



An
Bord
Pleanála

Inspector's Report ABP-321258-24.

Development	10 year permission for the construction of a new foul pumping station and a new WWTP.
Location	Kilkee, County Clare
Planning Authority	Clare County Council.
Applicant	Uisce Eireann
Type of Application	Permission
Appellant	Uisce Eireann
Observer(s)	Martin Bushner & Others Adrian Liston & Others Terry & Valda Reynolds Andrew Walsh Michael + Ashling Grant.
Date of Site Inspection	27 th February 2025
Inspector	Philip Davis.

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1.0 Introduction

This appeal is by Uisce Eireann into the decision of the planning authority to refuse permission for four stated reasons for a new pumping station and wastewater treatment system for the town of Kilkee. A number of observers have supported the planning authorities' reasons for refusal

The appeal is accompanied by an NIS.

This appeal is concurrent to an application under Section 175 and Section 177AE for flood relief defences at three different sources of potential flooding in the town (ABP-320967-24). The proposed developments are not functionally connected but there is some functional overlap, in particular as the latter proposed works involve changes downstream to watercourses within the town and adjacent to the proposed WwTP and pumping station.

2.0 Site Location and Description

2.1. Kilkee, County Clare

Kilkee is a coastal town in south-west County Clare, located at the base of Moore Bay. It is accessed via the R67 which runs from Kilrush along the County Clare coast. The permanent population at the 2016 census was 972, with substantially more during the summer. The town developed around a small fishing village in the early 19th century, developing as a popular resort after being connected to Ennis via the West Clare Railway and the South Clare Railway via a branch line running from Moyasta. There are current proposals out for consultation by Clare County Council to convert the former railway line to a Greenway (West Clare Greenway).

The core of the town is the early 19th century Grattan Street, with a cluster of shops, cafes, pubs and hotels behind the promenade which runs along Kilkee Beach. This part of the town consists largely of typical terraces of late 19th and early 20th century discontinuous terraces of one and two storey dwellings with some larger commercial buildings, including the prominent Stella Maris Hotel. There are more modern estates of houses, many apparently holiday homes, inland from this part of the town. The Kilkee Bay Hotel is located within this area. On the north side of the bay, at Kilkee Coast Guard station, there is a further cluster of dwellings. On the south side

of the bay is the 'West End' of the town, where on higher ground over the cliffs are terraces of early to mid 19th century houses – some predating the railway connection. The former railway station terminus is now a dwelling. Older maps of the area indicated that the area inland of the beach was low-lying, with some marshy areas and drains – some marked as 'Liable to floods' on the earliest OS map. A number of minor streams discharged to the bay, most of which now appear to be culverted.

The appeal site is in two separate parcels, located to the west of the town on a ridge running between Moore Bay and Intrinsic Bay (the latter named after an early 19th century shipwreck). This area is characterised by mid-sized fields in pasture use, with a golf course to the north between this site and the rocky coastline. A third class country road known as the Dunlickey Road (or sometimes Doonlickey Road) runs west from the West End of Kilkee along the coast – this is part of the Wild Atlantic Way and is a designated scenic route. Parallel to this is a recently upgraded leisure cliff walk that follows the highly indented coastline.

2.2. The site

The site, with an area given as 4.56 hectares in the submission documentation, consists of two separate parcels of land in the townlands of Kilkee Lower and Foohagh.

Site A, the site of the proposed foul pumping station, is a flat brownfield site, recently cleared and flattened but now overgrown of just over 1 hectares in extent between a caravan park and some dwellings on the western fringes of the town – the lands appear to have been originally marshy and reclaimed as part of the growth of the town in the 19-20th century.

Site B is an area of land given as 3.51 hectares within a grazing field just under 1km west of the town and south of Dunlicky Road. It is surrounded by open farmland and is connected to the road via a track which terminates to the south at a farmhouse. The red lined site includes public highway along, leading to a small area where the outfall to the sea in a small inlet next to Intrinsic Bay – this is the route of the existing untreated sewage discharge point to the sea.

3.0 Proposed Development

The proposed development consists of 10 year permission for a new wastewater treatment system (design capacity, c.8,000pe) for the town consisting of the following three main elements:

- A new Foul Pumping Station at Subject site A. Elements of this include:
 - An emergency storage tank
 - Surge kiosk
 - Odour control building
 - Standby generator
 - Foul pumping station
 - Underground site network
 - ESB building and panel room
 - 2.4 m capped boundary wall with signage and gate.
- A new Wastewater Treatment Plan (WwTP consisting of:
 - 2 neo. Primary settlement tanks;
 - MCC kiosk
 - Outfall pumping station
 - Odour control plinth
 - Storm holding tank
 - Control building
 - ESB building
 - Stand-by generator and fuel tank
 - Solar panels
 - CCTV system
 - 2.4 metre security mesh fencing with 1.2 metre stork proof boundary fence, plus gate and upgraded access lane.
- The installation of new sewers comprising:
 - 45 metres of gravity sewer that will intercept the flows into the existing Victoria pumping station

- 85 metres storm overflow pipe to Victoria Stream from Kilkee Foul PS
- Connecting pipework from existing network to new foul pumping station.
- Overflow to Victoria Stream and associated new headwall
- New effluent rising mains.

In addition, all associated site excavation, infrastructural and development works.

4.0 Planning Decision

The planning authority decided to refuse planning permission for 4 no. stated reasons, in summary:

1. The proposed WwTS, by way of its location, bulk, scale, design and massing, would have an adverse impact on the visual amenities of the area, in particular the Kilkee Cliff Walk and the designated scenic route on Dunlicky Road, and it has not been demonstrated that this is the optimal site for the proposed WwTP.
2. It is considered that a mandatory EIAR may be required due to the lack of robust scientific data on potential leakages.
3. It is considered that insufficient information has been provided to be satisfied that the proposed development would not be likely to have an adverse effect on the Kilkee Reefs SAC.
4. It is considered that it would have an unacceptable impact on the residential amenities of the nearby dwelling (to the south of the main site).

5.0 Reports on file

5.1. Planning Authority Reports

Two planning reports are on file, the second subsequent to a request for further information.

- Notes NPF policy SNO-9 on the sustainable management of Water
- Notes RSES (Southern Region) strategy on wastewater (RPO 221 and RPO 222).
- CDP (2023-2029 policy summarised. It is noted that the use of land for WwTS is not listed in the land use zoning matrix. The smaller of the two sites is identified as a development infill site. The larger site is within an unzoned rural area.
- Outlines relevant policy on tourism and heritage and landscape protection (CPD 9.6; CDP 10.11; CDP 14.2; CDP 14.5; CDP 14.6; CDP 14.7).
- Notes that permission was granted in 2017 for works to a pumping station on the smaller site.
- Notes internal and external submissions.
- The main elements of the site are noted to be 2.8km from the Lower River Shannon SAC and other designated habitats associated with the Shannon Estuary. It is at its closest 230 metres from the Kilkee Reefs SAC. It is at its closest 120 metres from the Kilkee Architectural Conservation area and 150 metres from the closest protected structure, St. Jame's Church.
- The conclusions of the internal reports, in particular Environment Reports is outlined in some detail, including the response to the further information request.
- A number of planning concerns are outlined, in particular relating to visual impacts on the overall landscape and the designated Scenic Route.
- It is noted that many objectors suggest alternative sites – it is suggested that the applicant has not fully addressed reasonable alternatives.
- Inconsistencies in the proposed treatment of the boundary wall are noted.
- The submitted reinstatement plan is considered acceptable.
- Details for road access are considered acceptable.
- With regard to the NIS, it is noted that there is no indication of where the final destination for the sludge will be. This is considered to be an unacceptable *lacuna* in the information provided.

- Refusal is recommended for four stated reasons.

5.2. Technical Reports – Clare County Council

West Clare Municipal District Engineer.

Outlines a number of concerns, specifically the potential for damage to the existing road.

Environment Department (three separate reports).

- Notes the existing system consists of a collection system and main pumping station at Victoria Park. Waste is currently discharged to Intrinsic Bay untreated. Notes no evidence of impact on water quality of existing discharges.
- With regard to the NIS, it is noted that a pathway for impact on the Kilkee Reefs SAC was identified during construction (via the Kilkee Stream). Concludes that there is insufficient evidence submitted to come to a full conclusion, in particular due to the absence of information on the operational stage.
- Following the FI request, it is questioned if Uisce Eireann have addressed the issue of population surges in the tourist season – it is suggested it would be precautionary to have a design P.E over 10,000.
- Notes that emergency overflows into the Victoria and Kilkee streams are not ruled out. It is questioned on this basis if a Schedule 7 standard (EIAR) would be met.
- A number of conditions are recommended.

5.3. Prescribed Bodies

Transport Infrastructure Ireland.

Notes requirements set out in Chapter 3 of the Spatial Planning and National Roads Guidelines.

Department of Environment, Climate & Communications

Notes the proximity of a County Geological Site (CGS) within 0.5km – this is an important growth fault (Foohagh Point). Careful consideration should be given to the proposed outfall. Requests that information panels could be used to highlight the significance of the CGS.

An Taisce

Notes requirements under Wastewater and Habitats Directive.

5.4. Other submissions.

A total of 76 no. submissions were made during the planning process (two were withdrawn). Some were signed by multiple signatories. All raised strong concerns about the impact of the proposed development, citing concerns on pollution, visual impact, health and safety and traffic.

6.0 Planning History

Site A (within Kilkee):

A number of applications for dwellings are noted on the site – the most recent (withdrawn) in 2005.

17-745. Permission granted for works connected with the existing Kilkee Pumping Station at Victoria Park.

Site B (Dunlicky Road):

15-71: Permission granted for a slatted house.

7.0 Policy Context

7.1. Development Plan

The site for the WwTP is unzoned, in an agricultural area and is outside the designated Settlement Boundary for the town – the land for the pumping station is within the development boundary and is zoned for tourism use.

The town of Kilkee is identified in the Clare County Development Plan 2023-2029 as a ‘small town’. With regard to water services, it is stated that:

Drinking water is supplied via the West Clare Regional (Doolough Lake) Water Supply (RWS). There is currently limited wastewater treatment in Kilkee, however, a new treatment plant, pumping station and rising main are planned for the town. The wastewater treatment plant is due to be completed within the lifetime of the Plan. All future development in Kilkee will be contingent upon the provision of adequate wastewater treatment.

