these species.
- 8.4.42. The closest designated sites to the proposed development is Bray Head, which is a Special Area of Conservation (SAC) and a proposed Natural Heritage Area (pNHA) 1.6km southeast of the site. A Screening for Appropriate Assessment was undertaken by the Board and it was determined on 5th December 2022 that a Stage 2 Appropriate Assessment with submission of a Natura Impact Assessment is required for the proposed development (ref.ABP-313685-22). That process will examine the potential for significant effects upon European designated sites in detail.

- 8.4.43. The subject site does not contain, and is not proximate to, any important structures of archaeological and/or architectural significance. In the wider area, there is a Martello tower and number of buildings listed in the National Inventory of Architectural Heritage (NIAH).
- 8.4.44. The submitted EIA screening report considers visual impact upon the landscape and also cross references the Landscape Character Assessment undertaken as part of the former Development Plan; a similar assessment was also undertaken as part of the current Wicklow County Development Plan 2022-2028. The site is located in an urban area and the proposed development does not present visual effects that would be so significant as to warrant EIA in itself.
- 8.4.45. 3. Type and characteristics of the potential impact
- 8.4.46. The likely significant effects of projects on the environment must be considered in relation to criteria set out in points 1 and 2 of this Annex (above), with regard to the impact of the project on the factors specified in Article 3(1), taking into account:
- 8.4.47. (a) the magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected);
- 8.4.48. (b) the nature of the impact;
- 8.4.49. (c) the transboundary nature of the impact;
- 8.4.50. (d) the intensity and complexity of the impact;
- 8.4.51. (e) the probability of the impact;
- 8.4.52. (f) the expected onset, duration, frequency and reversibility of the impact;
- 8.4.53. (g) the cumulation of the impact with the impact of other existing and/or approved projects;
- 8.4.54. (h) the possibility of effectively reducing the impact.
- 8.4.55. I have identified above, the potential impacts of the proposed development and discussed the magnitude, nature, probability and reductive measures of relevance.
- 8.4.56. This EIA screening has identified one likely significant effect of the proposed project upon the environment. This relates to the scale of the proposed bridge and resultant impact upon birds in the area due to collision risk.

- 8.4.57. According to the submission from Bird Watch Ireland, the Mute Swan population for Bray Harbour is significant at a national level and one of the most important sites on the east coast for this species. Bird Watch Ireland maintain the records relating to bird surveys presented on the I-WeBS website. It has also been presented by Bird Watch Ireland that there is a known risk to Mute Swans from collision risk with bridges of the type proposed and I am therefore satisfied that this impact is likely to occur. A collision by a bird with a bridge can be seriously injurious or fatal. In addition, as outlined above, such an impact could have a cascade effect upon the resulting population numbers for Mute Swan as they mate for life.
- 8.4.58. With respect to the duration / reversibility of this impact, I am professionally familiar with the concept that bird populations can adapt to new structures and avoid collision, however the Local Authority has not presented any evidence in this regard. The effectiveness of such adaptation to prevent significant adverse effect would also depend upon locational considerations such as population numbers and flight routes. I also note that no mitigation has been outlined with respect to this matter that would effectively reduce the risk of collision.
- 8.4.59. In my view there is a likely significant effect with respect to swan populations in the area, that could be significant at a population level, and that arises specifically due to the location of the structure and its proposed design and scale at 22m in height. Given these particular circumstances, and in the lack of any scientific evidence to the contrary (noting the lack of coverage of this matter in the submitted documents), there is a likely significant effect that triggers the need for subthreshold EIA in my opinion.

9.0 Recommendation

- 9.1. Having regard to the nature of the proposed development and the sensitivity of the receiving environment, particularly in relation to the significance of the Mute Swan population residing in the area, the proposal, due to the height and design of the proposed bridge, is likely to have significant effects on the environment and an EIA and associated EIAR is therefore required.

10.0 Reasons and Considerations

Having regard to:

- (i) The provisions of Section 179 of the Planning and Development Act, 2000, as amended and Article 120 (3)(b) of the Planning and Development Regulations, 2001 (as amended);
- (ii) The provisions of Section 50 of the Roads Act, 1993 (as amended) and Article 8 of the Roads Regulations, 1994 (as amended);
- (iii) Schedule 5, Article 93 of the Planning and Development Regulations 2001 (as amended);
- (iv) Annex III of the EU EIA Directive 2014/52/EU;
- (v) The submissions requesting an EIA Screening Determination by the Board;
- (vi) The ecological sensitivity of the receiving environment, particularly with respect to the nationally significant population of Mute Swans for the Bray Harbour area and the risk of collision with the proposed bridge;
- (vii) The nature and characteristics of the proposed project (specifically with reference to the height and design of the proposed bridge), which while below the threshold for mandatory EIA, have associated environmental effects upon the receiving environment that are likely to be significant and have not been effectively reduced, or demonstrated to be insignificant or otherwise reversible;
- (viii) The report and recommendation of the Board's Inspector.

