



An
Bord
Pleanála

Inspector's Report ABP-321559-24

Development	Uisce Éireann Compulsory Purchase (Tinryland Wastewater Treatment Plant Upgrade) Order 2024.
Location	Tinryland, Co. Carlow
Planning Authority	Carlow County Council
Applicant(s)	Uisce Éireann
Type of Application	Compulsory Purchase Order
Objectors	Mary Keenan
Date of Site Inspection	25 th March 2025
Inspector	Ian Boyle

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1.0 Introduction

Overview

- 1.1. This report relates to a compulsory purchase order (CPO) made by Uisce Éireann (UÉ) to advance the Tinryland Wastewater Treatment Plant Upgrade. The project is included in the Uisce Éireann Capital Investment Plan 2020 – 2024.
- 1.2. Tinryland is approximately 5km southeast of Carlow Town. The existing wastewater treatment plan (WWTP) is a short distance east of the centre of the rural agglomeration. The plant was originally designed to provide a secondary level of treatment before discharge into the nearby Rathcrogue stream. The Rathcrogue stream is connected to the larger Burren River towards the east.
- 1.3. The purpose of the Tinryland Wastewater Treatment Plant upgrade project is to address the current situation whereby the existing WWTP is being stretched beyond capacity and is being overloaded. The current capacity of the plant has been identified as 251PE (population equivalent). However, the current loading stands at 293PE which means there are an issue in terms of discharge and water quality.
- 1.4. As the existing plant is nearing the final stages of its intended lifecycle the level of treatment that it was originally designed for is no longer being met. It has also been identified that the receiving waterbodies in the area do not have the required assimilative capacity to absorb the predicted future population expansion that is envisaged for the area.
- 1.5. To facilitate the proposed upgrade and improvement works, Uisce Éireann is seeking to compulsorily acquire the necessary lands to implement the scheme. The Board has received a single objection in respect of the CPO.
- 1.6. This report considers the issues raised in the objection, as submitted to the Board and, more generally, the application to acquire lands for the stated purpose.

Statutory Basis

- 1.7. The CPO was signed and has the seal of Uisce Éireann affixed on 3rd December 2024. It was advertised in The Carlow Nationalist (newspaper) on 17th December 2024. Formal notices were issued to landowners on 12th December 2024.
- 1.8. The application was lodged with An Bord Pleanála on 20th December 2024.

- 1.9. The Board held an Oral Hearing on 4th June 2025. A summary of the proceedings is set out under Appendix A.

2.0 Site Location and Description of the Scheme

- 2.1. Tinryland village and its environs is situated roughly 5km southeast of Carlow Town. It is a small rural settlement positioned just off the N80 Carlow–Rosslare Road. The existing WWTP is a short distance east of the village centre. The WWTP discharge point to the Rathcrogue stream is roughly 150m to the north.
- 2.2. The proposed upgrade works are detailed in the documentation accompanying the CPO and are available on the file. However, in summary, the proposed upgrade comprises the following:
- Decommissioning of the existing WWPT.
 - The construction of a new pumping station with an inlet screen, wet well, dry well and flowmeter chamber.
 - A new storm tank.
 - Stormwater return equipment to be installed to prevent discharge to the surrounding environment.
 - A new rising main connection to the existing network at Carlow Town. [The route is circa 3.9km in length and will pass through local roads, along the N80, before a crossing at the River Burren to connect into the existing foul network.]
- 2.3. I note that the Engineers Report states that much of the rising main and underlying pipework will be able to be accommodated within road verges. The route is undulating with roughly a 10m head increase with changes in direction which require the use of pumps. The report notes that the majority of the land required is in publicly owned.
- 2.4. Road closures and diversions may be required in some instances during the construction phase. However, this will be mainly on small, local roads, close to the existing treatment works.

2.5. The main objectives of the project are:

- To transfer effluent to a nearby pump station for conveyance to the existing Carlow Town WWTP which has sufficient capacity to accept the additional flows from Tinryland.
- To prioritise improvements in urban wastewater collection systems to address growth and economic development, and
- To ensure continued environmental compliance and deliver water quality improvements as identified by the River Basin Management Plan 2022-2027.

2.6. The lands which are subject of the proposed CPO are shown in the deposit maps.

3.0 Application of the CPO

3.1. The application documentation received by the Board, as relating to the statutory CPO procedure, includes the following:

- Uisce Éireann (formerly Irish Water) Compulsory Purchase (Tinryland WWTP Upgrade) Order 2024 (sealed and dated).
- The relevant CPO drawings / maps (sealed and dated) (Drawing Sheets x3).
- Sample copy of Notice served in connection with the Compulsory Purchase Order on the affected landowners/lessees/occupiers.
- Copy of the Formal Notice as published The Carlow Nationalist (newspaper) on 17th December 2024.
- Certificate of service of CPO Notices.

4.0 Planning History

Reg. Ref. 24/60332: The Planning Authority issued a notification of decision to **grant planning permission** for works to advance the upgrade of the 'Tinryland Wastewater Treatment Plant' in January 2025. The full description of the application, as per the statutory notices, is as follows:

'The development will consist of the demolition of all existing structures within the Tinryland Wastewater Treatment Plant and the construction on an

extended site (0.09 ha in total) which will consist of a new pumping station (17m²), new belowground storm tank (total storage of 123m³), replacement welfare facility (33m²), ground-mounted photovoltaic array (83 m²), new palisade perimeter fencing (2.4m high) and associated works; the construction of a new rising main and gravity main (3.7km in length) along the Nurney Road, L1023 and N80, connecting to the existing wastewater sewer at Ballinacarrig; and all ancillary and associated temporary works.'

The Planning Authority provided the following reason for their decision:

'Having regard to the nature, extent and design of the proposed development, the Tinryland Village Plan set out in section 15.4.8 of the CDP, and to the character and existing use of the site and the character of the surrounding area, it is considered that subject to compliance with the conditions attached, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would therefore be in accordance with the proper planning and sustainable development of the area.'

An Appropriate Assessment (AA) Screening Report was prepared and formed part of planning application. While it was determined that the proposed development was not within or adjacent to any European sites, it did identify that the proposed development would be hydrologically connected to a European site, the River Barrow and River Nore SAC (Site Code: 002162).

An Natura Impact Statement (NIS) was prepared and formed part of planning application. It examined whether, in view of best scientific knowledge and applying the precautionary principle, the proposed development either individually, or in combination with other plans or projects, may have an adverse effect on the integrity of any Natura 2000 Site (also known as European Sites).

Carlow County Council carried out an Appropriate Assessment of the Proposed Development and stated that *'on the basis of the submitted documentation and subject to the adherence with the measures proposed within the accompanying NIS and CEMP, it is considered that the proposed development would not result in significant impacts on the adjoining SAC. It will be a condition that the proposed mitigation measures set out in the NIS are strictly adhered to'*.

An Environmental Impact Assessment (EIA) Screening Report was prepared and formed part of planning application. The screening exercise concluded that the Proposed Development does not require EIA.

In its decision to grant planning permission, Carlow County Council carried out a Screening for EIA and considered that Proposed Development is *‘not a type described by the relevant classes detailed in either Part 1 or Part 2 of the Planning and Development Regulations 2001 (as amended). As such there is no requirement for the Proposed Development to be subject to EIA’*.

5.0 Policy Context

5.1. Carlow County Development Plan 2022-2028

The Carlow County Development Plan 2022-2028 (‘County Development Plan / ‘CPO’) was adopted by the Council’s Elected Members on 23rd May 2022. It took effect from 4th July 2022. The most relevant extracts in the assessment of this appeal case are as follows:

Chapter 6: Infrastructure and Environmental Management

Section 6.2 is in relation to ‘Public Wastewater Collection and Treatment’. It states that Irish Water is responsible for the delivery, integration and implementation of strategic public wastewater projects and infrastructural improvements in the county.

- **Policy PW. P1** is ‘to support strategic wastewater treatment infrastructure investment by Irish Water and to support Irish Water in providing and maintaining adequate and appropriate wastewater treatment infrastructure to service zoned lands, towns and villages and developments over the period of the Plan in accordance with the Core Strategy and Settlement Hierarchy’.
- **Policy PW. P2** is ‘to facilitate Irish Water in the delivery of public wastewater services which address the residential, commercial and industrial needs of the county subject to compliance with all relevant EU and national legislation and normal planning and environmental criteria’.
- **Policy PW. O1** is ‘to facilitate the required upgrade of wastewater projects that may arise during the lifetime of this Plan subject to compliance with all

relevant EU and national legislation and normal planning and environmental criteria including upgrade and improvement works on current and planned IW schemes for Tullow WTP, Bagenalstown/Leighlinbridge WTP, Mortarstown WTP, and Borris WTP’.