The General Objectives for the town are stated to be as follows:

- To make provision for the sustainable growth of Kilkee by providing for a permanent resident population through the allocation of land within the town for the appropriate provision of permanent private, social, and affordable housing, employment, services and recreational/open space.
- To safeguard and maintain the areas of open space and outdoor recreation as important amenity areas within the town.
- To support the development of the West Clare Railway Greenway.
- To encourage the further development of the retail, commercial and service sector in the town centre. The redevelopment of existing unused or derelict structures for retail or commercial purposes or for the provision of services will be particularly encouraged especially those sites identified in ‘Towards a Better Kilkee’.
- To make provision for the development and maintenance of physical service infrastructure that will effectively accommodate the resident population, meet

the increase in demand during the summer months and allow for future growth.

- To encourage developments that will provide services for both visitors to the area and the local population in order to generate year-round activity and employment in the area.
- To facilitate the provision of increased carparking facilities in the West End/Diamond Rocks area of the town.
- To facilitate the development of enhanced motorhome / camper van facilities in Kilkee.
- To support the development of a Heritage Centre in the town.
- To support the designation of Kilkee as a Centre of Excellence for scuba diving and water-based sports.
- To support and facilitate signature events in the town such as the Kilkee Hell of the West Triathlon.
- To support the development of a Flood Protection Plan for the town.

7.2. Natural Heritage Designations

The coast off Kilkee is designated SAC – **Kilkee Reefs SAC site code 002064**. The nearby watercourses discharge directly to the sea at Kilkee Bay and Intrinsic Bay, both of which are part of the designated area (from the high tide mark and the top of the exposed cliffs along the coast). The **Lower Shannon SAC site code 002165** and the **River Shannon and River Fergus Estuaries SPA, site code 004077** are within 5 km to the east of the site – not in hydraulic continuity with any part of the proposed site.

8.0 Appeal

The decision has been appealed by Uisce Eireann. The main grounds of appeal are as follows:

Overall development

It is noted that the town is currently served by a combined wastewater network which conveys untreated flows to the Victoria Pumping Station (this is close to the proposed new pumping station), which are then discharged to Intrinsic Bay via two rising mains (this is within the SAC). As such, it is in breach of EU and national standards. A number of national and development plan objective are set out with regard to WwTS systems. It is noted that the Clare CDP states that future development in Kilkee will be contingent upon the provision of adequate wastewater treatment for the town.

Reason no.1 (Landscape and Scenic impacts and site choice))

With regard to the landscape and scenic issue, an independent review of the LVIA submitted with the application is attached in the appendix to the response, in addition to a response on Landscape Strategy produced by Gannon Associates, and photomontages and a revised Landscape Plan.

In summary, it is submitted that the LVIA was robust, and the revised landscape effectively screens the proposed WwTP (the refusal relates solely to this element of the proposed development). The peer review recommends landscaping more appropriate to Kilkee's typical landscape, including native hedgerow and berms. This landscape plan is attached in Appendix 5.

It is finally submitted that the proposal is reasonable, and the landscaping will address the concerns of the planning authority.

The response identifies the three components of this reason – site selection, lighting and the solar panels.

With regard to the site selection study, the applicant refers to the original study with noted that it is considered necessary for the chosen site to be within 500 metres of existing infrastructure, and a sufficient size for the plant, and for the need to reduce emissions and public costs. The 500 metre buffer is stated to be required under EPA guidance (National Hazardous Waste Management Plan 2021-2027). It is submitted that the nature of Kilkee is such that all possible alternative sites are to some degree sensitive.

Contrary to the assertion by the planning authority, it is submitted that visual impacts were fully considered in the site selection methodology (refers to plan IW-AD-PD-

GL-008). It is suggested that other possible sites north of the Dunlicky Road were inappropriate due to topography, or exposure, or the proximity to the Kilkee Cliffs Walkway. It is claimed that while the planners report refers to alternative sites, it is not clear which sites they consider most appropriate. It is noted that some submissions identified the former quarry site to the south and the Lisdeen Recycling Centre as better alternative sites. It is further noted that pre-planning consultations took place, but alternative sites were not raised.

It is argued that the lighting columns are of a similar height and impact as existing electrical and telephone poles in the area.

It is emphasised that it would not be possible to relocate the solar panels to the pumping site, and that placing these on the site is in accordance with policy, including pages 348-349 of the CDP.

Reason No. 2: (Capacity issues/EIAR)

The Board is referred to Appendix 7, which provides a technical response. In summary:

There is currently no treatment for wastewater from the town of Kilkee – it is noted that the receiving waterbody is current of ‘high’ status under the Water Framework Directive and ‘Excellent’ for bathing water status. The Victoria Stream, which is the receiving waterbody of an overflow from the existing Victoria Park pumping Station, is classified as ‘moderate’ under the WFD.

Uisce Eireann is satisfied that its PE estimation, DWF calculation and maximum design flow is based on best available data and is designed to accommodate seasonal variations. It is stated that PE and actual population are not the same – PE is a calculation of loading.

It is noted that the proposed development is substantially below the threshold for mandatory EIA. A Screening Report was prepared to enable the planning authority to undertake an Assessment. It stands by the conclusion of this report that EIAR is not necessary.

Reason no.3: (NIS – sludge treatment)

It is stated that sludge treatment was not raised as an issue at pre-consultation or Further information stage. The Board is referred to Section 2.2.2 of the NIS for sludge infrastructure. It is stated that all sludge will be transported to a licenced facility. Further details are set out in Appendix 8.

With regard to the storm overflow, it is stated that this was assessed in Table 4-1 of the NIS. It is stated that an overflow will be provided which will be a significant improvement on the existing situation.

Reason no. 4 – residential amenity (dwelling closest to the site).

The issue of ‘overbearing’ and overall impact is addressed in the report on landscape provided in Appendix 3 of the appeal. It is stated that the design is fully cognisant of the relationship to the closest dwelling. It is also noted that the use of the term “general’ disturbance is vague – it is assumed this refers to the construction impacts. The board is referred to the Outline Construction Environmental Management Plan and TMP with regard to such issues.

In summary, it is denied that there are any substantial grounds for stating that there would be adverse amenity, disturbance, or overbearance impacts with regard to the existing dwelling to the south.

9.0 Observers**Terry & Viola Reynolds of Dunlicky Road**

- It is argued that placing the proposed WWtP so close to high value tourism and amenities areas underlines the principles of proper planning and sustainable development.
- It is argued that placing it so close to the town will cause long term harm to Kilkee’s economic and social fabric.
- It is argued that it is contrary to objectives set out in the EU Habitats Directive to ensure no adverse effects on the conservation objectives of any European Site.

- Notes that Tramore Wastewater Upgrade Project avoid sensitive sites. Notes 2018 decision (Sweetman vs ABP) regarding the need to explore reasonable alternatives.
- Notes importance of Blue Flag designation for Kilkee's local economy (refers to CDP policy on protecting the towns tourism and environmental assets). Refers to Kelly vs ABP (2008) court case.
- It is argued that the plant is of inadequate size for the town.
- It is argued that it would have an unacceptable impact on Victoria Stream and Kilkee Bay (refers to An Taisce vs ABP (2015)).
- Argues that it is contrary to Development Plan objectives. Notes precedent in Ennistymon case.
- Notes strong local opposition to the proposal.

Andrew Walsh of Ennis Road

- Notes proximity to the Kilkee Cliff Walk and other amenities.
- States that the site is upwind of a number of dwellings and outlines concerns about the impact of foul odours.
- Questions the accuracy of the photo montages submitted with the applications, and questions whether tree screening is appropriate or realistic in such an exposed area.
- Argues that the applicant has not addressed alternative site appropriately.
- Questions the capacity of the plant during the tourism season.

Michael and Aishling Grant of Kilkee

- Supports the upgrading of the existing system but outlines concerns about the location and treatment type.
- It is requested that alternative locations away from the coastal walk and Wild Atlantic Way would be more appropriate.
- It is submitted that there is inadequate odour and noise management details provided with the application. It is argued that it is too close to existing dwellings.

- It is argued that tertiary treatment should be included in the proposals.

Martin Busher & Others of Dunlicky Road.

- It is argued that the proposed WwTP is of insufficient capacity – it is noted that the town can have up to 15,000 people in the summer.
- It is argued that the location is inappropriate and there was insufficient assessment of alternative sites. It is stated that it would be intrusive due to its proximity to the Wild Atlantic Way and the Kilkee Cliff Walk. It is argued that extending the pipeline further along the coast (to the south-west) would result in identifying a site with significantly less intrusion. It is also argued that the Lisdeen Recycle Centre would be more appropriate.
- It is argued that the proposed construction period is excessive and will cause significant local disruption.
- It is claimed that the landscape designs are not viable (attached report from horticulturalist and landscape specialist Shirley Lyons) as It is claimed that planting mature sites in such an exposed site is likely to lead to a poor success rate. Photos of the Kilrush WwTP attached noting a failure to establish. It is also argued that the boundary fencing will be visually intrusive.

Adrian Liston of Well Road, Kilkee (on behalf of the Residents of Pairc na Blathanna, houses 3-10)

- It is argued that there was a lack of consultation with nearby residents.
- Concerns outlined about the potential for construction access problems and possible vibration from works.
- It is argued that there was not an adequate assessment of alternatives.
- It is argued that the proposed development should be subject to EIAR.
- It is argued that the NIS is inadequate as it does not address the potential impacts at the outfall.
- Concerns outlined about noise and odour from the treatment system
- Concerns expressed about the impartiality of the Council.

- It is argued that the landscaping works are inadequate, and the site is too exposed for the proposed hedging.
- It is argued that it is too close to existing dwellings, in particular nos 7-10 *Pairc na Blathanna*.
- It is submitted that the site for the pumping station is on a flood plain.
- Concerns outlined at the maintenance of the works.
- It is argued that the proposal would seriously injure the amenities of local residents.

9.1. Planning authority response

Reason no.1

The planning authority refers the Board to the original planner's report. It is not accepted that the applicant could not have widened out the site selection study area.

Reason no.2

The Board is referred to the technical reports on file. It is restated that the believe of the planning authority that a proposal must clearly demonstrate that it would have adequate capacity to manage effluent loading throughout the year.

Reason no. 3

The Uisce Eireann submission is noted. The Board is requested to have regard to the details in the planning report and other technical reports.

