



An
Coimisiún
Pleanála

Inspector's Report ACP-323094-25

Development

Proposed development at
Garrykennedy Inner Harbour

Location

Garrykennedy Inner Harbour,
Garrykennedy, Co. Tipperary

Planning Authority

Tipperary County Council

Type of Application

Application for approval made under
Section 177(AE) of the Planning and
Development Act, 2000 (local
authority development requiring
appropriate assessment)

Prescribed Bodies

An Taisce
The Arts Council
Department of Housing, Local
Government and Heritage
Department of Rural and Community
Development
Department of Tourism, Culture, Arts,
Gaeltacht, Sport and Media
Department of Environment, Climate
and Communications

Failte Ireland
Heritage Council
Inland Fisheries Ireland
National Parks and Wildlife Services
Uisce Éireann
Waterways Ireland
Tipperary County Council

Observers

Garrykennedy Tidy Towns
Development Group
Commodore Garrykennedy Sailing
Club

Date of Site Inspection

03 November 2025

Inspector

Rachel Gleave O'Connor

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1.0 Introduction

- 1.1. Tipperary County Council is seeking approval from An Coimisiun Pleanála to undertake an upgrade of the existing Inner Harbour at Garrykennedy within the Lough Derg (Shannon) SPA which is a designated European site. There are also other designated European sites (SPAs and SACs) in proximity to the proposed works (see further analysis below). A Natura Impact Statement (NIS) and application under Section 177AE were lodged by the Local Authority on the basis of the proposed development's likely significant effect on a European site.
- 1.2. Section 177AE of the Planning and Development act 2000 (as amended) requires that where an appropriate assessment is required in respect of development by a local authority, the authority shall prepare an NIS and the development shall not be carried out unless the Commission has approved the development with or without modifications. Furthermore, Section 177V of the Planning and Development Act 2000 (as amended) requires that the appropriate assessment shall include a determination by the Commission as to whether or not the proposed development would adversely affect the integrity of a European site and the appropriate assessment shall be carried out by the Commission before consent is given for the proposed development.

2.0 Proposed Development

- 2.1. The proposed development is comprised of the following:
 - Clearance of the Inner Harbour including removal of abandoned boats.
 - Addressing safety concerns in relation to the existing boardwalk by removal of existing and replacement with modern floating pontoons for 47no. small boat berths that include facilities to enable wheelchair users to access the water.
 - Extension to existing welfare building to provide 'changing places' facility.
 - Alterations to existing parking to facilitate 4no. recreational vehicle parking spaces with power & water points and updated accessible parking.
 - Provision of bike parking / charging facilities.

- 2.2. The 'changing places' facility is described as an accessible changing facility to be provided in the existing welfare building which will be in accordance with the Universal Design Guidelines for Changing Places by the National Disability Authority. A Changing Places Toilet is an accessible sanitary facility with a toilet, hoist, basin, adult-sized changing bench, and optional shower with adequate space for use by persons with a range of abilities who may require assistance.
- 2.3. The proposed floating pontoon will be placed on piles made of galvanised steel, driven by vibration into the lakebed, with no coring or excavation from the lakebed.
- 2.4. It is proposed that the development be served by existing, albeit modified, lighting, wastewater, surface water and watermain infrastructure.

Accompanying documents

This application for approval is accompanied by the following documents:

- Archaeological Assessment;
- Architectural Report;
- Ecological Impact Assessment;
- Natura Impact Statement (NIS);
- Planning Report;
- Preliminary Construction Environmental Management Plan (CEMP);
- Drawings; and
- Cover letter, with copies of public notices and letters to prescribed bodies.

3.0 Site and Location

- 3.1. The site is located towards the south east edge of Lough Derg in a picturesque environment characterised by the lake. The harbour is accessed from Ballyvaughan road which leads to Garrykennedy Slipway and the Inner Harbour area where the works are proposed to take place. Adjacent to the Inner Harbour, is the more modern Outer Harbour under the management of Waterways Ireland. To the south and east beyond the harbour lies a woodland, with a few buildings lining Ballyvaughan road on the approach to the harbour that are mostly residential with a small number of

commercial uses (i.e. pub and restaurant). Garrykennedy Castle Harbour is a historic landmark to the north of the site.

4.0 Planning History

- 4.1. 16600148 – Tipperary County Council Granted Planning Permission in May 2016 for: Upgrade and enhancement of the existing Canoe Trail at Lough Derg (13 associated applications with requisite authorities at Tipperary, Clare and Galway with respect to the trail – signage, canoe storage and upgraded infrastructure). NIS submitted.