Section 6.9.4 is in relation to ‘Water Quality County Carlow’. It states that the latest EPA report ‘Water Quality in Ireland’ was published in December 2019... The aim is to protect water bodies with ‘high’ and ‘good’ status and to work towards achieving ‘good’ status for the remaining water bodies by 2027. A targeted approach is being taken focusing on identified risk areas (catchments) known as Priority Areas for Action...

It further states that the Council will work with all relevant stakeholders including Irish Water, the EPA, Inland Fisheries, Forestry Services, Teagasc, Local Authority Waters Programme and others to facilitate improvements in the ecological status of water bodies. [See CDP for full extract.]

Chapter 15: Larger Serviced Villages

- Tinryland is identified as a ‘**Larger Serviced Rural Village**’ within the Carlow County Development Plan (CCDP) 2022-2028.
- **Section 15.4.8 ‘Tinryland’** has the overall objective ‘to promote Tinryland Village as a settlement with a strong village character, recreational and social facilities and employment opportunities, to support the improvement of physical infrastructure including wastewater infrastructure and local services and to support growth of the local community to sustainable levels in accordance with the provisions of the Core Strategy and subject to environmental carrying capacity constraints’
- **Policy TY. P1** is ‘to ensure that future development will be subject to the availability and adequate provision of the necessary physical infrastructure and specifically subject to the upgrading of the existing sewage plant to a level that can accommodate future development and population increases. Detached one-off dwellings on individual effluent treatment systems may be considered in limited circumstances pending upgrade of the effluent treatment plant’.

Other Relevant Chapters and Sections of the CDP

- Chapter 2: Core Strategy and Settlement Strategy
- Chapter 7: Climate Action and Energy
- Chapter 10: Natural and Built Environment
- Chapter 8: Community Development
- Volume III: Strategic Flood Risk Assessment
- Volume XI: Policy Context

5.2. Carlow-Graiguecullen Joint Urban Local Area Plan 2024-2030

The Carlow-Graiguecullen Joint Urban Local Area Plan 2024-2030 (JLAP) was adopted by the Elected Members of Laois County Council at a Council meeting on the 29th July 2024. It came into effect on the 9th September 2024.

Zoning

The JLAP is the relevant document for land use zoning in relation to the CPO lands. Some plots of land subject to the CPO lie within the boundary of the (JLAP).

In terms of the Objector's lands:

- Plot 005 lies outside the JLAP lands.
- Plot 006 is zoned 'Business and Innovation' which is to *'provide for high-technology related office-based industry'*.
- Plot 007 is zoned 'Open Space and Amenity', which is 'to protect, provide for and enhance open space, amenity facilities, and recreational uses'.

5.3. Other National and Regional Policy

- Irish Water: Water Services Strategic Plan 2040
- Irish Water's Strategic Funding Plan 2019-2024
- Irish Water: Water Services Policy Statement 2018-2025
- The National Planning Framework, 2025

- The Planning System and Flood Risk Management, including the associated Technical Appendices, 2009 ('the Flood Risk Guidelines')
- Regional Economic Strategy for the Southern Region 2020-2031

6.0 The Objection

- 6.1. The Board has received a single objection in relation to the CPO.
- 6.2. The objection is by Ms. Mary Keenan (represented by Malcomson Law LLP). It relates to Plot Refs. 005, 006 and 007 as shown on Drawing Sheet No. 3 (Drwg. No. UÉ /100050314/CPO/0003). Ms. Keenan is the owner and occupier of these lands.
- 6.3. The objection raises the following grounds / concerns:

Compliance with the EIA Directive

- The proposed WWTP is a specified development for the purpose of Council Directive 2011/92EU ('Environmental Impact Assessment') (EIA).
- The scheme cannot proceed until the requirements of the Directive have been complied with and this has not been shown to be the case.
- The application is therefore premature pending compliance with the EIA Directive and its mandatory obligations.

Compliance with the Habitats Directive

- The proposed development is subject to Council Directive 92/43 ('the Habitats Directive') and is capable of affecting a number of European Sites due to a hydrological connection between the sites and several rivers.
- As a minimum, the proposed development must be subject to a Stage 1 Screening Assessment. However, it is possible that a Stage 2 NIS would also be required.
- The application is therefore premature pending the relevant information / assessment which will allow the Board to complete a Stage 1 screening.

CPO must be the last stage in the process (after planning permission obtained)

- The proposed development is premature as the compulsory purchase of land must be the last stage in the process.

- The appropriate procedure is that an application for planning permission must be made first. This is in order to establish whether in principle the development is acceptable in terms of land use planning criteria.
- The CPO application is therefore premature pending securing planning permission.

Proportionality & Public Consultation

- The objector has not had any level of engagement in respect of public consultation or information supplied.
- The relevant information relating to the need for the scheme, suitability of the land to accommodate it, and the impact in terms of proportionality have not been provided.
- There is no information available which would allow the Board to complete an assessment of the proportionality of the application.
- The Board would be acting ultra vires if they were to proceed to determine the scheme.

Oral Hearing

- If the Board is to proceed with assessing the application, it is required to hold an Oral Hearing.

Conclusion

- In summary, the objector opposes and objects to the CPO.

7.0 Oral Hearing

Background

- 7.1. An Oral Hearing was held on Wednesday, 4th June 2025. Oral submissions were heard by, or on behalf of, the parties, during the course of the Hearing.
- 7.2. As the presiding Inspector, I commenced proceedings with an opening statement. Participants were informed that the purpose of the oral hearing was an information gathering exercise to assist in the consideration of the merits of the case and in drafting the report and recommendation to the Board in relation to the CPO Order.

- 7.3. Attendees were also advised that the assessment of the CPO is confined to a particular set of considerations relating purely to the proposed acquisition of lands to accommodate the project. It is not a planning assessment of planning and environmental considerations and, therefore, these issues should not form part of the proceedings. Participants were also reminded that the Board has no role or jurisdiction in the determination of compensation.
- 7.4. The proceedings of the Oral Hearing are outlined in Appendix A of my report and referenced, where necessary, in the assessment section below (Section 8.0). The proceedings were recorded and are available to the Board on an audio file.

Modifications

- 7.5. No modifications were proposed to the CPO during the Oral Hearing.

8.0 Assessment

8.1. Overview

- 8.1.1. The proposed CPO relates to the installation of a new pumping station and storm tank at the existing Tinryland WWTP to allow the transfer of flow to the Carlow WWTP. It also involves the decommissioning of the existing treatment process. It requires roughly 3.8km of new rising mains to enable the inflow to Tinryland WWTP to be transferred to the southeastern extent of the Carlow Town wastewater network.
- 8.1.2. The CPO seeks to acquire certain lands for the purposes of securing the areas required for the construction and operation of the proposed pumping station and rising main. The CPO refers to 9 plots of land in and along the N80 between Tinryland and Carlow Town.
- 8.1.3. The Applicant's Planning Report (Section 1.3) identifies the plots of land and their owners under Table 1.1 'Zonings of Plots'. The land parcels are privately owned – hence the requirement for the CPO process to be invoked. One of the landowners has formally objected to the CPO (Ms. Mary Kennan). Her objection relates to Plots Nos. 005, 006, and 007 which are identified as being required for the purposes of a 'permanent wayleave'. The land is currently being used for farming.

8.1.4. The purpose of the permanent wayleaves is for Uisce Éireann to occasionally access this private land to install, maintain, renew, and/or repair water and wastewater infrastructure controlled by UÉ. The wayleaves are typically put in place when new connections are being made to existing networks or when Uisce Éireann is extending or maintaining its networks. The remaining landowners have not raised any objection.