Reason no.4

It is considered that the proposed revisions would have adverse impacts on the existing dwelling by reason of overbearance and general disturbance.

Conclusions

The planning authority considers that the applicant has not adequately addressed fundamental planning issues pertaining to visual and residential amenities, capacity issues, and appropriate assessment. While the need for the facility is acknowledged, the Board is requested to uphold the decision to refuse.

10.0 Environmental Assessment

A screening determination for EIAR is attached in Appendix 1 to this report. I conclude that the proposed development does not require EIAR as it falls under the threshold limits set out in Schedule 7.

The applicant submitted a Screening Report prepared for Uisce Eireann in accordance with Schedule 5 and Schedule 7A of the Planning and Development Regulations 2001, as amended. This Screening Report concluded that EIA was not required. The Screening Determination is undertaken in Form 3 of Appendix 1 to this report.

This concludes that the proposed development is not likely to have significant direct, indirect or cumulative effects on the environment and that the preparation and submission of an environmental impact assessment report would having regard to: -

- the nature and scale of the proposed development, which is below the thresholds in respect of **Class 11(c)** of Part 2 to Schedule 5 of the Planning and Development Regulations 2001, as revised;
- The consideration of the cumulative effects of the proposed development, subject of the screening, and the proposed Flood Relief Scheme;
- the nature of the existing sites and the existing and pattern of development in the surrounding area;
- the location of the development outside of any sensitive location specified in Article 109(4)(a)(v) of the Planning and Development Regulations 2001, as revised;
- the guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage and Local Government (2003);
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as revised; and,
- the features and measures proposed by the developer that are envisaged to avoid or prevent what might otherwise be significant effects on the

environment, including measures identified to be provided as part of the project - Landscape and Visual Impact assessment, Ecological, Archaeological impact assessment, Flood risk assessment / drainage impact assessment., noise impact assessment, glint and glare assessment (with regard the solar panels proposed for the WwTP, Construction Environmental Management Plan, and Decommissioning Plan.

The proposed WwTP system is on largely greenfield lands. The key sensitivity of the site is its proximity to the coast, which is a designated bathing area and an SAC, designated for its importance for habitats associated with shallow inlets and bays, reefs, and submerged or partially submerged sea caves. An NIS was submitted with the application, and the assessment of whether there are adverse effects is contained in the full AA assessment within this report. The conclusion is that, subject to the standard mitigations set out in the submission documents, no adverse affects are anticipated. It is therefore concluded as part of the Appropriate Assessment, that the proposal takes full account of the environmental sensitivity of the location.

I note that in assessing this proposal, the 'baseline' is an existing situation whereby untreated sewerage is discharged into the SAC. There is no evidence of this having an impact on water quality or the habitats, most likely because of dilution and attenuation from a very active tidal zone.

I do not consider that there are other permitted developments in the area likely to have significant indirect or cumulative impacts although I note that an application is with the Board for flood improvement works for the town, with some potential overlap of the works, especially on Victoria Stream. I further note that it is possible that the provision of a sewerage plant could facilitate further residential or tourist-based developments in the town. I do not consider that any of these proposed developments represent a cumulative or indirect impact that would justify an EIAR. Therefore, having regard to the nature and scale of the proposed development and the nature of the area, the anticipated short, medium, and long term environmental impacts would not be of a nature beyond normal for a r wastewater treatment project of this size and scale. The implementation of standard best practice methodologies during the construction and operational phase of the proposed development will result in the minimisation of unavoidable impacts such as the loss of habitat.

Construction impacts will be of relatively short duration and limited frequency. There are no proposed developments within the vicinity that could result in unacceptable cumulative or indirect effects. In coming to this conclusion, I have had regard to any alterations that may arise as a result of conditions I will recommend to the board below.

I conclude therefore that the proposed development would not be likely to have significant direct, indirect or cumulative effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

I note the planning authority argue that the plant may require additional capacity such that falls within the 10,000pe criteria set out in the Regulations – I address this issue in Section 11 below. I conclude in this regard that the scale of the plant as submitted is reasonable and accurate and as such I conclude that this reason for refusal should not apply, and hence no EIA is required.

11.0 Assessment

Having inspected the site and reviewed all file documents, I consider that the appeal can be addressed under the following general headings:

- Context and overview
- Principle of Development (policy)
- Site selection issues (reason no.1)
- Design and capacity issues (reason no.2)
- Reason no.3 for refusal (AA issues)
- Residential amenities (Reason no.4)
- Visual amenities/landscape
- Conservation
- Noise/odour (operational)
- Noise/odour (construction)
- Drainage and Flooding

- Construction issues
- Water pollution
- Biodiversity
- Geology
- Appropriate Assessment
- Other issues

11.1. Context and overview

The appeal relates to two separate parcels of land and also includes for a length of road for underground piping (much of the latter in place). The Victoria Stream pumping station and associated lands (Site A) is within Clare County Council ownership and Site B, the Dunlicky Road lands (for the WwTP) is in private ownership. Uisce Eireann is using its existing powers to apply for permission for lands not in its ownership. It is proposed to use existing infrastructure (with some upgrades and replacements), including the current outfall to Intrinsic Bay. At present, wastewater from the town is pumped untreated into Intrinsic Bay.

There is a concurrent proposal for a flood relief scheme for the town, submitted for approval by Clare County Council (**ABP-320967-24**) for which there is some overlap, in particular with regard to works to the Victoria Stream, one of two watercourses running through the town into the adjoining bay. The small watercourse that runs next to the proposed WwTP site is a tributary of the Victoria Stream, which discharges to the beach at Kilkee.

11.2. Principle of development (policy)

The National Planning Framework in policy NSO-9 refers to the objective to eliminate untreated discharges from settlements in the short term, while planning strategically for long term growth. The Regional Spatial and Economic Strategy for the Southern Region, in Policies RPO 221 and RPO 222 set out objectives to support the implementation of Irish Water investment plans and to ensure that the assimilative capacity of the receiving environment is not exceeded. RPO 215 sets the objective that Development Plans in the Region shall support strategic

wastewater treatment infrastructure investment and shall facilitate the separation of foul and surface water networks.

The Water Services Policy Statement 2018-2025 was published by the DoHPLG in May 2018 and set out key policy objectives and priorities for the delivery of wastewater services in the State. The Water Services Guidelines for Planning Authorities from the DoHPLG is currently in draft form. The current draft does not offer detailed guidelines on assessing individual WwTP projects.

The WwTP site is located primarily outside the settlement boundary of Kilkee in the Clare County Development Plan 2023-2029, with the proposed pumping station within the town is on lands designated 'Tourism' TOU 3. The latter area is described as an 'Infill Site South of the Well Road':

The land is zoned to allow for the expansion of tourist accommodation. It is situated between a caravan park and an existing area of holiday homes and has the capacity for in depth development close to the town centre. Any development must reserve a 10-metre margin from the Victoria Stream that runs along the southern boundary of the site.

It is noted in the CDP that it is anticipated that a WwTP for the town will be delivered within the Plan lifetime. It is also noted in the CDP that a WwTP and ancillary works are not listed within the uses in the indicative zoning matrix – in such cases proposals are to be considered on a case-by-case basis (paragraph 19.5.1).

The Dunlicky Road site is located in what is identified in the CDP as 'settled' landscape and in close proximity to a 'Heritage Landscape'. The road running north of the site is a designated Scenic Route and forms part of the Wild Atlantic Way and is part of the 10,650 km long EuroVelo 1 'Atlantic Coast Route'.

The proposed works ultimately discharge to the sea at Intrinsic Bay and Kilkee Bay, a designated SAC. Kilkee Beach is a blue flag beach – the discharge point is further along the coast on the opposite side of a headland from the beach. The Victoria Stream, which flows beside both sites, discharges directly to the beach.

CDP policy on Wastewater Management is set out in section 11.4.3 of the Plan, and in Policy CDP 11.32 and 11.33 – policy generally being to support the implementation of Uisce Eireann investment plans and to advocate for the provision of adequate wastewater treatment facilities to accommodate the population and employment targets set out in national and local policy.

The Dunlicky Road site is within a 'settled landscape', within which (Policy CDP 14.2) it is an objective to:

It is an objective of Clare County Council: To permit development in areas designated as 'settled landscapes' to sustain and enhance quality of life and residential amenity and promote economic activity subject to:

- I. Conformity with all other relevant provisions of the Plan and the availability and protection of resources;*
- II. Selection of appropriate sites in the first instance within this landscape, together with consideration of the details of siting and design which are directed towards minimising visual impacts;*
- III. Regard being had to the need to avoid intrusion on scenic routes and on ridges or shorelines.*

Developments in these areas will be required to demonstrate:-

- a) That the site has been selected to avoid visual prominence*
- b) That the site layouts avail of existing topography and vegetation to reduce visibility from scenic routes, walking trails, water bodies, public amenities and roads.*
- c) That design of buildings and structures reduces visual impact through careful choice of forms, finishes and colours, and that any site works seek to reduce visual impact.*

The planning authority set out a range of specific policies considered relevant to the proposed development in the planning report. These policies generally relate to the protection of landscape and amenities (CDP 9.6; 10.11; 14.2; 14.5; 14.6; and 14.7). These policies generally set out the requirements for careful design and site selection in identified sensitive locations.

I would summarise and conclude that there is an overall EU, national, regional and development plan strategic policy objective to facilitate the development of wastewater treatment systems for settlements where there is a demonstrable absence or inadequacy. There are general planning principles, reinforced in the CDP, such that sites such as this should be located, designed, and managed in a

manner in accordance with policy relating to designated landscapes and other development plan objectives, in addition to EU/national policy with regard to the relevant EU Directives and associated legislative requirements and policy, in addition to the general principles of good planning practice. There is no specific policy objective to demonstrate that the proposed site for a WwTP or related infrastructure is the optimal site, but I consider that it is implicit within the overall policy context that it should be demonstrated that the site achieves wider policy objectives than simply the provision of wastewater and minimal design and locational objectives.