It is considered that there are likely significant negative effects on the environment arising from the proposed Bray Sustainable Transport Bridge link road and associated works and an Environmental Impact Assessment Report is required.

NOTE: While a site-specific Flood Risk Assessment (FRA) has been submitted for the project, the information it contains is imprecise. For the Board to carry out the required sequential approach and justification test set out under the flood risk management guidelines, it would require reliance upon the information set out in the

submitted report, which is flawed. Therefore, the Local Authority has not demonstrated that significant environmental effects would not arise with respect to flood risk. While this in itself does not trigger a need for EIA, this matter should be rectified prior to progressing to the next planning stage for the project.

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.

Rachel Gleave O'Connor
Senior Planning Inspector

19th November 2024

Appendix 1 – Summary of Individual Requests

Aideen Fallon

- Proposal will have grave effects on human, animal and bird life.
- The type of bridge proposed can cause horrific injuries to swans as they cannot see in front of them.

Alf Thomáin

- Proposal will increase the danger of flooding to Little Bray, upriver, as the proposed access road from the north will drastically reduce the size of the traditional flood storage area on the floodplain.
- Reduction in flood escape route will exacerbate the dangers already created by a flood defence wall on the south side of the floodplain when high spring tides meeting the flooded river are forced back up towards the undefended Fran O'Toole Bridge and the low-lying homes beyond.
- Proposal will endanger colony of swans who have sanctuary at Bray harbour, to the east of the proposed bridge, by erecting a 22m high arch across their flight path. Smaller colony of Mute swan on the Liffey are sustaining injuries by flying into Samuel Beckett Bridge.
- There will be disruption to otter feeding habitat at the base of the railway bridge and to their likely breeding territory along the river embankment.
- Proposal represents dangerous design of pedestrian/ cycleways along the proposed route as well as endangerment to motorists and non-motorists presented by poor design on both the north and south access points as catalogued in the Road Safety Audit.
- EIA should be carried out to protect the wildlife in Bray Harbour.

Anita Tuesley

- Design of bridge with high structured bowstring arch poses a threat to birds, especially swans that fly along this stretch of the river down to the harbour.

- Although downlighter design of lighting on lower pedestrian rail is welcomed, it is not explicit that this will be designed to ensure no light trespass.
- LED lights pose a great risk to biodiversity including bats and moths and a risk to human wellbeing through glare and impeding of sleep – over 50% of invertebrates and 30% of vertebrate are nocturnal and need natural darkness.
- LED streetlights should have a colour temperature of 2,700 kelvins or less, no more than 600 lumens – ideally 150-200, and be set to 590 nanometres.
- Development threatens to impose significant effects on the environment and so there is the need for an in-depth EIA in this highly sensitive and vulnerable area for biodiversity.

Anna Baker

- Screening must be carried out to make sure the wildlife of Ireland does not face any threat because of a man-made bridge.

Anna Deveney

- IPCC and Irish Climate Reports detail projected increased flood risk due to climatic changes – specifically rises in river water levels, sea levels, rainfall and storm surges. There should be increased vigilance given to any development on flood plains.

Ben Clifford

- Area is populated with wildlife who use this channel as a flight path – not opposed to bridge but in its current design, it could have catastrophic impacts on the environment and local life.

Bird Watch Ireland (Fintan Kelly)

- Proposed development poses significant collision risk to species such as Mute Swan.
- Proposed development poses risks to salmonid and other freshwater species during the construction and operational phases.
- EIA should be conducted which takes account of increased risk to swans, water quality and salmonids and other freshwater fish species.