8.1.5. My assessment of the proposed CPO considers the issues raised in the written objection submitted to the Board, the points made at the Oral Hearing (OH), and the general principles to be applied in assessing CPOs of this nature. Accordingly, for the Board to confirm the CPO, it must be satisfied that the following criteria have been met:

- There is a **community need** that is to be met by the acquisition of the lands in question.
- The project proposed and the associated **acquisition of lands is suitable** to meet the community need.
- The works to be carried out should accord with, or at least not be in material contravention of, the policy and objectives contained in the **statutory development plan** relating to the area.
- Any **alternatives** proposed to meet the community need have been considered but are not demonstrably preferable.
- The extent of land-take should have due regard to the issue of **proportionality**.

8.2. Community Need

8.2.1. The Applicant (Uisce Éireann) has set out as part of their submission that the existing Tinryland Wastewater Treatment Plant Upgrade Project is necessary because of overloading of the existing plant. The current capacity of the WWPT is 251 PE, but it is having to deal with a current loading of 293 PE.

8.2.2. In summary, the existing WWTP is nearing the final stages of its lifecycle and the level of treatment that was originally planned for is no longer being met. This is resulting in water quality problems for surrounding watercourses. It has also been

identified that receiving waterbodies in the area do not have the required assimilative capacity to absorb the predicted future population expansion for the area.

8.3. The proposed upgrade works are detailed in the documentation accompanying the CPO. In summary, the works comprise the following:

- Decommissioning of the existing WWPT.
- The construction of a new pumping station with an inlet screen, wet well, dry well and flowmeter chamber.
- A new storm tank.
- Stormwater return equipment to be installed to prevent discharge to the surrounding environment.
- A new rising main connecting to the existing network at Carlow Town.

8.3.1. The Applicant sets out the statutory process and policy requirements under Section 8 of the Engineer's Report. Their Planning Report (Section 2.2) also identifies and discusses the applicable national, regional and local planning policies to the project. Section 4.1 of my report provides a further summary of the relevant planning policy in relation to the proposed CPO.

8.3.2. I do not propose to cite or reiterate vast sections of these reports in this part of my assessment – they are on the file and so available to the Board for reading – however, I would highlight there is a clear requirement for wastewater treatment plants to comply with the relevant policies and directives, including the Urban Wastewater Directive (Council Directive 91/271/EEC).

8.3.3. The overriding objective of the Urban Wastewater Directive is to set out requirements in relation to the collection, treatment, and discharge of urban wastewater to protect the environment from the potential adverse effects of wastewater discharges. The Urban Wastewater Treatment Regulations, 2001-2010 is the national legislation which gives effect to the requirements of the Directive in Ireland. To reiterate, the purpose of the project is to bring the Tinryland WWTP in line with these policy and directive mandates and to prevent and reduce pollution caused by urban wastewater that has not been properly treated.

- 8.3.4. I note that the current agglomeration load placed on the existing Tinryland WWTP is 293PE with the capacity of the WWTP standing at 251PE. The sewer network is a combined gravity flow system and the Tinryland WWTP is the only wastewater treatment facility in the vicinity. This means there is no spare capacity available at present and the level of treatment that the plant was originally designed is being significantly exceeded. Therefore, the existing wastewater treatment system for the area is patently oversubscribed with resulting discharge quality issues.
- 8.3.5. In conclusion, I would concur with the Applicant that the proposed upgrade works to the existing means of wastewater management and treatment is in the best interest of the community. I am satisfied that the existing wastewater treatment plant at Tinryland represents outdated infrastructure, which is no longer fit for its original intended purpose and that it is operating well beyond its capacity. There is an imperative requirement for the WWTS serving the local community to be made fit-for-purpose.
- 8.3.6. I consider that the needs of the public would be met by the CPO of the lands in question, that Uisce Éireann has demonstrated that a clear and pressing community need would be met by the project, and that this would be facilitated by the acquisition of rights over the lands in question, should the Board confirm the CPO.

8.4. Suitability of the Lands

- 8.4.1. I would highlight for the attention of the Board that Uisce Éireann is not seeking to permanently acquire any lands from the objector. It is, however, seeking to acquire permanent wayleaves, being Plot Nos. 005, 006 and 007, along the proposed pipeline route.
- 8.4.2. I note that Plot Nos. Nos. 005, 006 and 007 are required to construct a pipeline under the Ballincarrig Roundabout and under the Burren River so as to connect the Tinryland agglomeration to the existing Carlow Wastewater Network. The Objector states that the application of the CPO would interfere with her use of her property and affect the residential amenity associated with her existing home, which is situated nearby. It was not stated during the Oral Hearing what the main cause of interference might be once the works phase would be concluded, and the project made operational – other than nuisance and inconvenience that would be

experienced during future maintenance or repairs required in relation to this part of the pipeline network.

- 8.4.3. I note that the lands which are being proposed to be acquired are described as agricultural land – this applies to both the objector’s lands and all the other land identified by the proposed CPO. The plots of land do have any particular sensitivity in terms of Development Plan designations, landscape character, cultural or natural heritage value or scenic views or protected qualities. In any case, I note that proposed works would be laid underground, with the surface restored to its original condition with no fence, barrier or enclosure of any kind to be erected around the wayleave areas.
- 8.4.4. Furthermore, during my physical inspection of the area I observed that most of the area surrounding the proposed alignment was sparsely populated with some commercial uses in the vicinity in the objector’s lands. There is no intention by the Applicant to acquire any residential dwellings, associated domestic outbuildings or private gardens. I also consider that generally these types of works, as a utility installation, would be relatively commonplace along roadside boundaries and within agricultural land holdings.
- 8.4.5. Notwithstanding the specific concerns raised by the objecting landowner – which are addressed under Section 8.8 of my report below – I am also satisfied that the extent of land proposed to be acquired is proportionate to the identified community need and that the amount of land-take is necessary to facilitate the proposed upgrade works to the Tinryland WWTP upgrade project.
- 8.4.6. The various parcels of land which are proposed for acquisition are adjacent / nearby the existing N80 and I do not consider any plots of land have been included unnecessarily as part of the CPO. In reaching this conclusion, I have reviewed the deposit maps, and other material submitted as part of the CPO application, the nature of the proposed project, and its installation methodology, all of which was set out in the submission made by Uisce Éireann during the Oral Hearing, and in the original application documents made to the Board.
- 8.4.7. In conclusion, I am satisfied that the lands subject to this CPO application are suitable and required to accommodate the proposed WWTP upgrades, and that this is in the interest of serving the community need.

8.5. Compliance with Planning Policy (including County Development Plan)

Carlow County Development Plan 2022-2028

- 8.5.1. As outlined in Section 5.1 above, the Carlow County Development Plan 2022-2028 includes several provisions which seek to support the provision of improved infrastructure, including wastewater services. This is in order to facilitate economic and residential development, and to promote investment in the water and drainage network to support environmental protection and facilitate the sustainable growth of the County.
- 8.5.2. Tinryland is identified as a 'Larger Serviced Rural Village' within the Carlow County Development Plan (CCDP) 2022-2028. These settlements are located throughout the County providing important local services with populations ranging generally over c.200 to 466. They contain schools, local employment and community facilities supporting the village and the wider rural area. The CDP states that the Council will encourage and support the provision of local services, local employment opportunities, amenities and facilities within the development boundary of larger serviced villages subject to proper planning and environmental capacity considerations.
- 8.5.3. Section 15.4.8 'Tinryland' has the overall objective *'to promote Tinryland Village as a settlement with a strong village character, recreational and social facilities and employment opportunities, to support the improvement of physical infrastructure including wastewater infrastructure and local services and to support growth of the local community to sustainable levels in accordance with the provisions of the Core Strategy and subject to environmental carrying capacity constraints'* (emphasis added).
- 8.5.4. This section also includes a further specific objective which support the upgrade of the existing WWTP. Policy TY. P1 states that *'it is the policy of the Council to ensure that future development will be subject to the availability and adequate provision of the necessary physical infrastructure and specifically subject to the upgrading of the existing sewage plant to a level that can accommodate future development and population increases. Detached one-off dwellings on individual effluent treatment systems may be considered in limited circumstances pending upgrade of the effluent treatment plant'* (emphasis added).