11.3. Site selection (Reason no.1)

The planning authority refused on the basis that it was not considered that Uisce Eireann has satisfactorily demonstrated that the chosen location and site is optimal with regard to landscape and tourism objectives. There is no specific guidance in either national, regional, or development plan policy laying out criteria for site selection for this type of proposal. The observers have suggested a number of options, including lands near the Kilkee Recycling Centre and lands further south along the coastline, in particular within or near the abandoned quarry at Moveen Hill, approximately 2km south-west of the appeal site – this site can be clearly seen in aerial photographs of the area. The applicant addressed the specifics of these two sites in Appendix 6 of the appeal and outlined its methodology for identifying the site in its further information submission to the planning authority and in Section 5 of its submission to the Board (in particular paragraphs 5.7 to 5.15).

While the applicant has not outlined in detail the technical justifications for choosing the specific area of land at Dunlicky Road, a number of principles are apparent from the submissions, not least the location of the existing main pumping station and discharge point on the western side of the town. The existing pumping station at Victora Road is adjacent to the proposed new station, with the discharge of effluent to the sea just west of Intrinsic Bay. The site appears to have been chosen primarily to utilise the existing infrastructure in the area, to minimise the retention time within the system to reduce septicity (i.e. the longer the sewage is within the pipeline in the absence of oxygen, the more likely there is to be anoxic breakdown leading to odour

issues), and general criteria for identifying a site suitable for this type of infrastructure.

I will address the specific impacts of the chosen site in the relevant sections below. But with regard to the potential alternative sites, I note that the chosen site is clearly visible from a number of key viewpoints on the Wild Atlantic Way, which at this point is a popular walk and cycle from the town – possibly becoming far more popular if the proposed West Clare Greenway, which is to terminate at Kilkee promenade is permitted and completed, in addition to the very popular cliff walk nearby. The chosen site is within a shallow syncline which ensures it does not break the skyline when viewed from public areas, but it is close to one dwelling, a small farmhouse to the south.

A number of observers have suggested that the Lisdeen Recycling Centre would be a possible alternative. This site is located south of the N67, some 2 km south-east of the town in low-lying wet farmland. The applicant in its submission states that as the site is 3km from the Victoria Pumping Station and 5km from the outfall location it would require very substantive additional pumping and pipeline infrastructure which could result in the production of additional foul smelling gasses due to septicity, and would cause disruption to the proposed greenway, which runs just to the north of the centre. It is further noted that the site is immediately adjacent to the Lower River Shannon SAC and the River Shannon and River Fergus Estuary SPA. I note that while it may be possible to identify lands not within the EU designated habitat or the nearby pNHA, these lands are within the hydraulic catchment of the SPA and SAC. In this regard I would concur with the applicant that in both engineering and environmental terms, a site adjoining, or close to, Lisdeen is likely to be very problematic, although it should be acknowledged that it is less visually sensitive and there are fewer residential receptors in the immediate vicinity. But I concur with the arguments set out in Appendix 6 of the appeal submission that this area is problematic for a WwTP and does not represent a superior site in environmental or technical terms. For related reasons, I would consider any site south-east, east, or north of Kilkee to be problematic as they would all require a substantial amount of new infrastructure and require additional pumping of effluent.

The former quarry site referred to by both the planning authority and a number of observers is located at Moveen Hill, around 1.5km further west along the coast from

Intrinsic Bay. This former limestone quarry has been abandoned for a number of years and extends over several hectares into what was once the north-west face of the 125 metre AOD Moveen Hill. To serve this site would require an extended foul sewer along the coast road or across fields, with a return pipe to the Intrinsic Bay outfall, or a new outfall into the sea closer to Moveen Hill. At this point, the sea is also part of the Kilkee Reefs SAC, the same designated area as at Intrinsic Bay, but the quarry itself is not within the designated area or any other EU designated habitat. The applicant notes that the quarry is significantly elevated relative to the town and the proposed site (the quarry is around the 80 to 90 metres AOD contour) and would require substantial additional pumping and pipeline infrastructure, with cost and energy implications, in addition to increasing the possibility of septicity within the sewage. I accept the argument that the site is technically and economically inferior to the chosen site due to its elevation and distance from the town, although I am less convinced that it represents an environmentally inferior choice, as it is more distant from the key tourist receptors, there are fewer dwellings in the vicinity, and there is greater potential for visual protection from the Wild Atlantic Way due to the existing bunds around the former quarry.

I would consider that given the layout of the existing infrastructure and the need to find a discharge point on the coast, the lands between the western side of Kilkee and Moveen Hill- essentially those lands south of the Dunlicky Road - is the logical search area for the WwTP site. There are relatively large areas of low-quality farmland extending south-west from the edge of the town – including areas identified as part of the flood protection lands in ABP-320967-24. In visual and environmental terms, I would consider a site closer to the town to be superior, as it is less visible from receptors due to its lower elevation relative to key viewpoints. While it would be much closer to the suburban fringe of the town, there are precedents in other similar sized towns for new WwTP infrastructure to be located close to developed housing estates without odour or other environmental problems. If a site which is not subject to flooding was available in this area, I would consider it to be superior environmentally to the proposed site. I would also note the potential for sites in the Foohagh townland area (north-east of Moveen Hill), which although around 20 metres in elevation higher than the proposed site, is potentially less sensitive in terms of visual impact and proximity to dwellings.

It is clear from all evidence on file that there is no obvious location for the WwTP element of the proposed development that would not to some degree be problematic either in technical or environmental/amenity terms. The area is highly scenic, with significant tourism value and all the seas and estuaries in the overall area include designated EU habitats or are in hydraulic continuity with sensitive habitats. There is a scattering of dwellings along all the roads within several kilometres of the site ensuring that finding a site without nearby dwellings would be difficult.

I accept the submission of the applicant that sites inland (east and south-east) of Kilkee are problematic in technical and environmental terms, and the less damaging alternative is along the coast SW of the site. I am less convinced that the individual site chosen is the most optimal, when other lands between the Victoria pumping station and Moveen Hill - including the quarry itself - would potentially be available, and some of these lands would appear to have less visual impact than the chosen site.

While I would acknowledge that both Uisce Eireann and the planning authority are operating in a somewhat ambiguous policy context when it comes to identifying specific sites, I do not consider that the applicant has provided a full justification for locating the site within such a sensitive landscape. For this reason, I recommend that Board generally uphold the principles behind reason 1 of the stated reason for refusal.

11.4. Design and capacity (reason no.2)

The second reason for refusal relates to the scale of the proposed WwTP with regard to potential demand within Kilkee. The design capacity for the plant is for 7,926 pe (person equivalent). The planning authority considers that this may not be sufficient for peak time tourist surges in the town. I note in this regard that the development plan does not identify the town as suitable for significant residential expansion - it states that WwTP is a limiting factor. The permanent population of the town as indicated in the 2016 census is under 1000 and just over 1200 in the 2022 census, but even this figure is likely to fluctuate significantly according to the flows of tourists or casual residents visiting on weekends or periods of good weather or local events. I note that the current proposal to link the town to the West Clare Greenway

is likely to have very significant impact on casual visitors during holiday periods, but there are no figures available to quantify this impact.

Uisce Eireann responded to this in part 6 of their appeal letter. It is emphasised in its submission that PE and actual population are not the same – PE for areas with significant seasonal variation is calculated using the maximum average weekly load over the course of a year.

I note that while in its refusal the planning authority referred to the issue of dry weather flow (i.e. flow unaffected by storm water inputs), this was not raised in the course of the application.

The Urban Wastewater Treatment Directive 91/271/EEC definition of generated load (European Commission Guidance Document 20071) states that the calculation of a generated load should include at least:

- The resident population plus seasonal changes plus non-resident population
- Industrial wastewater
- Loads of domestic wastewater or urban wastewater from the above.

With Kilkee, there would be minimal industrial wastewater – the key issue in assessing possible loads is the tourist maximum, which is of necessity something of a rough estimate as it is a highly variable figure, although it would be reasonable to assume that it may grow if there are further investments in tourism infrastructure in the town. The applicant has focused on projected loading figures based on population statistics, current water usage, and flows from the existing pumping station. This is standard and in accordance with guidance (note Appendix D in the UE Specification for Inlet Works and Stormwater Treatment (TEC-7000-99-02)). The applicant has not provided a full breakdown of the individual components, but, on the basis of 2022 Census Population (1,214) calculated a load of just under 2,000 cubic metres per day requiring treatment. This assumes that, on the basis of water consumption data, that there is a factor increase of approximately 1.6 from non-peak to peak season. The proposed use of two primary settlement tanks and 2 no. rising mains (these are already in situ) is to allow the system to switch between the varying loads.

I note that it is stated in the submission documentation that during the bathing water season, Victoria Stream (the stream which discharges to the southern side of Kilkee Beach) is dammed to prevent flow to the designated bathing area – flow is pumped and discharged to Intrinsic Bay. It is unclear if this practice is still carried out, and unambiguous details were not provided in the application or appeal.

While there are some areas of ambiguity in the figures provided by UE, I am satisfied that the calculations provided are in line with accepted guidelines and based on reasonable assumptions on growth and have regard to the local circumstances.

In its Reason No.2 for Refusal, the planning authority also referred to the possible need for mandatory EIAR. In this, I assume they consider it possible that a plant of 10,000 p.e. or larger may be required. As I have outlined in the relevant section and in Forms 1 and 3 attached in Appendix 1 to this report, I do not consider that EIAR is required for the proposed works, and I accept that the required plant is significantly below the 10,000 p.e. threshold set out in the Seventh Schedule of the Regulations.

I conclude the projected load for the proposed WwTP has been calculated on reasonable assumptions in line with accepted Guidelines and as such I do not recommend that the Board uphold the second reason for refusal.

11.5. Reason 3 (AA Issues)

The third reason for refusal relates to the proximity of the two elements (pumping station and WwTP) to the Kilkee Reefs Special Area of Conservation and states that it is considered that the emergency overflow scenario to the Victoria Stream has not been adequately considered and addressed in the Natura Impact Statement (NIS), and that there is insufficient information on the removal of sludge from the WwTP to be satisfied that the proposed development would not have adverse effects on the Kilkee Reefs SAC.

I will address both the Screening and NIS in the relevant sections below and the forms in Appendix 2 to this report – I conclude that the information submitted is sufficient to allow a conclusion and that the proposed works would not have adverse effects on the Kilkee Reefs SAC or any other European sites. But I will note with regard to this reason for refusal that Table 4-1 of the NIS addresses the issue of emergency overflow, and that I am satisfied that it will be a significant improvement

on the existing situation. It is noted that at present Kilkee Beach is considered as 'excellent' in the WFD quality assessment and the Kilkee Reefs SAC is within favourable conservation status, so there are no grounds for considering that the works would worsen the situation either in itself or in combination with the proposed Flood Relief Scheme for Kilkee.