- Having read documentation associated with the application, requester does not feel that the operational impacts of the use of the infrastructure by the Luas have been properly addressed.
- Recent counts of the Bray Harbour Mute Swan population have recorded 119 individuals. International and national importance threshold for Mute Swan is 90 birds – Bray harbour population exceeds this threshold and is one of the most significant sites on the east coast and is of national significance.
- 22m high bowstring arch bridge and c. 63m length, including horizontal suspension cables poses a significant collision risk to Mute Swans and this has not been assessed as part of this application.
- Environmental considerations were not taken into account in the design stage of the bridge – design heavily influenced by architectural and aesthetic considerations.
- Collision with manmade structures not only causes direct mortality but can also cause delayed and inhumane deaths.
- Swans flock and have rapid flight with large and slow manoeuvrability - are especially vulnerable and younger individuals and nocturnal migrants exhibit further vulnerability.
- Swans have poor vision directly ahead during flight and many waterfowl have near sightedness above water. Probability of collision is also influenced by site conditions, lighting, topography and exposure to human disturbances.
- There is significant movement of swans between the River Dargle and Bray Harbour through the proposed site – proposed EIA screening assessment should have identified these issues.
- Every year, Bird Watch Ireland receive reports that swans have been killed or injured as a result of flight collision with Samuel Beckett Bridge on the River Liffey.
- Comparison between Samuel Beckett Bridge and the proposed bridge differs in that the swans do not breed downstream of the Samuel Beckett Bridge and there

are no flocks in the vicinity – proposed development likely to pose a much greater risk of collision.

- Swans in Bray Harbour are an important part of Bray natural heritage – swans and other birds provide import access to wildlife at a time when we need to encourage environmental awareness and biodiversity conservation.
- Assessment of the potential negative impacts during construction and operational phases on water quality and freshwater ecology is inadequate – River Dargle supports important salmonid populations, and the site is designated a salmonid watercourse under S.I. No. 293/1988 – European Communities (Quality of Salmonid Waters) Regulations, 1988. Atlantic Salmon listed on Annex II of the EU Habitats Directive.
- Dargle and its tributaries support numerous protected freshwater species and habitats, and the site has direct hydrological connectivity with a number of Natura 2000 sites upstream.
- There is total lack of detail in EIA screening assessment regarding potential negative impacts on salmonids and other freshwater species during construction and operational phases.
- Mitigation measures should be required to mitigate water quality impacts, e.g., the requirement that no works should be carried out during important landward and seaward migrations of catadromous and anadromous fish species.
- EIA should be completed to take account of the potential impacts on all freshwater species protected under the Habitats Directive including Sea Lamprey, Brook Lamprey, River Lamprey, Atlantic Salmon, Common Frog and Otter.

Bryan Glynn

- Site is located in the Dargle Valley and an Appropriate Assessment is required pursuant to Council Directive 92/43/EU.
- Bridge may only be used for vehicular traffic – there is no question of the Luas going to Bray for at least 20 years.

- There are issues for pedestrians and cyclists using Seapoint Road – road is too narrow and cannot be widened.
- There is an issue with the alignment of the railway bridge with Seapoint Road – only one person at a time can use the footpath under it. Also dangerous for cyclists and new bridge will inject more pedestrians and cyclists onto Seapoint Road.
- Cycle way from Bray Head to golf club lands is much safer than what is proposed.
- Seapoint Road does not have capacity to have two buses in opposite direction every 10 minutes. Unrealistic for buses to go under the railway bridge.
- 50% greenspace available to the residents of Seapoint Court will be removed – leftover space will be too dangerous for children to play because the land will be divided by a bus lane.
- Removal of existing reinforced concrete wall will result in increased noise from the pumping station, which up to now has been attenuated by the wall.
- There was subsidence at Seapoint Court Apartments when Bray pumping station was being built. There is no analysis to prove that changes in underground topography will be minor.
- No information provided on anticipated bus volumes and frequencies, or details of the nearest proposed bus stops and likely pedestrian design lines.
- If buses are going to Bray Dart Station, there would be buses in either direction going through 5 junctions every 10 minutes. Seapoint Road will be continuously blocked by vehicles, with slow moving traffic increasing emissions.
- Traffic along the bridge will back up and there will be elevated noise from buses, taxis, etc. echoing around Seapoint Court. Headlights on elevated curved road will also cause visual nuisance.
- Heavy traffic on new road will make it dangerous to use shortcut between Carlisle Grounds and railway line. Footpaths are also narrow on Seapoint Road and 2-wheeled vehicles would also be vulnerable as a result of increased volume of buses.