- 8.5.5. Section 6.2 of the CDP identifies the role of Uisce Éireann in the delivery, integration and implementation of strategic public wastewater projects and infrastructural improvements in the County (Page 133) and recognises the constraints that currently exist for Larger Serviced Villages such as Tinryland. This is supported by Policy Objective PW. O1 which is to facilitate the required upgrade of wastewater projects that may arise during the lifetime of this Plan, subject to compliance with all relevant EU and national legislation and normal planning and environmental criteria, including upgrade and improvement works on current and planned IW schemes for Tullow WTP, Bagenalstown/Leighlinbridge WTP, Mortarstown WTP, and Borris WTP.
- 8.5.6. Other relevant policies relevant to the CPO application include Policy PW. P1, Policy PW. P2 and Section 6.9.4 of the CDP ('Water Quality County Carlow'). [See Section 5.1 above for full extracts of these policies].

Carlow-Graiguecullen Joint Urban Local Area Plan 2024-2030

The Carlow-Graiguecullen Joint Urban Local Area Plan 2024-2030 (JLAP) was adopted by the Elected Members of Laois County Council at a Council meeting on the 29th July 2024.

Zoning

I note that some plots of land which are the subject to the CPO application lie within the boundary of the JLAP.

Plot 005 lies outside the JLAP lands. Plot 006 is zoned 'Business and Innovation' which is to *'provide for high-technology related office-based industry'*. Plot 007 is zoned 'Open Space and Amenity', which is 'to protect, provide

The existing Tinryland wastewater treatment plan is not subject to any zoning and is, therefore, subject to the broader policies and objectives contained within the CDP (see above).

Conclusion

Having regard to the foregoing, I am satisfied that the lands affected by the proposed CPO substantially accord with national, regional and local planning policy and there would be no material contravention of the County Development Plan.

8.6. Consideration of Alternatives

- 8.6.1. The 'Tinryland Wastewater Project Route and Site Selection Report' (dated 23rd January 2023) considered the various routes and alternatives for the proposed WWTP upgrade works. Jacobs Ireland Ltd ('Jacobs') were engaged to complete the report and to carry out the detailed design for the project.
- 8.6.2. The overall objective of the Site Selection Report was to document the route selection process carried out and to identify and recommend the most suitable or preferred option. The report sets out the five steps for carrying out the site selection process:
- Step 1 – Project Scoping
 - Step 2 – Study Area Defining
 - Step 3 – Initial Screening (Elimination)
 - Step 4 – Options Shortlisting
 - Step 5 – Detailed Assessment
- 8.6.3. The analysis included a review of the relevant environmental, planning and technical / economic matters pertaining. The routes are illustrated on two maps on Pages 11 and 12 of the Site Selection Report. This includes Figure 3.1 'Study Area and Route Options' and Figure 3.2 'Options and Constraints', respectively. A total of seven options were shortlisted under the initial screening exercise (Steps 1 – 3).
- 8.6.4. Options 1, 2 and 3 were subsequently ruled out under Step 4 'Options Shortlisting'. The analysis found that Option 1 was not a viable candidate to progress due to treated effluent discharge being unlikely to be able to meet the required standard for dilutions and concentrations. Another issue was that the size of land required to facilitate an Integrated Constructed Wetland (ICW) and that the associated equipment would be too expansive. The report notes that the agglomeration of Tinryland is small (in population / geographic area), and this process would likely be too intricate and detailed for a small agglomeration.
- 8.6.5. Option 2 was also deemed not feasible due to being unable to be meet the required standard for achieving dilutions and lower concentrations, whilst Option 3 would require an excessively long pipeline (6km), compared to other more feasible pump

away options. Option 3 would also involve a complex railway crossing to be delivered as part of the required works.

8.6.6. I note that Jacobs then undertook a detailed Cost Benefit Analysis (CBA) for the construction, operational maintenance and renewal of each potential option. Table 3.2 of the Site Selection Report outlines the indicative costs arising from undertaking the CBA. It was found that Options 4a, 4b, 4c and 4d were recommended for further investigation to determine their feasibility and, in some cases, potential suitability for taking ownership of the Circle K Pump Station and its rising main infrastructure. I note that the four options were considered and passed through a primary and secondary constraints process. Three options were subsequently approved to progress to Step 5 'Detailed Assessment'.

8.6.7. I note that Table 4.2 of the report sets out the criteria and sub-criteria for each shortlisted route, as well as their corresponding scores. The table is entitled 'Criteria Scoring Summary' and Options 4a, 4b, 4c and 4d are reviewed here in some detail against a lengthy list of environmental, planning and technical considerations. I note that one of the key criteria relates to land acquisition requirements which states the following in relation to this:

Option 4a: Majority of route goes through private agricultural fields. Minor part crosses public road.

Option 4b: Full route is on road.

Option 4c: Majority of route goes through private agricultural fields. Minor part crosses public road.

Option 4d: Full route is on road.

8.6.8. The assessment criteria scoring outcome found that Option 4b had the most 'advantageous' scores and was deemed to be the most suitable route. It was found that Options 4a and 4c had similar 'advantageous' and 'less advantageous' scores due to the close resemblance of the selected pipeline routes. I note that the Site Selection Report concluded that by not having to acquire existing assets from private owners (i.e., the Circle K service station), Option 4b transpired to be the emerging preferred option and with the least risk attached.

- 8.6.9. During the Oral Hearing, the Applicant submitted that the potential impact and effects on landowners would be proportionate to the public need for an upgraded wastewater treatment plant serving the Tinryland agglomeration. It was confirmed that the majority of the proposed works and pipeline alignment would be within national and regional roads, which would provide sufficient working room in most cases, but that some small sections of new works would need to be placed in areas of existing farmland. I note also that the Site Selection Report confirms that occasional access to these small areas of farmland would be required, but that rehabilitation of the land post-construction would take place.
- 8.6.10. It was also stated in the report that future operational and maintenance access would be required and that this would be facilitated by the application of wayleaves and/or landowner agreements. The objector had a particular concern regarding what might be the condition of her land post works taking place. This particular issue is addressed under Section 8.8 of my report below.
- 8.6.11. I note that the overall CPO refers to nine plots of land in and along the N80 between Tinryland and Carlow Town. These plots are illustrated on the CPO drawings submitted with this application. I am satisfied that the overall amount of land take has been kept to a minimum, considering the extent of works required to deliver the project, and that this would be in accordance with the test of alternatives considered. I note that the Applicant has been able to reach a voluntary agreement with three of the four affected landowners for the chosen route which is indicative of the efforts made to least effect landowners in the area. A consensual agreement was therefore possible in relation to six plots of the nine plots affects – with the remaining three plots owned by the objector (Ms. Keenan).
- 8.6.12. Having reviewed this information, the submissions, and various other material on the file, I consider that the proposed route is in accordance with the site selection study developed for the project (i.e., ‘the Tinryland Wastewater Project Route and Site Selection Report’, dated 23rd January 2023). As noted above, the main objective of the assessment was to identify a preferred solution for the collection and treatment of sewage effluent arising in Tinryland and to identify the appropriate infrastructural improvement to ensure the effective management and treatment of wastewater protect the environment and public health. The report is thorough, detailed, and

properly considers the alternative options arising in order to deliver the project. The report is also consistent with the relevant Planning Permission (Reg. Ref. 24/60332).

- 8.6.13. Notwithstanding this, I acknowledge given the nature and extent of the proposed CPO that concerns relating to property, landownership and access will inevitably arise regardless of whichever option is selected. This was referenced during the Oral Hearing by Uisce Éireann, through Mr. Dodd, who noted that because the scheme necessitates the delivery of a new section of pipeline and the construction of extensive infrastructural works that there would likely be inevitable land acquisition which would impact on property owners along the route.
- 8.6.14. Mr. Dodd advised that the Applicant has fully taken into account such concerns and that the success of the process undertaken to date has been demonstrated by the Applicant's ability to reach consensual agreement with several affected parties. Mr. Dodd reiterated the attempts made by Uisce Eireann through their Landowner Liaison Officer to engage with all landowners and how only a single objection remains on the file. [While I note that the objection still stands, this could also be addressed through a separate scheme of compensation in the event the scheme proceeds.]
- 8.6.15. In conclusion, and having regard to the above, it is my submission to the Board that all viable and alternative route options, and related considerations, have been adequately explored by the Applicant. The proposed route, and areas required for land acquisition and/or works, represent the most reasonable means of achieving the project objectives, and it is my view to that this would meet the identified community need. I consider that Uisce Éireann has demonstrated a reasonable consideration of the alternatives available and that the proposed route is the optimum one. This is notwithstanding that some plots of land will be required to be permanently acquired, acquired for temporary working purposes, or as permanent wayleaves.
- 8.6.16. The Applicant has demonstrated that they have satisfactorily examined alternative methods of meeting the community need and, in view of the responses provided by them in relation to the concerns raised by the objector, I conclude that this particular part of the CPO test has been complied with.