The applicant, in Appendix 8, attached further information on the disposal for sludge from the site. This material is to be removed from the site in accordance with license requirements and removed to a suitably licensed treatment/disposal facility. I concur with the argument of the applicant that there is sufficient information provided to be satisfied that there are no *lacunae* in this element with regard to assessing impacts on the conservation status of the Kilkee Reefs, or any other EU designated sites.

Residential amenities (Reason no.4)

The planning authority cited the residential amenities of the closest dwelling, which I take to be the farmhouse immediately south of the site, on higher ground. The reason for refusal relates to activities over the construction phase and refers to 'overbearance and general disturbance'.

The proposed site is at a distinctly lower level than all nearby dwellings as it is located within a syncline of the local topography. It will not in this sense overlook adjoining properties, nor will it break the skyline from any but the closest views. It will, however, be within 100 metres of the dwelling to the south, and within 500 metres of a number of dwellings along the Dunlicky Road to the north. The closest dwelling faces the site and will, in effect, be overlooking it. The landscaping will somewhat ameliorate this, although (as I will address in more detail in the landscape impact section below), there is limited scope to completely screen the site by way of planting vegetation screens. The applicant, in Appendix 3 of the response, addresses some of these issues.

The reason for refusal also refers to 'general disturbance', which I would interpret as the potential impacts from construction impacts – the operation of the plant would be largely automatic and would not be anticipated to result in particularly impactful impacts if it is operated according to best practice standards. The construction period would be significant as the road is relatively quiet and it would generate significant traffic and construction noise. Notwithstanding this, I consider that with

appropriate controls (addressed in the CEMP section below, I do not consider that it would be out of the normal parameters for the type of necessary works required for this type of infrastructure.

I conclude that while the amenity impacts of the WwTP element of the proposal would undoubtedly cause residential impacts on nearby properties, this has to be balanced against the overall need for such infrastructure. I do not consider that, having regard to the overall need for such infrastructure, the proposed development is inherently unacceptable in amenity terms – there are many precedents for such treatment plants to be located close to dwellings without impact. But with regard to reason 1 for refusal it is reasonable to require the applicant to demonstrate that there are no other sites which satisfy technical, environmental and economic requirements without excessive impacts on residential amenities.

While not referred to in the reason for refusal, the observers raised concerns about the impact of the pumping station on the nearby dwellings along Victoria Park and Pairc na mBláth within the town. This site is unused brownfield land – largely scrubbed over with some tipping. This land is flat and low-lying. It is just south-west of the existing pumping station at Victoria Park, on the western side of the Victoria Stream. The Stream at this point, and the tributary to the south are proposed to be realigned as part of the flood defence works for the town (**ABP-320967-24**). These works include for the realigning of the watercourses along a more ‘natural’ course through the open lands, with bunds to replace them along much of the current engineered watercourses.

Having regard to all these elements, and the proximity of the existing pumping station, I consider that this is an appropriate site for such a key infrastructural element for the town and will not result in unacceptable impact on the residential amenities of the dwellings and caravans on adjoining lands.

11.6. Visual amenities and Landscape

The site is not within a designated landscaped area, but is just south of the Dunlicky Road, which is a designated Scenic Route (policy CDP 14.7) and part of the Wild Atlantic Way. The coastal strip is part of a Heritage Landscape (policy CDO14.5). The very popular and recently upgraded cliff walk extends from a point where the path meets the Dunlicky Road some 500 metres to the west to the edge of Kilkee at

Marine Parade – at the time of my site visit, the private café and carpark at the trail head was being upgraded. There is a very popular loop walk which includes the cliff walk, Marine Parade, and Dunlicky Road which includes the very fine views over the cliff, the mid-19th century terraces along the Parade facing the Bay, and the largely rural environs of Dunlicky Road as it leaves the town. The latter is also indicated in maps as a leisure cycleway and presumably will become a natural informal coastal extension of the West Clare Greenway if it commences (the likely terminus of the Greenway is where Strand Line meets O’Connell Street in the heart of the town – this is the current option out for public consultation by Clare County Council).

The topography in the area is dominated by a pair of ridgelines running generally east to west, with the highpoints running along the coast at Knockroe, dropping at the dramatic cliffs to the Atlantic, with a further ridge around 1-1.5km inland – this is more or less the route of the R487. The site is close to the base of the syncline parallel to the cliffs, with the lowest point just north of where a small stream runs to the east before joining the Victoria Stream near the pumping station. The overall landscape is highly exposed due to its exposure to salt laden Atlantic winds, with little vegetation, with fields bounded by grassed ditches and some stone walls.

As can be seen from the visualisations submitted by the applicants (which I consider to be generally reasonable and accurate), the site of the WwTP will be clearly visible from the scenic route immediately north of the site. I could identify no clear views from the built-up area of the town. The topography and houses along the road shields views of the site on the approach to the site from the town until past the last dwelling on the south side of Dunlicky, around 200 metres short of the laneway leading to the site. For walkers, cyclists and drivers along the road it will be clearly visible for a length of around 450 metres along the road, although it will not break the skyline due to its low-lying location relative to the road. The small farm complex north west of the site, at Foohagh then blocks views from the road further west towards the site. A combination of topography and the farm buildings blocks views from this road from any but very intermittent sections further west.

The site is also visible for the first stretch of the cliff walk from its junction with Dunlicky Road. It is visible for around 150 metres from this walk as it rises steadily in level towards the highpoint next to Dunlicky Bay. After this, the topography screens all views from the Cliff Walk for its entire length to Marine Parade in Kilkee.

The site will be visible from a number of dwellings along the route, including the nearby farmhouse immediately south of the site. I do not consider that there would be clear views of the site from the Carrigaholt Road to the south or likely from any dwellings along this road, except possibly from some upper floors of houses on the coast side of this road.

The applicant submitted detailed landscaping plans to soften the impact on the overall landscape. The structures within the site are generally low and as such a combination of ditches/bunds to match those existing and appropriate planting can be expected to minimise its impact, although given the extensive nature of the site and scale of the works it cannot be other than obtrusive to some degree. It is noted that the proposed solar panels could reflect light towards observers, but due to their overall location and design the impacts are likely to be very slight and not significant (a glint and glare assessment was submitted with the application). The observers submitted a report by a local landscape designer arguing that the proposed landscaping will not succeed due to the high degree of exposure of the site and general climatic conditions. There is no question but that the extreme level of exposure of this coastal area has made landscaping extremely difficult. There are no trees whatever in the overall area outside of sheltered parts of the town, and hedgerows are non-existent apart from briar scrub (with some dog rose) and grassy banks, with some very low intermittent windblown native hedges, usually sheltered behind walls. There are established hedges and landscaped areas within the town, but this is only in areas with some shelter from the Atlantic winds. Some non-native species do appear able to survive the most exposed areas – an example being some low planting on the opposite side of Kilkee, at Corbally Cliff carpark, but even this would not provide much screening, although it would significantly soften the overall impact.

I consider it reasonable to assess the visual impact using the assumption that any planted screening would not grow significantly above the ditch level which now exists in boundaries in the area – at most this rises to around 1.5 metres above the level of surrounding road and buildings. This will soften the overall impact over time but is unlikely to provide a full screening. It would, however, significantly minimise the overall impact when viewed from the road

The overall impact on the designated scenic route and the overall landscape, which is undoubted heritage and tourism interest, is therefore non-negligible and significant. As with residential amenity considerations, I would consider this to be acceptable having regard to the overall benefits and importance of providing this infrastructure to the town, but only on the basis that there are no obvious significantly superior sites in the catchment between town and quarry along the general alignment of existing infrastructure along Dunlicky Road. For this reason, I do not consider that the applicant has demonstrated that this site is optimal in terms of visual and landscape impact.

The other key element of the proposed development is the pumping station by Victoria Park. This is enclosed within the existing built-up area of the town. It will be clearly visible from the cul-de-sac on Victoria Park, and visible from dwellings to the north and the caravan park to the west, in addition to a small number of dwellings to the west. The impact would be cumulative with the proposed drainage works to the south of the area, which would include creating a ditch along the existing stream alignment and recreating a more 'natural' stream alignment along the lands south of the site. These lands are now marshy and generally unused, although of significant habitat value. The pumping station will not be clearly visible from any key viewpoints in and around the town and as such I do not consider would be visually intrusive, either in itself or in combination with the proposed flood relief works in the vicinity.

11.7. Conservation

The applicants submitted an archaeological assessment of both sites. There are no recorded ancient monuments on or adjacent to either sites. Figure 4 of the submitted archaeology assessment (dated October 2023) indicates all known remains in the area. The closest to the proposed pumping site is a holy well (St. Senans Well (CL056-042) which is the source of one tributary of the Victoria Stream, albeit not one feeding directly to the watercourses around the pumping site. The well is not visible from the pumping site.

There are a number of earthworks (mostly ringforts) within the overall study area – none closer than 200 metres to either site. There is no evidence from any historic mapping or other records of any features of historic interest on the lands. The pumping site has been disturbed over the years through drainage works and

urbanisation around the site – there is evidence of tipping and levelling from my site visit (the photographs on the archaeological report dating apparently from 2 years ago shows the site being cleared).

The WwTP site appears to have been grazing land for as long as there are records and there is no visible evidence of ploughing or other land disturbance. Given its location next to a small stream, there would therefore be some potential for remains to be found on the site, although this is unlikely. The proposed pipelines follow existing roads and lanes, and as such is unlikely to run along any significant historic remains – an addendum to the archaeology report addresses this.

The archaeological report recommends a monitoring condition for all earthworks, including the pipeline routes. I consider this reasonable and if the Board is minded to grant permission I would recommend a standard such condition.

There are no protected structures on or adjoining either site. Neither of the two sites are within, or clearly visible from, the Architectural Conservation Area for Kilkee.