- Plaza works on Bray seafront will result slower moving vehicles on Strand Road and this will increase further as buses coming out of Seapoint Court will be joining already blocked up traffic.
- Bridge will have cables that birds will be unable to see – Samuel Beckett Bridge has had 16 swan collisions and the Bray flock is 10 times larger.
- Bridge will look completely out of proportion when viewed from Fran O'Toole Bridge – more suited to city location with large buildings in the background.
- Long term consequences of having new roadway onto Seapoint Road will impede access to Bray Beach, Bray Promenade, Bray Sailing Club, Bray Rowing Club, Bray Sea Scouts, Bray Sea Anglers and Bray Head due to clogged up buses, dangerous pedestrian paths, cycle safety issues and slow traffic on Seapoint Road.
- Overbearing bridge will be visible from a lot of locations and there will be light pollution from all the new lighting blocking views of the night sky.
- Buses will be turning directly in front of houses to Seapoint Court and access to the beach will be impeded.
- Bray Harbour Road regularly floods and IPCC climate report 2021 says higher tides are a certainty. If roadway remained elevated to directly join Bray Dart Station and not go to the pumping station, it could act as a sea wall for Bray.

Catherine Foley

- Includes petition from volunteers for Wildlife Rehabilitation Ireland objecting to the bridge.

Dr. Anne Marie Byrne

- Proposed development as a busway with access necessitating construction of a public road qualifies under the Roads Act, (1993), as amended, for mandatory EIA.
- Scale and design of the bridge is highly inappropriate for the location, and this will have a negative impact on the environment.
- Golf course lands have become rewilded and birds, bats, foxes and otters have all made their homes in the area. Noise, machinery and general building activity

in the area would interrupt the life cycle of birds and highlights the importance of carrying out extensive environmental assessments.

- Disturbance to swan habitat and lifecycle caused by the proposed works will be unimaginable.
- There will potentially be months of drilling, digging and diverting of the river during all stages of work. There was devastating impact on fish stocks during the recent flood defence installations.
- There is potential for contaminated soils at the location of the southern abutment, as Bray Pumping Station is located on an old gas works.
- Otters are a protected species so any disturbance to their habitat and food supply would contravene both Irish (1997 Wildlife Act and its 2000 amendment) and European law. Bats are also protected by law and can be seen flying up and down the river every night. Presence of bats calls for the provision of round the clock monitoring of fauna in an EIAR.
- Any attempt to re-route sewers on the southern side of the site would cause huge disruption right across the entire site causing great loss of feeding grounds and habitat.
- EIAR is most definitely warranted based on the evidence of an abundance of wildlife in the area of the proposed bridge, the disturbance, danger and threat of habitat loss.

Eugene Raeside

- Board should examine and determine whether or not the project requires an EIAR as dictated by 10(h) of Part 2 of Schedule 5 under Part 10 of the Planning and Development Regulations, 2001 where the requirement for an EIAR is triggered by the project to be executed by a local authority that comprises *“all tramways, elevated and underground railways, suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport.”* Project intended to accommodate future expansion of the tramway/ elevated railway.
- Visual inspection on site, where evidence of endangered and protected species of flora and fauna were sought, appears to have been conducted on 23rd January 2020 outside of the relevant growing seasons – question the

effectiveness of this study in assessing whether or not certain protected species exist on site.

Florence Signorini

- EIAR and Appropriate Assessment are needed.

Cllr. Grace McManus & Others

- In terms of public confidence in a project, with such far reaching consequences, every avenue of environmental protection must be exhausted.

Graham Prole, Mute Swan Project Co-ordinator

- Swans move in large numbers to Bray Harbour to moult each year – being sited on a traditional flight path of the swans seasonal and often daily movement to and from the harbour means a bridge of this design will regularly down swans.
- Swans' forward vision is particularly limited flying into a rising or setting sun – 25m high vertical cables at 4m centres will kill and injure a significant number of swans which have a 2-2.5m wingspan.
- Currently, there are 123 swans in Bray Harbour and the Mute Swan population of the country is 7,032 (Irish Wetland Bird Survey: Waterbird Status and Distribution 2009/10 – 2015/16)
- If EIA was conducted, it would conclude that the proposal should not proceed in its present form.

Joan Conway

- Proposal does not adhere to the requirements for a sustainable and climate neutral transition for the transport section as outlined in the EPA's publication 'Ireland's Environment – An Integrated Assessment 2020.'
- Bray Sustainable Transport Bridge does not prioritise the pedestrian and cyclist and various aspects of the plan and actually endangers both pedestrian and cyclist.
- Cycle facilities are provided on one side of the road only and there does not appear to be sufficient width to accommodate 2-way cycling.