8.7. Proportionality and Necessity for the Level of Acquisition Proposed

- 8.7.1. I consider that the delivery of an improved wastewater treatment plant serving the area would benefit all users in the long run, including local people, visitors, businesses, etc. However, I acknowledge that the proposed acquisition of lands has the potential to have a negative impact upon the objector, mainly during the construction phase. The required works would lead to temporary disruptions and nuisances, which are an unfortunate, but unavoidable, reality for such projects.
- 8.7.2. I note that the CPO does not seek to acquire any residential dwellings and that the direct impact on domestic properties is mainly limited to land-take along the external boundaries of public roads and small tracts of farmland.
- 8.7.3. The scope of the project includes:
- Decommissioning of the existing Wastewater Treatment Plant.
 - Construction of a new pumping station onsite with an inlet screen, including:
 - wet well,
 - dry well and flowmeter chamber,
 - a new storm tank,
 - stormwater return equipment to be installed to prevent discharge to the surrounding environment.
 - A new rising main connecting to the existing network at Carlow Town.
- 8.7.4. I note that the overall route would be 3.9km in length and pass through local roads, along the N80, before crossing the River Burren to connect into the existing foul network. It was determined by Uisce Éireann that the optimum route to connect to the existing sewer network at the outer extent of Carlow town would be west of the N80 as this would minimise the requirement to cross a national road at two different locations.
- 8.7.5. The CPO is predicated on a typical working strip width of 20m and that permanent wayleaves will normally be a maximum of 10m (within a working strip). I note that, where possible, entry of construction personnel onto the working strip will be only at points where it intersects, or is near, public roads. The contractor will not be authorised to operate on land outside the working strip without prior permission of

the landowner. Furthermore, I note that the pipeline route lies predominantly within existing roads and road verges. It does not require crossing through the centre of any agricultural fields which could otherwise result in land severance, or a situation whereby a portion of land is acquired leaving the residual land fragmented and/or less useful.

- 8.7.6. During the OH proceedings, the Objector questioned if the amount of land to be acquired would be sufficient to meet the requirements of the project and whether works would be likely to spill over outside the areas of land proposed to be made permanent wayleaves. Upon questioning, the Applicant confirmed that Plot No. 005 would be 0.05ha, Plot 006 would be 0.775ha, and Plot 007 would be 0.05ha, respectively. The Applicant confirmed that this extent of land would be adequate to facilitate the proposed works, including direction drilling equipment for the duration of the construction phase. It was also stated that the extent of each plot would be adequate to allow access to valves for maintenance purposes and to undertake future repairs, as required. The proposed extent of land take, in my opinion, would therefore be proportionate and necessary to achieve the project objectives.
- 8.7.7. It is my opinion that any temporary interference experienced by the Objector during the construction phase, and the imposition of permanent f wayleaves, would also be proportionate to the delivery of the project and that this is being pursued in the interests of the common good. Having examined the documentation before me, including the deposit maps, witness statements, and other materials of a technical standing, and in having regard to the submissions by the Applicant and Objector, it is my opinion that the proposed scheme incorporates the minimum land-take necessary to achieve the required technical standard for the scheme.
- 8.7.8. In the light of this, I conclude that Uisce Éireann has demonstrated that the CPO would meet the relevant criteria for establishing that the proposed acquisition of land would be clearly justified and in the interest of the common good.

8.8. Other Issues

Timing of Applicant's Submission / Adjournment of Oral Hearing

- 8.8.1. At the beginning of the Oral Hearing, the Objector's Barrister (Mr. O'Donnell) argued that he had received the Applicant's OH submission only shortly before the

commencement of the Hearing. This meant a very limited amount of time had been made available for him to review the information and that it could not be reasonably expected of anyone to deal with such an extensive volume of documentation within this short space of time.

- 8.8.2. Mr. Donnell further added that he could not understand why a state body, such as Uisce Éireann, would not have been able to send the information at an earlier date, particularly as many of the reports and witness statements appeared to have been written several weeks before the Hearing was due to take place. Mr. Donnell also raised a question as to when the Board received the Applicant's OH submission and if the Inspector had had more time than the Objector to review the material.
- 8.8.3. The Inspector, in response, confirmed that written Oral Hearing submissions are only circulated shortly in advance of the Hearing – when the Hearing is being held on remotely on MS Teams – and that this is for administrative purposes only. This is to assist in the smooth running of the remote hearing environment and to help ensure potential problematic issues of a technical nature can be avoided. The Inspector also confirmed that the Board received the Uisce Éireann submission at the same time as the Objector (Thursday, 29th May 2025), via email link, and that the expectation would be that the Applicant would brief all parties on the material during the course of the Hearing. The Inspector noted that the Applicant would be expected to expand on the points made in their original submission – as would normally be the case for any Oral Hearing – and to provide clarification on issues raised by the Inspector and Objector during proceedings.
- 8.8.4. In response to this, Mr. Dodd, on behalf of the Applicant, confirmed that he had listened carefully to the concerns raised by Mr. Donnell and that his instructions were to oppose the Objector's request to adjourn the Oral Hearing. Mr. Dodd continued by saying that the Applicant had provided their submission in accordance with the requirements of the agenda, which was for the information to be forwarded to the Board a minimum of three days in advance of the Hearing, and that the documentation provided was not 'new documentation' in the sense it comprised different information or presented new issues.
- 8.8.5. Mr. Dodd also stated that the matter had originally been listed in April 2025 for an Oral Hearing, but that it had been adjourned at the request of the Objector and

agreed to by the Applicant. Mr. Dodd also confirmed that no correspondence had been received from the Objector's solicitor in the intervening period leading up to the Oral Hearing (4th June 2025) and that the original objection written by Ms. Keenan's solicitor had been responded to in writing by Uisce Éireann in April 2025. The purpose of this letter, as explained by Mr. Dodd, was to extend a further invitation to Ms. Keenan to try and resolve any issues or concerns she may continue to have. Mr. Dodd confirmed that no response had been received to this letter.

- 8.8.6. In addition to the above, I should note that the Board would be aware that at an in-person hearing, written submissions are provided to the Board/Inspector on the day of the hearing, when it is that person's time to present. The information is only circulated to the other participants in the room during the course of those proceedings.
- 8.8.7. The purpose of circulating written submissions in advance of a remote hearing is not, therefore, to afford the parties with additional time to prepare a detailed response. The purpose of the hearing is for the Inspector to allow further discussion and examination of relevant issues, for parties to hear the arguments/points made, and to respond in real time. It is not to facilitate an additional round of submissions in advance of a hearing.
- 8.8.8. After briefly considering the matter, the Inspector confirmed during the Hearing that an adjournment would not be necessary in this case as the correct procedures had been adhered to in the leadup to proceedings, including the sharing of submissions and circulation of material.
- 8.8.9. The Inspector confirmed, however, that the concerns raised by Mr. Donnell, and the responses provided by Mr. Dodd, would be read into the record, made clear in the ensuing Inspector's Report, and thus marked for the attention of the Board – as has been done via this section of my report. Mr. Donnell confirmed acceptance of the decision to turn down the request for an adjournment and expressed an appreciation of the Inspector's commitment to formally note the matter to the Board.

Planning Status of the Project

- 8.8.10. The objector stated in their original written submission to the Board that the proposed development is premature as the compulsory purchase of land must be the

last stage in the process, and that an application for planning permission must first be made.