There are a number of protected structures in the general area of the pumping station, the closest being St. James Church (Kilfearagh), around 200 metres to the north-west, but not clearly visible from the site. This is a mid-19th century Church of Ireland building, considered of regional interest in the NIAH. I do not consider that the proposed works would have any impact on this church's setting. There are a number of older agricultural and domestic structures within the visual envelope of the WwTP, including the nearby dwelling to the south, which appears to be a late 19th century structure, but is not on the NIAH list, and neither are any other older structures in the area, all of which appear to be of mid-19th century or later date. The oldest OS maps show a number of rural clusters in the vicinity, some of which have entirely disappeared, but none on or very close to the site. I do not consider that there are any impacts on such buildings and apart from standard landscaping and finish treatments I would not recommend any specific conditions to address its historic context if the Board is minded to grant permission.

11.8. Noise, odour, etc (operational impacts)

Submissions made both during the application, observations to this appeal, and internal reports to the planning authority refer to concerns about odours, noise, and other emissions from both the pumping station and WwTP. The applicant has stated

that the facilities will be constructed and operated in accordance with SI No. 787/2005 'European Communities (Wastewater treatment) (Prevention of Odours and Noise) Regulations' 2005. Noise levels are to be limited on the site such that they will not exceed 50dB(A)(15 minutes LAeq) at any time along the site boundary and will be subject to EPA licence requirements. The operations of both elements are to be fully automated and road movements associated with both elements are anticipated to be less than 10 movements per week.

The proposed pumping station is very close to a number of dwellings, but the existing station is similarly located, and there is no evidence of unacceptable impacts. The WwTP is of course a potential source of odour and other possible emissions, but the operation is covered by EPA license requirements and Uisce Eireann guidance and as such I consider that these issues can be addressed by way of standard conditions if the Board is minded to grant permission.

11.9. Noise, traffic (construction impacts)

The applicant submitted a CEMP with the application, providing a general overview of the intensity of works anticipated. The Victoria Pumping Station site will require access via what is now a cul-de-sac road. The WwTP at Dunlicky Road will require heavy vehicle access on a country 'L' road, much used by walkers and cyclists, albeit one which formerly served a now closed limestone quarry. In the further information request additional clarification was given on heavy vehicle access during construction.

The sensitivity of the landscape west of Kilkee, and the proximity of dwellings to both sites, presents a number of issues for construction, but I do not consider that any are outside the normal scope of infrastructural development at this scale. The draft CEMP submitted with the application and appeal addresses the key potential impacts and recommends standard mitigation and best practice methodologies.

If the Board is minded to grant permission I consider that a standard condition relating to construction management would be sufficient to ameliorate issues relating to the construction period.

11.10. Drainage and Flood Risk

The proposed pumping station site is within an area that was historically subject to flooding – it is next to the Victoria Stream, which runs through engineering channels at this point, but it also subject to proposals to significantly alter it as part of the proposed Flood Relief Scheme for the town. It is proposed as part of the Flood Relief Scheme to block and bund the existing channel and create a more natural channel within a new flood plain created which would be restricted to what is now undeveloped land. It is not anticipated that the works would exacerbate flood risk – the existing pump station is also within an historic flood plain. A Flood Risk Assessment (stage 2) was submitted with the application – this assessment had regard to the proposed Flood Relief measures for the town.

A small stream – a tributary of the Victoria Stream – runs just north of the proposed WwTP site, at a lower level. The site is elevated above the base of the syncline and is not within an area of historic flooding. The overall design of the WwTP is neutral in terms of quantitative run-off and is not anticipated to increase flow in the watercourse. The watercourse runs north to join the Victoria Stream. Recurring flood events have been recorded at Church Street and Well Road carpark, which are northeast of the pumping station site. This flooding is usually associated with heavy rainfall exacerbated by wind and tides. The pumping Station site is within Flood Zone A, the WwTP site within Flood Zone C. As such, the pumping station site requires a full justification test, which is included within the FRA.

I therefore conclude that the FRA has been carried out appropriately with regard to the **Planning System and Flood Risk Management Guidelines** and that the locational choice is reasonable. With appropriate mitigation (i.e. the raising of levels and provision of compensatory storage), the risk of any fluvial, pluvial or other flooding events is unlikely, and it will not exacerbate any downstream flooding.

In other respects, I conclude that the site choice and design is appropriate with respect to potential flooding and drainage of the area. The proposed new mains to the village centre will facilitate foul drainage but will not impact upon surface water run-off.

11.11. Water pollution

The proposed pumping station is next to the existing pumping station, close to the Victoria Stream, which discharges to the beach. A small stream runs past the WwTP site – this stream in turn discharges to the Victoria Stream. Wastewater from the proposed new system will be discharged via an existing outfall (used for untreated sewage) at Intrinsic Bay. The waters at the Bay are a designated SAC. The Victoria Stream discharges to the beach which is designated bathing water under the Bathing Water Directive and the WFD and meets 'good thresholds under the Surface Water Regulations and the Bathing Water Regulations.

Kilkee is below the 10,000 P.E threshold at which Emission Limit Values specified in the Urban Waste Water treatment Regulations apply. Under Article 7 of Directive 91/271/EC3 'appropriate treatment' is required, which in this case is considered by Uisce Eireann to be primary treatment. All discharges require a wastewater discharge licence or certificate of authorisation from the EPA.

There is potential for minor short term negative impacts on the Victoria Stream and tributaries from construction works – these are addressed in the CEMP and are controllable with standard methods. The proposed works will substantially decrease existing foul water run-off to the sea and as such it can be anticipated that it will have a net positive impact on all waters. The combinative impacts of the proposed Flood Alleviation Scheme for the town will reduce the possible impact of polluted run-off impacting the stream as it discharges to the sea at Kilkee Beach and the beach itself. It can therefore be concluded that the proposed works will not negatively impact on any fresh or marine waterbodies and will have a substantially positive impact on water quality.

11.12. Biodiversity

A full Appropriate Assessment (stages 1 and 2) was submitted with the application, and I will address the biodiversity issues which relate specifically to the qualifying interests of the Natura 2000 sites in the relevant section below and the forms attached in Appendix 2 to this report. The applicants submitted a detailed Ecological Impact Assessment with the application to address other related issues.

The Victoria Pumping Station site is overgrown with a variety of species typical of recently disturbed brown field lands – the entire site appears to have been levelled and de-vegetated within the last 3-4 years. While it has significant habitat value relative to improved grasslands or developed land, I do not consider that the loss of habitat is significant – all the current habitat is typical of such disturbed urban sites. The Dunlicky Road site is heavily grazed grassland. There would be a minor loss of ditch habitat, although this would be largely compensated by way of the proposed bunding and landscaping around the proposed WwTP. It is proposed to plant wild flower meadow seeds under the solar panels that are to provide power to the WwTP. No evidence of fauna using either site was found during the surveys.

The Invasive Species Survey submitted with the application identified some Japanese Knotweed close to the pumping station site (not within the site boundary), in addition to *Montbretia*. A protocol is included in the construction works to ensure there is no spreading of such species.

Treated water from the WwTP is to be discharged via an existing discharge to Intrinsic Bay to the south-west of the site. This is addressed in more detail in the Appropriate Assessment Section below.

The submitted Ecological Impact Assessment indicates that there is no evidence of protected or otherwise rare species on the two sites and there is no habitat suitable for bats or otters. If the Board is minded to grant permission, I do not consider that there is a requirement for specific conditions relating to ecology or habitats.

11.13. **Geology**

The discharge point at Intrinsic Bay is next to a designated County Geological Site (CGS) this is a feature known as a growth fault (Foohagh Point). It is visible on the south facing exposed cliff just north of the existing and proposed outfall point at Intrinsic Bay. This type of fault is one formed when depositional layers are active, resulting in a non-symmetrical set of depositional layers.

It is considered to be a particularly good example of this type of geological feature and of potential educational use. The proposed development does not involve any physical interference with this fault and will not impact on its overall setting or public access to this part of the cliff. It was requested by the DoCC to include a public

information board at this point – there is one at present close by, but this is for ecology only. While such a feature would be a valuable part of the cliff walk, as it would be off-site I do not consider that it could be requested by way of condition.

11.14. Appropriate Assessment

The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U (screening) and 177V (appropriate assessment) of the Planning and Development Act 2000 (as amended) are considered fully in this section. A screening was submitted to the planning authority, and it was concluded that a Stage 2 NIS was required. A full screening assessment and Stage 2 NIS Screening Determination is attached in Appendix 2 of this report.

The planning authority in its reasons for refusal state that they were not fully satisfied with the information as provided, specifically referring to the disposal of solid materials from the wastewater treatment system. These materials are to be disposed of off-site to an appropriately licensed and permitted treatment/disposal facility in accordance with the operating licence for the facility. I do not consider that the application and NIS is deficient in this regard – the submitted information has addressed all reasonable direct and indirect impacts of the proposed system as submitted. I consider that such off-site impacts would be carried out in accordance with all relevant licenses and permissions and are beyond the scope of this application.

The proposed development will utilise the existing outfall to the bay, which is currently used to discharge untreated sewage to the bay. The available information is that there is sufficient attenuation within the bay for this material – there are no indications from existing surveys and data that the designated habitat has been impacted by existing levels of discharge, direct and indirect.

I am therefore satisfied that sufficient information has been submitted by the applicant with regard to adverse effects on the European sites in the area and that measures that are embodied within the proposed development and standard good practice construction measures are sufficient to address the potential for light pollution from the panels or mortality from collision.

Conclusion

The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on the following European site, Kilkee Reefs, SAC, site code 002264. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of these sites, in light of their conservation objectives.

Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites, listed above, or any other European site, in view of the site's Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

12.0 Recommendation

I recommend that the Board refuse permission the proposed wastewater treatment plant for the village of Kilkee for the reasons and considerations set out below.

13.0 Reasons and Considerations

Having regard to the location of the proposed development within view of the Kilkee Cliff Walk and the Dunlicky Road, which is part of a designated 'Scenic Route' designated in the Clare County Council Development Plan 2023-2029 and which forms part of the Wild Atlantic Way and the EuroVelo cycling network, the Board is not satisfied on the basis of the information submitted with the application and appeal that the applicant has demonstrated that the chosen location for the WwTP at site 'B' is optimal in terms of its impact on the landscape and amenities of the area. It is accepted that the pumping station at 'Site A' is appropriate and that a location for the WwTP element of the proposed works should be located to optimise the existing location and outfall at Intrinsic Bay and to minimise the distance of the plant from the

town of Kilkee. It is considered that a location between the proposed Site A and the abandoned quarry at Moveen is optimal for the works, but the Board considers that it has not been demonstrated that the chosen site B addresses all landscape and amenity constraints as set out in the Clare County Development Plan 2023-2029. The proposed development would, therefore, by way of its location at a point highly visible from the Dunlicky Road have an adverse effect on the visual amenities of the area, the character of the receiving landscape, and the views from the designated scenic route, and would thus be contrary to the proper planning and sustainable development of the area.