- There is no provision for verge or separation distance between the vulnerable road user facility and the carriageway.
- No detail provided for the bridge deck and no clearances shown between the bridge and vulnerable road user facility below – unclear how levels and gradients will work for the connection between the existing 2-way cycle track parallel to the river and the new shared surface and toucan crossing adjacent the bridge. Scope for direct safe connectivity of the cycling route underneath the bridge is unclear.
- Significant level differences on southern side of the bridge at approximately chainage 290m, where tie-in details and gradients for the proposed footway are unclear.
- No dropped kerbs at Junction 2 and restrictive geometry will present risks for cyclists at this junction.
- Wide crossing distance at intersection with Seapoint Road with no provision for pedestrian refuge – there will also be a high proportion of larger turning vehicles. Also, abrupt termination of pedestrian facilities.
- Proposed toucan crossing on downhill gradient vulnerable to large vehicles potentially travelling at speed down gradient. Visibility may also be restricted.
- No provision for tactile paving at the proposed toucan crossing or at a number of informal crossing points throughout the scheme.
- Proposal ignores the requirement to provide the sustainable and integrated infrastructure necessary to achieve the environmental aims of both the EU and Ireland with respect to climate change.

John Bateman

- Swans need fresh water to survive, and they rely on the Dargle River.
- Swans mate for life and a loss of a bird causes incalculable damage.
- There should be a more suitable bridge design taking account of diversity of nature.
- No objection to bridge that would be environmentally friendly.

Justin Ivory

- Bridge is being built at a location that hosts up to 135 Mute Swans, which is approximately 1% of the national total.
- Area in question is used by several species of bats – unclear if bridge poses a risk to bats in flight but it is certainly the case that inappropriate lighting will have negative impacts and could well result in bats abandoning that section of the river as a feeding ground.
- Species such as otter and kingfisher are only just returning to this section of the river after years of flood protection works – building of the bridge will cause further disturbance.
- EIA would determine what the negative impacts would be and what avoidance or mitigation measures could be taken.

Keith Scanlon

- EIA should be carried out and alternatives should be evaluated.

Laoise Ní Chléirigh

- Proposal will have grave effects on human, animal and bird life and this in turn will affect humans, given the interconnected nature of the wider ecosystem.

Lisa McAuley

- WRI Wildlife Hospital get many calls regarding injured Swans. Many of which have to be euthanised due to the severity of their injuries – proposed design is lethal to the resident Swans of Bray Harbour.

Marcia Nicholson

- Requester has been rescuing Swans in Bray Harbour for the past 15 years and has seen injuries sustained from flying into electric overhead cables, despite there being many deflectors in place.
- Proposed bridge is not suitable and is in the flight paths of many birds, not just Swans.
- Planning notices have been placed inconspicuously and are undated.

Noleen McManus

- There will be increased danger of flooding to Little Bray.
- Proposed link road will substantially reduce the capacity of the flood plain that has already been constrained from performing its function by a flood defence wall on its southern side.
- There is little description of the proposed link road element of the proposal, other than measurements on drawings. Access road across the floodplain will presumably have to be built up with wide embankments on either side.
- Carriageway width is given as 7m and if you add in the shared pedestrian/ cycle pathway, etc. it seems to cover over 15m in width.
- Building a road across a floodplain flies in the face of OPW planning guidance which describes such development with flood risk upstream as follows: *“In times of flood, the river flows not only through its normal channel but also along the flood plains. Any constriction of natural flow path can ‘back-up’ the river and lead to increased flood levels upstream. The construction of buildings or houses... in or across a floodplain can therefore not only put the development itself at risk of flooding but can also increase the flood risk for lands and properties upstream.”*
- Floodplain was the only escape route for the floods that devastated the neighbourhood in 1905, 1931, 1965 and 1986 – every 20 to 30 years.
- Justification test for development of old Bray Golf Course fails, especially if applied to the 3.5 ha of traditionally acknowledged floodplain – building should take place on higher ground and the very small floodplain should be kept as open space.
- Whole of expanded floodplain on the former golf course looks to be in Flood Zone A from Strategic Flood Risk Assessment mapping.
- If Wicklow County Council claim that much of the upper part of the old golf course lands is Flood Zone B, and the lower part is Flood Zone A, then the Guidelines for flood risk management would still require mandate that development be kept to the area at lesser risk of flooding.