- 8.8.11. In relation to this, I note the response by Uisce Éireann which confirms that the relevant planning application (Reg. Ref. 24/60332) was made on the 18th October 2024. The application was granted permission by Carlow County Council on 12th December 2024. It was accompanied by an AA Screening Report, NIS, and EIA Screening Report (see Section 4.0 above for further details), which were issues identified as a concern in the Objector's written objection to the Board.
- 8.8.12. I note that the Objector, during the course of the Hearing, further questioned the validity of the EIA screening exercise undertaken and whether the report was correct to conclude that the proposed development is not one that is a type described by the relevant classes detailed in either Part 1 or Part 2 of the Planning and Development Regulations 2001 (as amended). The Applicant confirmed their opinion that the proposed development did not require an EIA to be completed as part of the planning application process.
- 8.8.13. Notwithstanding that there was some disagreement in relation to this issue during the course of the OH, the planning consent process is separate to the CPO process. In other words, this application for confirmation of a CPO relates exclusively to the acquisition of interests in land and that there is no scope to interrogate processes or assessments undertaken in relation to planning or environmental matters, which may or may not form part of a previous planning application process. It is also the responsibility of the Applicant to ensure that they have obtained the necessary planning permissions and consents, prior to undertaking the development for which the CPO is intended to facilitate.
- 8.8.14. In conclusion, I am satisfied that UÉ has provided adequate details regarding the nature of the proposed wastewater upgrade works to allow the Board to consider the merits, or otherwise, of the CPO, and of the community need that it would serve. I do not therefore consider that the issue of planning permission places any restriction on the Commission from considering the application or from deciding to either approve or annul the proposed CPO.

Consultation

- 8.8.15. During the OH proceedings, Mr. Donnell stated that inadequate consultation had taken place with the landowner and that the level of engagement undertaken by Uisce Éireann to explain the CPO process had been lacking, insufficient and at times inappropriate. It was argued that Ms. Kennan could not reasonably be expected to have a proper understanding of the project for this reason and that the CPO application was inherently flawed for this reason.
- 8.8.16. The Applicant responded by stating that numerous attempts had been made to contact Ms. Keenan. This purpose of this was to open a discussion with her regarding the project, to explain the nature of the proposed land acquisition, and how her land holding might be affected. These attempts had been made over a period of several months, using different forms of communication, including by phone, post, physically calling to the property, and by contacting her solicitor. A further attempt was made to open a discussion by contacting a tenant farmer on the land. Copies of letters sent by the Applicant's Land and Wayleaves Team to the objector are on the file.
- 8.8.17. Firstly, I would note that the level of engagement required for a CPO – particularly where one's land is to be acquired on a permanent basis – ought to be thorough, comprehensive, and meticulously executed. The exercise should reflect the significance of potential implications for the affected landowner(s) and the legal obligations of the acquiring authority. It should ensure that those parties who may be affected are fully informed, consulted in a meaningful way, and given ample opportunity to participate in the process. This is essential to uphold the principles of fairness and transparency for all involved, but also to reduce the risk of objection, delay, or future challenge down the line.
- 8.8.18. Avison Young was instructed by Uisce Eireann to provide property valuation and negotiation services in respect of the proposed scheme in June 2023. I note that Mr. John Fanning (Landowner Liaison Officer, Avison Young) was not in attendance at the Hearing. However, Mr. Gavin Quinlan (Divisional Director, Avison Young) was in attendance and confirmed he had initially called Ms Keenan to introduce himself and explain the project. Mr. Quinlan also said that he could confirm that Mr. Fanning had

been to the property on several occasions – something that was not disputed by Ms Keenan during the PH – with a view to discussing the project.

- 8.8.19. Initially, the objector, through her legal representation, made a case that very limited efforts had been made by Uisce Éireann to properly engage with her. It was said that it could not be verified that certain representatives of Uisce Éireann had visited Ms. Keenan's property to discuss the project as they were not in attendance at the Hearing. This argument somewhat changed during the course of the Hearing where Ms. Keenan herself confirmed representatives of Uisce Éireann had actually been to the property to discuss the nature of the CPO, but that she was not interested in engaging in a discussion and asked them to leave.
- 8.8.20. I note that the Statement of Evidence provided by Mr. Quinlan formed part of the OH proceedings. This includes a record of landowner engagements (see Page 2 of the report). The report is on the file and the information was read out as part of Mr. Quinlan's witness statement. The report outlines that six attempts in total were made between September 2023 to August 2024 to engage with Ms. Keenan. However, a detailed discussion or consultation was not possible due to a reluctance on behalf of the landowner to engage.
- 8.8.21. The Objector also stated that a leasee of the land was not formally notified and, therefore, could not be part of the CPO process or OH proceedings. The Objector claims that this was a deliberate and conscious decision to exclude him from the process, despite this individual leasing the land for over 20 years. Notwithstanding this, I note that Uisce Éireann spoke with the leasee, who is a tenant farmer, on at least occasions between the 21st and 26th October 2023. The purpose of this according to the Applicant was to explain the project and see if the leasee could assist in opening a discussion between Ms. Keenan and Avison Young/Uisce Éireann. The leasee was therefore contacted directly by the Applicant, and I am satisfied that the individual involved was made aware of the CPO application and could have attended the Oral Hearing to Raise any concerns they might have had.
- 8.8.22. Notwithstanding this, I consider that all reasonable endeavours have been undertaken by the Applicant to try and partake in positive consultation with the landowner and other parties as required. I am also satisfied that a genuine attempt was made to acquire the plots of land in question on a voluntary agreement basis –

as has been achieved with other affected landowners – and that the land is required to facilitate the project.

- 8.8.23. In conclusion, I am satisfied that the manner in which the CPO consultation stage has been administered has remained fair, transparent and thorough, and I note that the Applicant still remains open to having discussions with the Objector, should she wish to do so.

Rehabilitation of Land Post Works / Use of Wayleaves

- 8.8.24. Mr. Shalloo, in response to questioning at the Hearing, confirmed that prior to the commencement of works Uisce Éireann would carry out land condition surveys on the sections of the Objector's fields where Plots 005, 006 and 007 are located. This this would involve the preparation of a detailed report and photographic record. I note in response to my own questioning regarding this issue that Mr. Shalloo confirmed that the appointed contractor would be required to fully reinstate all existing lands, surfaces and land drainage arrangements as part of the construction phase.
- 8.8.25. It was also stated by Mr. Shalloo that the reinstatement of the affected land parcels would be carried out in accordance with the relevant specifications, and industry standards, and in consultation with the landowner / occupier. I would further note that part reason for the Applicant selecting this this particular route (i.e., Option 4b) was that the pipe would be predominately in the public road and road verges and the amount of land-take has been minimised wherever possible. Where any valves, hydrants, or scour pits are required to outside of road corridor that they would be designed to be easily accessible for future maintenance purposes.
- 8.8.26. In this regard, I would note for the Board's attention the document entitled '10050314 Tinryland WWTP Upgrade (the "Project") Code of Practice'. The Code of Practice includes a specific paragraph entitled 'Re-instatement of Land' which confirms Uisce Éireann is responsible for restoring all ground within working strip areas, and any other ground disturbed by its operations, to a condition equivalent to that existing before the commencement of works. The Code of Practice forms part of the booklet of documents received by the Board from Uisce Éireann in their written submission.
- 8.8.27. In response to Mr. O'Donnell's line of questioning regarding this matter, Mr. Shalloo confirmed that no fence, barrier, or boundary of any description, would be erected

around any of the areas of land proposed for permanent wayleaves. Mr. Shalloo confirmed that the exact nature of the works required, including the depth of earthworks, invert levels, and base interior levels for the laying of pipes, trenches and culverts would be able to be designed if/when the required ground condition survey could be completed. This would include gathering information on the geological and hydrological characteristics of each plot, soil types, rock formations and groundwater levels. I am satisfied that this particular issue has been adequately addressed.

Adequacy of CPO Application

- 8.8.28. A key concern raised by the Objector is in relation to the adequacy of information contained in the CPO application, and that the level of detail as per the documentation provided is unsatisfactory and insufficient to allow Ms. Keenan to gain a proper understanding of how her lands would be affected. Mr. Donnell, during the Hearing, repeatedly made the point that it is unknown at this point in time what the future intended works on Plot Nos. 005, 006 and 007 might entail and that it is not unreasonable for Ms. Keenan to have concerns over this.
- 8.8.29. The Applicant responded by stating it is difficult to ascertain the precise nature of works required at this stage in the project as Uisce Éireann have not been able to gain access to the Objector's lands to carry out the necessary site surveys and ground condition assessments. This information is required to inform the detail design phase of the project. Having said that, I note that Mr. Shalloo (Chartered Engineer, Uisce Éireann) and Colm Noonan (Chartered Engineer, Jacobs Engineering) attempted to provide clarification on this matter during the course of the Hearing. This occurred initially through the delivery of their respective Witness Statements and, subsequently, by attempting to answer a series of detailed questions posed by Mr. Donnell during the 'Questioning between Parties' segment of the Hearing.
- 8.8.30. I note that Mr. Shalloo explained that the optimum route to connect to the existing sewer network in Carlow town was determined to be west of the N80 as this would minimise the requirement to cross a national road at two locations. Mr. Shalloo also explained that Plot Nos. 005, 006 and 007 were required to be acquired as permanent wayleaves to accommodate direction drilling equipment during

construction and for future maintenance purposes. He described that the launch pit would be situated on the southern side of the river crossing and the reception pit on the northern side. Upon questioning, he explained that a launch pit serves as a starting point for installing wastewater pipes and acts as an access point for inserting equipment or pipe segments underground. Mr. Shalloo also reiterated that no ground investigations have been conducted onsite meaning exact conditions are currently unknown at this time.