Appropriate Assessment: Stage 1

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspectors report that the Kilkee Reefs SAC site code 002264 is the only European Site in respect of which the proposed development has the potential to have a significant effect.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submission and observations on file, and the Inspectors assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European sites, namely the Kilkee Reefs SAC site code 000428, in view of the Sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- The likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- The mitigation measures which are included as part of the current proposal, and
- The conservation objectives for the European Site.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the integrity of the aforementioned European Site, having regard to the Sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the Sites' conservation objectives and there is no reasonable scientific doubt remaining as to the absence of such effects.

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 judgment in an improper or inappropriate way.

Philip Davis
Planning Inspector

16th April 2025

Appendix 1:

EIAR Forms

Form 1 - EIA Pre-Screening

Case Reference	
Proposed Development Summary	10 year permission for the construction of a new foul pumping station and a new WwTP
Development Address	Kilkee County Clare.
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2. <input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8	<i>If a The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994</i>

<p>of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	<p>State the Class and state the relevant threshold</p>
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p>	<p>11(c) The threshold is for 10,000 pe equivalent.</p>

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input checked="" type="checkbox"/>	Screening Determination required (Complete Form 3) <i>[Delete if not relevant]</i>
No <input type="checkbox"/>	

A. CASE DETAILS		
An Bord Pleanála Case Reference	ABP-321258-24	
Development Summary	10 year permission for Wastewater Treatment Plan	
	Yes / No / N/A	Comment (if relevant)
1. Was a Screening Determination carried out by the PA?	Yes	
2. Has Schedule 7A information been submitted?	Yes	
3. Has an AA screening report or NIS been submitted?	Yes	
4. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	

B. EXAMINATION	Yes/ No/ Uncertain	<p>Briefly describe the nature and extent and Mitigation Measures (where relevant)</p> <p>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)</p> <p>Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.</p>	<p>Is this likely to result in significant effects on the environment?</p> <p>Yes/ No/ Uncertain</p>
<p>This screening examination should be read with, and in light of, the rest of the Inspector's Report attached herewith</p>			
<p>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</p>			
<p>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</p>	<p>Yes</p>	<p>The project involves the construction of a pumping station on a brownfield site within an urban area, and a substantial wastewater treatment plant on agricultural land.</p>	<p>Yes</p>
<p>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</p>	<p>Yes</p>	<p>Brownfield land will be converted to infrastructure use (the pumping station), and grazing land will be lost to the WwTP.</p>	<p>Uncertain</p>
<p>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</p>	<p>Yes</p>	<p>The plant will require considerable use of steel and concrete in construction and will require energy for its operational life. Solar panels are proposed to reduce the overall requirement for energy from the grid.</p>	<p>Yes</p>
<p>1.4 Will the project involve the use, storage, transport, handling or production of substance</p>	<p>Yes</p>	<p>The plant will include the processing of sewage. Solid waste will be taken off-site to a</p>	<p>No</p>

which would be harmful to human health or the environment?		licensed facility. Treated wastewater is to be discharged to the sea via an existing outfall (currently used for untreated waste). The plant will not result in an overall increase in waste materials – all sewage is currently discharged to the sea.	
1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	Yes	The plant will produce solid waste from the treatment – this is potentially noxious and will be removed to licensed waste disposal facilities elsewhere.	Yes
1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?	Yes	Wastewater from the plant will be discharged to the sea, at the existing outfall. The current situation is that untreated effluent is discharged, the proposed development will significantly improve the water quality.	No
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	Yes	There will be some noise and vibration from pumps and general operation. It is not anticipated that this will be significant outside the bounds of the pumping station or WwTP	No
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	Yes	The WwTP will involve the discharge of wastewater (treated) to the sea. There is no current evidence of contamination, the proposed development is anticipated to significantly improve water quality.	No
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No	There are no anticipated hazards associated with the works.	No
1.10 Will the project affect the social environment (population, employment)	Yes	The project will potentially allow for expansion of the town within the proposed capacity of the WwTP – at present there is no	No

		zoned land within the town due to water capacity issues.	
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	Yes	There is a proposal for flood water protection within the town, which includes works at the existing pumping station. It is anticipated that the cumulative impacts will be positive.	No
2. Location of proposed development			
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following: <ul style="list-style-type: none"> - European site (SAC/ SPA/ pSAC/ pSPA) - NHA/ pNHA - Designated Nature Reserve - Designated refuge for flora or fauna - Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan 	Yes	The site is within 1km of the Kilkee Reefs SAC. The proposed discharge is at an existing discharge into Intrinsic Bay which is part of this designated area. The proposals are anticipated to significantly reduce human waste and contaminated water discharge to the SAC.	No
2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?	No	The sites consist of disturbed brownfield land and intensively grazed agricultural land. Neither are suitable for breeding, nesting overwintering or migration for bird species along the coast or elsewhere.	No
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	Yes	The WwTP is within sight of a section of the Wild Atlantic Way, a designated scenic route, and a leisure walk along the coast. The site has no indications of archaeological remains or other features. The pumping station site is on cleared brownfield land.	Yes

2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	No	The sites are disturbed brownfield lands and low quality grazing land.	No
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	Yes	The existing pumping station operates a combined wastewater system for the town and Victoria Stream. There is a current application for a flood relief scheme for the town, which includes Victoria Stream. The WwTP is next to a small stream that joins the Victoria Stream, although it is not anticipated that there would be any impacts. The overall impacts are anticipated to be minor and generally positive.	No
2.6 Is the location susceptible to subsidence, landslides or erosion?	No	Both sites are on generally flat or gently sloping lands, with no history of subsidence or erosion.	No
2.7 Are there any key transport routes(eg National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	No	Both sites are served by the minor road network. The discharge pipeline will run along an existing country road. The existing pipeline runs along this road and will be substantively re-used.	No
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	No	The closest buildings to the WwTP are agriculture and residential. There are no schools or other sensitive sites close to either of the sites.	No.

3. Any other factors that should be considered which could lead to environmental impacts			
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	Yes	The proposed works overlap with the flood protection scheme for the town, but the cumulative impacts are anticipated to be positive – the existing situation involves a potential flood risk and the discharge of untreated pollution to the sea.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	√	
3.3 Are there any other relevant considerations?	No		
C. CONCLUSION			
No real likelihood of significant effects on the environment.	<input type="checkbox"/>	EIAR Not Required	
Real likelihood of significant effects on the environment.	<input type="checkbox"/>	EIAR Required	
D. MAIN REASONS AND CONSIDERATIONS			
<i>EG - EIAR <u>not</u> Required</i>			
Having regard to: -			
1. the criteria set out in Schedule 7, in particular <ul style="list-style-type: none"> (a) the limited nature and scale of the proposed development and the overall impact in addressing a shortfall of wastewater treatment facilities. (b) the absence of any significant environmental sensitivity in the vicinity of either sites. (c) the location of the development outside of any sensitive location specified in Article 109(4)(A) of the planning and Development Regulations 2001 (as amended). 			

2. the results of other relevant assessments of the effects on the environment submitted by the applicant, specifically the AA Screening carried out under the Habitats Directive.
3. the features and measures proposed by applicant envisaged to avoid or prevent what might otherwise have been significant effects on the environment, and in particular the mitigation measures set out in the construction management plan and the proposal to use as much existing infrastructure as possible.

The Board concluded that the proposed development would not be likely to have significant effects on the environment, and that an environmental impact assessment report is not required.

Inspector _____

Date _____

Approved (DP/ADP) _____

Date _____

Appendix 2:
Appropriate Assessment Forms

Screening for Appropriate Assessment

Test for likely significant effects

Step 1: Description of the project and local site characteristics

Brief description of project

The proposed development consists of 10 year permission for a new wastewater treatment system (design capacity, c.8,000pe) for the town consisting of the following three main elements:

- A new Foul Pumping Station at Subject site A.
Elements of this include:
 - An emergency storage tank
 - Surge kiosk
 - Odour control building
 - Standby generator
 - Foul pumping station
 - Underground site network
 - ESB building and panel room
 - 2.4 m capped boundary wall with signage and gate.
- A new Wastewater Treatment Plan (WwTP) consisting of:
 - 2 neo. Primary settlement tanks;
 - MCC kiosk
 - Outfall pumping station
 - Odour control plinth

	<ul style="list-style-type: none"> ➤ Storm holding tank ➤ Control building ➤ ESB building ➤ Stand-by generator and fuel tank ➤ Solar panels ➤ CCTV system ➤ 2.4 metre security mesh fencing with 1.2 metre stork proof boundary fence, plus gate and upgraded access lane. <ul style="list-style-type: none"> • The installation of new sewers comprising: <ul style="list-style-type: none"> ➤ 45 metres of gravity sewer that will intercept the flows into the existing Victoria pumping station ➤ 85 metres storm overflow pipe to Victoria Stream from Kilkee Foul PS ➤ Connecting pipework from existing network to new foul pumping station. ➤ Overflow to Victoria Stream and associated new headwall ➤ New effluent rising mains. <p>In addition, all associated site excavation, infrastructural and development works.</p>
<p>Brief description of development site characteristics and potential impact mechanisms</p>	<p>Two separate parcels of land, totaling 4.56 hectares in extent.</p> <p>Site A is just over 1 hectare and is a brownfield site between houses and a caravan park and an existing pumping station. This is within the town of Kilkee.</p> <p>Site B is approximately 3.5 hectares and is part of a large grazing field just under 1km west of the town.</p>

Screening report		Y		
Natura Impact Statement		Y		
Relevant submissions		A number of submissions raise concerns on water quality in the nearby coastline. The planning authority argued that the Screening should address the final destination of sludge from the works.		
Step 2. Identification of relevant European sites using the Source-pathway-receptor model				
European Site (code)	Qualifying interests ¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections ²	Consider further in screening ³ Y/N
Kilkee Reefs SAC (002264)	1160: Large shallow inlets and bays 1170 Reefs 8330 Submerged or partially submerged sea caves.	Less than 1km.	Existing wastewater pipe discharges directly to the SPA. Site A is next to a watercourse that drains directly to Kilkee Bay	Y