- Seems strange that Flood Risk Assessment for the proposed development classifies the site as Flood Zone C and that a justification test is not required.
- New flood defences have failed twice alongside the floodplain in 2015 & 2016.
- Access road will cut the north-eastern corner of the floodplain off from any potential flooding escaping from homes to the east – these homes are at higher risk if flood defences fail at any point. If floods break upriver, they will be prevented from getting back into the river by the very flood defences that normally offer protection. Building a road will further exacerbate this by reducing the available size to store floodwaters.
- Ravenswell Row, Maitland Street and Ardee Street were all built or adapted for the elderly and disabled and many new residents have young children. Two creches have been established attended by approximately 200 children. These people should be protected from flood risk.

Pat & Mark Shortt

- Original plan was to continue road on an elevated level to pass over Seapoint Road and continue adjacent to the Carlisle Grounds – current proposal is to carry out half the work in a stop gap manner. This is poor planning and needs to be examined further.

Tessa Stewart

- Recommend that an alternative flat bridge structure is used, one without a high structure as in a bowstring arch bridge.
- Guidelines recognise that there is a need to avoid development in areas at risk of flooding while also ensuring sequential and compact urban development.
- Flood defences aim to provide protection against 1-in-100 year fluvial flood and 1-in-200 year tidal flood – question if assessment stands in light of current rapid climate change.
- Emergency overflow outfall from the flood defences is built to exit onto Ravenswell Road, right beside the new bridge. Question the location of the proposed infrastructure in this area including the planned Luas – different bridge location suggested from Dargle Road near the motorway to Herbert Road. This

will take congestion from both the Southern Cross end and from Fran O'Toole bridge.

- 10.2. The submissions received from Aisling Farrell, Anne Kearns, Breda Kelly, Brigid O'Brien, Caroline Smyth, Claire Dalton, Conleth Gent, Daniel Michael, Darren Deveney, Dermot Howard, Elva Murphy, Florence O'Sullivan, Ger Heffernan, Graeme Murray, Hazel Longmore, Jane Golden, Karin Forsyth, Keith O'Bradaigh, Kirsten Brennan, Kirsta O'Connell, Louise Reilly, Mary Dorothy, Megan Fitzsimons, Micheál Heffernan, Mireia Guardino-Ferran, Moira Ward, Paula Doyle, Pearse Stokes, Sarah McLean, Sharon Hoefig, Sheila Keatings, Siobhan Quigley, Sophie Wynne-Evans, Valerie Metcalfe and Yiming Meghan McDonald Roberts contain points that are covered in the summaries of the above submissions.
- 10.3. The Board sought further information from one applicant only, Mr. Dave McFarlane, Chairman of the Residents Association of Seapoint County, Bray, Co. Wicklow, to include the following:
- A statement indicating what class of development set out in Schedule 5 to the Planning and Development Regulations, 2001, as amended, the proposed development the subject of the request is considered by you to belong (in this regard you should note that the Board's power to issue a direction under the said Article 120 is confined to a direction in respect of "sub-threshold development" as defined at Article 92 of the Planning and Development Regulations, 2001, as amended).
 - A statement indicating the reasons why you consider that the proposed development would be likely to have significant effects on the environment and a statement indicating the nature of such effects. (In this regard you should note that the Board's power to issue a direction to the local authority to prepare an Environmental Impact Statement in respect of sub-threshold development is confined to circumstances where the Board considers that the proposed development would be likely to have significant effects of the environment).
- 10.4. The applicant responded to the further information requests as follows:

Dave McFarlane, Chairman of Seapoint Court Residents' Association

- Proposed development is considered to be a “road development” under the meaning of the Roads Act (1993), as amended.
- Proposal does not show any upgrade of Seapoint Road, Seymour Road or railway bridge alignment.
- Good engineering practice is to simulate various realist scenarios to test what is proposed.
- Safe and fast access to an emergency in Seapoint Court should be considered paramount in the proposal but it appears to have been disregarded.
- Seapoint Road junction will become unsafe for Seapoint Court residents to ingress and egress the estate.
- Proposed access road will drastically reduce the size of the traditional flood storage area.
- It is inappropriate and unsustainable not to link the bridge to the Dart station under this proposal – Luas line would have to be rebuilt to go to Bray Dart Station by being parallel to the railway line.
- Misleading to say the bridge will carry the Luas and question has to be asked from an EIA point of view as to whether it is worth the environmental impact of having a bridge that will just have vehicular traffic.
- Traffic study was done during Covid in March/ April 2020 when there was very little traffic – study should have been carried out at various times including peak summer times.
- Requester did not see any statements from prescribed bodies, in particular Irish Rail and Dublin Bus.