- 8.8.31. I also consider that the means of accessing each individual plot of land should constitute a key component of the broader site accommodation and future enabling works which are required to facilitate future maintenance and repair of Uisce Éireann assets in the area. Points of access, whether temporary or permanent, should be designed not only to facilitate the efficient movement of personnel, machinery and materials, but also how best to integrate with the existing layout, pattern and use of the lands affected by the CPO. The proper planning and design of these access points is essential to ensure efficiency, safety and minimal disruption and where possible should be done so in consultation with the landowner.
- 8.8.32. I acknowledge the Objector's concern that the precise details of the construction phase and associated works are not yet available. However, in my view, this is not unusual at this stage of the project, particularly in circumstances where a CPO has not been confirmed, and further ground investigation studies are pending. I am satisfied that the level of detail provided to date is sufficient for the purpose of assessing the necessity and extent of the acquisition being proposed, and that the Applicant has addressed this matter appropriately in their application and written submissions to the Board.
- 8.8.33. I also consider that the Objector's concerns regarding the construction phase can be appropriately addressed through future accommodation works. These matters can reasonably be resolved through future detailed engagement as part of the process for agreeing such works. I am satisfied that the Applicant has demonstrated a commitment, to be delivered as part of the detailed design phase, to implement measures aimed at minimising potential impacts on the Objector's land and place of residence.

9.0 Recommendation

9.1. Having regard to the above, I conclude that:

- the acquisition of lands under the CPO would serve a community need that advances the common good,
- the particular land is suitable to meet that need,
- alternatives have been considered and that there is no alternative which is demonstrably preferable,
- the proposal does not materially contravene the development plan, and
- the proposed acquisition is proportionate and necessary.

I recommend that the Board **CONFIRM** the Compulsory Purchase Order based on the reasons and considerations set out below.

10.0 Reasons and Considerations

10.1. Having considered the objection made to the compulsory purchase order, the written submissions and observations made at the Oral Hearing held on the 4th June 2025, the report of the Inspector who conducted the Oral Hearing into the objection, the purpose for which the lands are to be acquired as set out in the compulsory purchase order, which is to advance the Tinryland Wastewater Treatment Plant Upgrade, and also having regard to the following:

- (i) the constitutional and European Human Rights Convention protection afforded to property rights,
- (ii) the strategic importance of the scheme in the context of addressing the current situation whereby the existing wastewater treatment plant for the area is being stretched beyond capacity and overloaded, which is resulting in discharge quality issues and environmental pollution,
- (iii) the decision of Carlow County Council to grant permission for works to advance the upgrade of the 'Tinryland Wastewater Treatment Plant' (Reg. Ref. 24/60332),

- (iv) the identified community need, public interest served and overall benefits to achieved from the proposed development,
- (v) the chosen route alignment, which constitutes a design response that is proportionate to the identified need,
- (vi) the policies and objectives of the Carlow County Development Plan 2022-2028, which are not materially contravened,
- (vii) the submissions and observations made at the Oral Hearing held on the 4th June 2025, and
- (viii) the report and recommendation of the Inspector,

it is considered that the permanent acquisition of the lands in question for permanent wayleaves, as set out in the Order, Schedule, and on the deposited maps by Uisce Éireann, is necessary for the stated purpose, which is a legitimate objective being pursued in the public interest, and that the CPO and its effects on the property rights of affected landowners are proportionate to that objective and justified by the exigencies of the common good.

In reaching this conclusion, the Board agrees with and adopts the analysis contained in the report of the person who conducted the Oral Hearing into the objections.

[I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.]

Ian Boyle
Senior Planning Inspector

26th June 2025

Appendix A: Oral Hearing Proceedings

Background

An Oral Hearing (OH) was held on Wednesday, 4th June 2025, in relation to the proposed compulsory acquisition sought by Uisce Éireann (UÉ) for the advancement of the ‘Tinryland Wastewater Treatment Plant Upgrade’ in Tinryland’, Co. Carlow (‘the Project’). The proceedings were held remotely at the offices of An Bord Pleanála using Microsoft Teams software. The following were in attendance and made submissions at the Oral Hearing.

1. Submissions on behalf of Uisce Éireann (UÉ)

- Alan Dodd, BL – *opening remarks, legal context and overview of the proposed CPO.*
- David Shalloo, Uisce Éireann – *provision of Witness Statement (Engineering), information on the design and engineering specification, need for the project.*
- Colm Noonan, Jacobs Engineering – *provision of Witness Statement (Route Selection).*
- John Kehoe, Jacobs Engineering – *provision of Witness Statement (Planning), planning context and CPO’s compliance with the relevant policy context, including the Carlow County Development Plan 2022-2028.*
- Gavin Quinlan, Avison Young – *provision of Witness Statement (Communications), information in relation to land liaison issues and engagement with objector.*
- Áine Gilhooly, Uisce Éireann – *provision of Witness Statement (Administrative).*

2. Submission by Objector

- Michael O’Donnell, BL – representing Ms. Mary Keenan
- Sinead Byrne, Solicitor (Malcomson Law) – representing Ms. Mary Keenan

3. Opening of Oral Hearing

- The Inspector (Ian Boyle) formally opened the hearing at 10.04am.
- Following some introductory remarks, and confirmation of attending parties, it was requested that Uisce Éireann make its formal submission.
- An issue in relation to the timing of the Applicant circulating their submission prior to the Oral Hearing (OH), and a request by the Objector for an adjournment of the OH, is discussed under Section 8.8 above.
- In summary, however, the Inspector confirmed during the Hearing that an adjournment would not be necessary in this case as the correct procedures had been adhered to in the leadup to proceedings, including the sharing of submissions and circulation of material amongst the parties.

4. Submission by Uisce Éireann

Overview of CPO and Justification

- Mr. Alan Dodd, BL acting for Applicant opened by confirming who was present to give evidence on behalf of Uisce Éireann.
- Mr. Dodd went on to set the context for the CPO and that it is for the purpose of facilitating the Tinryland Wastewater Treatment Plant Upgrade project in Tinryland, Co. Carlow. He also explained who would make submissions on behalf of UÉ, including Mr. David Shalloo, Mr. Colm Noonan, Mr. John Kehoe, Mr. Gavin Quinlan and Ms. Áine Gilhooly (as listed above).

Mr. David Shalloo

Key issues raised:

- Described the existing and physical context pertaining to the project.
- Explained that the project is being proposed to address the current overloading of the existing plant and to facilitate an increase in capacity for both the current and future growth within the agglomeration.
- Confirmed the development would help to ensure continued environmental compliance and adherence to the Urban Wastewater Directive, while also addressing future growth and economic development in the area.

- Referenced the completion of a route and site selection assessment which identified a preferred solution for the collection and treatment of sewage effluent arising in Tinryland and identified the required infrastructure that would ensure the effective management of wastewater collection and treatment to protect the environment and public health.
- Noted that the proposed CPO is necessary as lands not in the ownership of Uisce Éireann were identified in the route and site selection assessment. UÉ was not able to acquire these lands through voluntary agreement.
- Confirmed attempts to engage with landowner of Plots 005, 006 and 007 had taken place over a prolonged period but that it was not possible to reach agreement.
- Noted that UÉ submitted the relevant planning application (Reg. Ref. 24/60332) on the 18th of October 2024 and that permission was granted on the 12th of December 2024. Therefore, the CPO is not premature as it does not precede the granting of planning permission.
- Stated that the acquisition of lands, permanent wayleaves and temporary working areas sought by the CPO are necessary and suitable to fulfil a demonstrable community need. The works are not in contravention of the provisions of the statutory development plan.
- Concluded that should the CPO be confirmed by the Board, Uisce Éireann will move to close out the tender phase and appoint a contractor to carry out the construction works.