Lower River Shannon SAC (002165)	Freshwater and estuarine habitats – listed in NPWS website.	2.7 km	Neither site is in hydrological connection with the Lower River Shannon or the estuary and site surveys did not identify any species associated with the qualifying interests	N
River Shannon and River Fergus Estuaries SPA (004077)	Range of estuarine and freshwater birds, listed in NPWS website.	3.9 km	No hydrological or other pathway connections. Habitat surveys did not identify any birds associated with the SPA roosting or feeding or nesting on the lands or immediate area. No suitable habitat identified.	N
Illaunonearaun SPA (004004)	Barnacle Goose.	4.6km	The development site is not connected with	

			the SPA and no suitable habitat for barnacle goose identified.	
Tullaheer Lough and Bog SAC (002343)	Raised bogs and transition mires – listed in NPWS website.	5.9km	The sites are not in hydrological continuity with this site and there are no QI species or habitats identified on the sites associated with this SAC.	N
Mid-Clare Coast SPA (004184)	Marine and coastal bird species. Listed in NPWS website.	10.2km	The site does not provide significant supporting habitat for the listed species, and the aquatic habitats of this SPA are approximately 14km from the marine waters near the development site.	N

Carrowmore Dunes SAC (002250)	Whorl snail, reefs, shifting and fixed dunes. Listed in NPWS website.	10.7km	No identified source-pathway effects identified – no QI species or habitats on or close to the sites.	N
Carrowmore Point to Spanish Point and Islands SAC (001021)	Coastal lagoon, reefs, stony bank vegetation, petrifying springs. Full list in NPWS website.	14.1km	Sufficient distance and absence of pathways for pollution or other impacts and no QI species or habitats identified on the site.	N

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

The proposed development involves construction works close to waterbodies that discharge to Kilkee Bay. In the event of inappropriate work practices, there is a possibility of run-off entering the bay and temporarily interfering with water quality. Standard good practice measures should rule this out.

AA Screening matrix		
Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
<p>Kilkee Reefs: 1160 Large Shallow inlets and bays</p> <p>1170 Reefs</p> <p>8330 Submerged or partially submerged sea caves.</p>	<p>Direct:</p> <p>A stream runs along the north side of site B, and this discharges to a stream next to Site A. This discharges via the Victoria Stream to Kilkee Bay. It is also proposed to discharge treated effluent through the existing discharge at Intrinsic Bay.</p> <p>Indirect:</p> <p>Possible short term water quality impacts during construction works.</p> <p>Possible in-combination effects with proposed Flood Protection Works for Kilkee.</p>	<p>There would be possible water quality impacts during construction which could result in short term water quality deterioration in the bay.</p> <p>The possibility for adverse effects cannot therefore be ruled out.</p>
	Likelihood of significant effects from proposed development (alone): Yes	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects?	

	<p>Possibility of significant effects (alone) in view of the conservation objectives of the site*</p> <p>Reduction in water quality due to construction run-off</p>	
	Impacts	Effects
<p>The possibility of adverse effects is very unlikely, but cannot be ruled out. The operation of the works is not considered likely to have adverse effects. Construction works could result in short term deterioration of water quality via run-off to the Victoria Stream, and through in-combination effects with the proposed Kilkee Flood Relief scheme.</p>		
<p>Step 4 Conclude if the proposed development could result in likely significant effects on a European site</p>		
<p>It is not possible to exclude the possibility that the proposed development alone would result in significant effects on Kilkee Reefs SAC site code 002264 European site from effects associated with construction run off during the works.</p> <p>An appropriate assessment is required on the basis of the possible effects of the project 'alone'. Further assessment in-combination with other plans and projects is not required at screening stage.</p> <p>Proceed to AA.</p>		

Appropriate Assessment

The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Taking account of the preceding screening determination, the following is an appropriate assessment of the implications of the proposed development of a wastewater treatment system in Kilkee in view of the relevant conservation objectives of **Kilkee Reefs SAC** based on scientific information provided by the applicant and related submissions.

The information relied upon includes the following:

- Natura Impact Statement prepared by MKO.
- Report by Doran Consulting Engineers detailing samples taken at Kilkee Bay to assess existing water quality.
- EPA Annual Environmental Report on water quality sampling.
- Existing published information on water quality at Kilkee Bay (www.beaches.ie).
- Multidisciplinary walkover surveys carried out in 2021, 2022 and 2023 based on NRA (2009) guidelines and the Heritage Council guidance (2000).
- MERC Environmental Consultants marine survey of the environs around the existing discharge in Intrinsic Bay carried out in October 2019.
- Sampling of water quality at Kilkee Stream/Victoria Stream by Aran von der Geest Moroney on November 2023 under NEPA guidance.

I am satisfied that the information provided is adequate to allow for Appropriate Assessment. I am satisfied that all aspects of the project which could result in significant effects are considered and assessed in the NIS and mitigation measures designed to avoid or reduce any adverse effects on site integrity are included and assessed for effectiveness.

Submissions/observations

TII noted requirements under Chapter 3 of the Spatial Planning and National Roads Guidelines.

Department of Environment, Climate and Communications noted the proximity of a County Geological Site within 0.5 km.

An Taisce noted requirements under the Wastewater and Habitats Directive.

Local Authority stated that they considered that sludge disposal should be part of the AA.

Many local submissions noted general concerns about impacts on water quality, local habitats and impact on designated sites – general non-specific comments.

NAME OF SAC/ SPA (SITE CODE): Kilkee Reefs SAC 002264.

Summary of Key issues that could give rise to adverse effects (from screening stage):

[examples]

- (i) Deterioration in water quality during construction phase)**
- (ii) Spread of invasive species**

See Table 5.1 NIS

Qualifying Interest features likely to be affected	Conservation Objectives	Potential adverse effects	Mitigation measures (summary)	
1160 Large Shallow inlets and bays	Maintain the favourable conservation condition	Impact on water quality during construction. Spreading of invasive species.	Standard mitigation measures for construction works close to	

1170 Reefs	To maintain the favourable conservation conditions	Impact on water quality during construction.	surface waters. – set out in section 6.2.1.1 of the NIS Standard mitigation measures for construction works close to surface waters. – set out in section 6.2.1.1 of the NIS	
8330 Submerged or partially submerged sea caves	To maintain the favourable conservation condition.	Impact on water quality during construction.	Standard mitigation measures for construction works close to surface waters. – set out in section 6.2.1.1 of the NIS	
<p>The above table is based on the documentation and information provided on the file and I am satisfied that the submitted NIS has identified the relevant attributes and targets of the Qualifying Interests. In particular, I note those relating to potential water impacts would, if unmitigated, be minor and intermittent at worst due to attenuation. I note that untreated effluent is currently pumped into Intrinsic Bay which is part of the designated habitat. In addition, it appears that there are existing control measures on the Victoria Stream to prevent water pollution in the Bay during the summer months.</p>				

Assessment of issues that could give rise to adverse effects view of conservation objectives

The potential for adverse effects is at worst case construction impacts resulting in some water quality deterioration. This would be via adjoining watercourses discharging to the Bay. The outfall at Intrinsic Bay is not causing identifiable water quality issues – the proposed works will reduce the level of inputs to this part of the Bay.

The planning authority stated that it was considered that sludge disposal from the site should be assessed in the AA. This sludge removal would be material that would, in the absence of the development taking place, be discharged directly to the SAC as it is at present. It is to be removed to a suitably licensed treatment/disposal facility in line with all statutory requirements and as such I do not consider that it is part of the Project for the purposes of AA.

(i) Water quality degradation

Potential impacts on water quality from run-off via the Victoria Stream to Kilkee Bay was identified.

Mitigation measures and conditions

In section 6.2.1.1 a set of standard measures to ensure that no contaminated water (ground or surface) shall be allowed without running through silt traps and other measures to prevent suspended solids reaching the bay. In addition, standard control measures are set out to ensure no fuels, oil, or other materials can contaminated adjoining watercourses or groundwater.

(iii) Spread of invasive species

There is some identified potential for the spreading of identified invasive species to shoreline areas.

Mitigation measures and conditions

Standard measures set out in Section 6.2.1.1 address measures to ensure that there is no off-site migration of roots or seeds from identified invasive species on and around the site.

In-combination effects

I am satisfied that in-combination effects with plans and projects that could act in combination with the proposed development are detailed and assessed – specifically the Kilkee Flood Relief Scheme (ABP-320967-24).

Findings and conclusions

The applicant determined that following the implementation of mitigation measures, the construction and operation and decommissioning of the proposed development alone, **or in combination with other plans and projects**, will not adversely affect the integrity of this European site.

Based on the information provided, I am satisfied that adverse effects arising from aspects of the proposed development can be excluded for the European sites considered in the Appropriate Assessment. No direct or indirect effects are anticipated subject to measure to protect ground and surface waters during construction and to prevent silt laden run-off reaching Kilkee Bay via the Victoria Stream. Monitoring measures are also proposed to ensure compliance and effective management of the measures set out in the NIS and CEMP and related documents. I am satisfied that the mitigation measures proposed to prevent adverse

effects have been assessed as effective and can be implemented in full. I am satisfied that in-combination effects with the proposed Kilkee Floor Relief Scheme have been fully addressed and will not result in adverse effects.

Reasonable scientific doubt

I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.

Site Integrity

The proposed development will not affect the attainment of the Conservation objectives of the Kilkee Reefs SAC. Adverse effects on site integrity can be excluded and no reasonable scientific doubt remains as to the absence of such effects.

Appropriate Assessment Conclusion: Integrity Test

In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on the Kilkee Reefs SAC site code 002264 in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of s.177U was required.

Following an examination, analysis and evaluation of the NIS, all associated material submitted and taking account all observations, I consider that adverse effects on site integrity of the Kilkee Reefs SAC (002264) can be excluded in view of the conservation objectives of these sites and that no reasonable scientific doubt remains as to the absence of such effects.

My conclusion is based on the following:

- Detailed assessment of all construction, operational and decommissioning impacts, specifically those that could result in a deterioration of water quality along the coast.
- the proposed development will not affect the attainment of conservation objectives for Kilkee Reefs SAC.
- Effectiveness of mitigation measures proposed and the adoption of the CEMP