Mr. Colm Noonan

Key issues raised:

- Outlined the project scope and the approach taken as part of the site and route selection assessment (see Section 8.6 above).
- Described the study area and various site options considered.
- Stated that UÉ has undertaken a robust selection process based on the methodology set out in UÉ document – A Guide to Route and Site Selection Revision No. 2.0 (IW-PD-GL-0008, Revision No. 2.0, January 2021).

- Noted that each infrastructural element was selected through individual processes, but that strong consideration was also given to the intricacies of interlinked infrastructural elements.
- Concluded that the preferred solution (Option 4b) was shown to meet the project objectives, that the lands sought by the CPO are necessary and suitable to meet the project objectives, and the alternatives considered do not represent sites or routes which would be demonstrably preferable.

Mr. John Kehoe

Key issues raised:

- Provided a short description of the project.
- Outlined the relevant planning policy context in relation to national, regional and local planning policy (see Section 5.1 above).
- Provided a 'summary of compliance' confirming that the project would not cause any significant adverse impacts to the environment.
- Stated that the project is compliant with the policies and objectives within the Carlow County Development Plan 2022-2028 and Carlow - Graiguecullen Joint Urban Local Area Plan 2024-2030 (see Section 5.0 above).
- Described the relevant planning history noting that Permission Reg. Ref. 24/60332 is in relation to the proposed development.
- Discussed matters in relation to EIA, AA Screening and NIS.
- Concluded that the proposed development is in accordance with the CDP and LAP and would enable investment to be aligned with the proper planning and sustainable development of the county.
- Also noted that the project would not impede any permitted development within the subject site and that permission was granted for the project in December 2024.

Note: The Witness Statement provided by Mr John Kehoe at the Oral Hearing includes a table (Table 3.1) showing various applicable zoning objectives to the CPO lands.

Mr. Gavin Quinlan

Key issues raised:

- Outlined landowner efforts to engage with the landowner (see Pages 2 and 3 of relevant Witness Statement and Section 8.8 'Consultation above).
- Concluded that all reasonable endeavours were made to engage with the landowner to explain the process and to seek to agree the consensual acquisition of permanent wayleaves in her lands by Uisce Éireann.

Ms. Áine Gilhooly

- Responsible for providing business support to delivery portfolios in terms of land and wayleave compulsory acquisition.
- Provided a summary of UÉ CPO process and making the CPO.
- Stated that Uisce Éireann completed a clear process in the making the CPO and managing all CPO documentation, making documentation available for public display, and enabling landowners or persons with interest in lands to make objections to the CPO.
- Stated that all reasonable endeavours were made to engage with landowners and/or their agents both prior to and following the serving of the Compulsory Purchase Order.

While some smaller matters were clarified during this stage of the OH, no new or significant matters arose.

The Inspector called for a brief recess in proceedings.

5. Submission by Objector, elaborating on written submissions

- The Inspector called for Objector to present their submission.
- The landowner and Objector (Ms. Keenan), and her representatives, made a submission in relation to the proposed CPO. Concerns are summarised in Section 6 of this report and assessed in further detail under Section 8.
- The written submissions are on file and available for the Board.

- The Objector, primarily through Mr. O'Donnell BL, took the opportunity to expand upon written submissions during the proceedings and posed questions to Uisce Éireann to clarify certain matters.
- Some of the key concerns raised by the Objector included the timing of Applicant's submission and request for an adjournment of Oral Hearing; the planning status of the project; the adequacy of engagement and consultation undertaken by UÉ, the nature and extent of the rehabilitation of the affected land parcels post construction and the requirements for wayleaves; the overall adequacy of the CPO application and required documentation; and that in absence of further details Ms. Keenan could not have been expected to gain a proper understanding of how her land would be affected by the proposed CPO.
- In relation to the Objector's request that the OH should be adjourned on the basis of receiving the Applicant's OH submission 'late', and without sufficient time to consider the material, I note that the Inspector confirmed during the Hearing that an adjournment would not be necessary in this case. The reasoning provided that all necessary procedures and protocols had been adhered to in the leadup to Hearing, including by the Applicant, and the Board, and including in relation to the proper circulation of submissions and related material.
- The Inspector confirmed however that the matter would be read into the record and made clear in the ensuing Inspector's Report.
- No further written submissions were made by the Objector during the Hearing itself, and all submissions sent to the Board in the days leading up to the OH were made available to the parties.
- As noted in the body of the report above, this was to assist in the smooth running of proceedings, which took place via an online platform, and not to facilitate a further round of submissions.

6. Questioning between Parties

- The objector was afforded the opportunity to question the Applicant and its representatives.
- Several points were raised and/or expanded upon during this part of the OH proceedings. Relevant points of interest are referred to in the assessment section of this report above (Section 8).
- I note also that this part of the Oral Hearing is available on the digital recording of the OH proceedings.

7. Closing Comments

The parties made closing statements, which are summarised as follows:

Mr. O'Donnell, on behalf of the Objector

- The scheme should not be recommended to be confirmed.
- There is no information available to confirm whether the impact on the objector's lands is proportionate.
- Therefore, how can the Board comply with the constitutional obligation set out in case law that this is the scheme with the *least* impact on the landowner.
- This onus is on the Applicant to demonstrate this is the case, but they have failed to demonstrate this. The scheme has not been designed.
- The Applicant has deliberately concealed the nature and the extent of the scheme from Ms. Keenan.
- The landowner does not want her land to be acquired compulsorily and so the option of her cooperating with Uisce Eireann to resolve certain matters in the future is not open as she simply does not wish the CPO to proceed.
- The Hearing has heard that certain works, excavations, heavy traffic and pumping of water will be required. However, this is not possible given the small size of the plots of land and depth of underground digging that would be required. This may also require construction entrances, but not details have been provided of this.

- In the absence of detailed drawings, no assessment can be made of the impact of the CPO, and it should be annulled for this reason.
- The planning application was made with no notices erected on Ms. Kennan's lands.
- Uisce Éireann may visit as often as once a year to inspect the underground works and pipes and this will place an extraordinary burden on the land.
- A leasee of the land was deliberately excluded from the CPO application process.
- The CPO cannot be confirmed.
- It may be necessary to reconvene the Hearing to ascertain the nature of engagement undertaken between Uisce Eireann (Mr. John Fanning) and the Objector (Ms. Keenan) as Mr. Fanning was not in attendance at the Hearing to substantiate certain claims in relation to landowner engagement.

Mr. Dodd, on behalf of the Applicant

- Mr. Donnell is not correct to say that the scheme is bound to fail.
- There is planning permission for the project, and this preceded the CPO application.
- The Engineer's Report deals with the issue of alternatives considered and impact on land and sets out the different route options that were examined.
- Mr. Donnell is wrong to say that Uisce Éireann intentionally concealed the scheme from Ms. Kennan.
- The level of attempted engagement with the landowner is well-documented within the Applicant's submission and this occurred over a significant period of time. The Objector did not wish to engage.
- After this, Uisce Éireann decided upon the demonstrably preferable route and sought to acquire a corridor by which the scheme could proceed. This avoided a permanent acquisition of the Objector's lands and instead involved the proposed application of wayleaves.
- Ms. Keenan would be compensated in the event the CPO is approved.

- Mr. Donnell's 'discovery' that the wayleaves would have a pipe and chambers in it and that the ground would need to be excavated is surprising. The CPO description clearly states the wayleaves being sought for Plot Nos. 005, 006 and 007 are for the purposes of laying of a pipe.
- The CPO drawings are also clear. They indicate the laying of a pipe in these locations and that UÉ are required to be able to have access to these pipes and related infrastructure for future inspection and potential repairs.
- In response to the assertion made by Mr. O'Donnell that it is not possible to accommodate the level of works envisaged at any of the three plots as they are too small, Mr. Dodd stated that this actually shows the intention of UÉ to try and take the least possible amount of land to facilitate the project and that this further demonstrates the proportionate nature of the CPO.
- The Applicant has been able to demonstrate they the CPO has been prepared with the least amount of interference in the Objector's landholding.
- There is a community need which is required to be met, the land proposed to be acquired for wayleaves is suitable to meet this need, that other alternatives have been considered, and they are not demonstrably preferable, and that it is not a material contravention of planning policy / the CDP.
- The CPO should be recommended for approval.