5.0 Legislative and Policy Context

5.1. Relevant legislative provisions

- 5.1.1. **The EU EIA Directive (2014/52/EU):** Environmental Impact Assessment Directive (EIA Directive) means Directive 2014/52/EU of the European Parliament and of the Council of 16th April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment.
- 5.1.2. **The EU Habitats Directive (92/43/EEC):** This Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Articles 6(3) and 6(4) require an appropriate assessment of the likely significant effects of a proposed development on its own and in combination with other plans and projects which may have an effect on a European Site (SAC or SPA).
- 5.1.3. **European Communities (Birds and Natural Habitats) Regulations 2011:** These Regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in CJEU judgements. The Regulations in particular require in Reg 42(21) that where an appropriate assessment has already been carried out by a 'first' public authority for the same project (under a separate code of legislation) then a 'second' public authority considering that project for appropriate assessment under its own code of legislation is required to take account of the appropriate assessment of the first authority.

5.1.4. **National nature conservation designations:** The Department of Culture, Heritage and the Gaeltacht and the National Parks and Wildlife Service are responsible for the designation of conservation sites throughout the country. The three main types of designation are Natural Heritage Areas (NHA), Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) and the latter two form part of the European Natura 2000 Network.

5.1.5. European sites located in proximity to the subject site include:

- Lough Derg (Shannon) SPA [site code: 004058] – site situated within boundary of SPA;
- Lough Derg, North-east Shore SAC [site code: 002241] – site situated 6.8km away; and
- Lower River Shannon SAC [site code: 002165] – site situated 12.4km away.

5.1.6. **Planning and Development Acts 2000 (as amended):**

5.1.7. Part XAB sets out the requirements for the appropriate assessment of developments which could have an effect on a European site or its conservation objectives.

- 177(AE) sets out the requirements for the appropriate assessment of developments carried out by or on behalf of local authorities.
- Section 177(AE) (1) requires a local authority to prepare, or cause to be prepared, a Natura impact statement in respect of the proposed development.
- Section 177(AE) (2) states that a proposed development in respect of which an appropriate assessment is required shall not be carried out unless the Commission has approved it with or without modifications.
- Section 177(AE) (3) states that where a Natura impact assessment has been prepared pursuant to subsection (1), the local authority shall apply to the Commission for approval and the provisions of Part XAB shall apply to the carrying out of the appropriate assessment.
- Section 177(V) (3) states that a competent authority shall give consent for a proposed development only after having determined that the proposed development shall not adversely affect the integrity of a European site.

- Section 177AE (6) (a) states that before making a decision in respect of a proposed development the Commission shall consider the NIS, any submissions or observations received and any other information relating to:
 - The likely effects on the environment.
 - The likely consequences for the proper planning and sustainable development of the area.
 - The likely significant effects on a European site.

5.2. Policy and Guidelines of Relevance

- 5.2.1. The following policy and guidelines are considered relevant to the proposed development:
- 5.2.2. National
- 5.2.3. **Climate Action Plan (CAP) 2025:** CAP 25 builds on the Climate Action Plan of 2024, reinforcing the measures, actions and policy supports required to support Ireland’s transition to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy. It represents an update or iteration of Ireland’s ongoing climate action strategy, and there is continuity between CAPs and overlap in the iterative evolution of the actions.
- 5.2.4. **National Planning Framework:** Project Ireland 2040 outlines the obligations upon public authorities to take appropriate steps to avoid the deterioration of natural habitats and the requirements relating to appropriate assessment. (Page 154). National Policy Objective 34 to facilitate tourism development. National Policy Objective 49: Support the sustainable growth and development of the maritime economy and continue to invest in the seafood sector and our Fishery Harbour Centres, particularly in remote rural coastal communities and islands.
- 5.2.5. **Section 28 Ministerial Guidelines & other policy:** Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions, I consider the following are relevant:
- The National Biodiversity Plan 2023-2030
 - Architectural Heritage Protection Guidelines for Planning Authorities (2011)

- ‘The Planning System and Flood Risk Management’ (2009)

5.2.6. Regional

5.2.7. **Regional Planning Guidelines:** Regional Spatial & Economic Strategy for the Southern Region 2020-2032 includes RPO 1 requiring the conservation and protection of designated areas and natural heritage areas, European sites and their integrity. Other relevant objectives including RPO 53 and 54 with respect to tourism; as well as RPO 76: Marine Economy and RPO 81: Fishery Harbour Centres and Local Authority Harbours.

5.2.8. Local

5.2.9. **County Development Plan:** The Tipperary County Development Plan 2022-2028 includes the following sections, policies/objectives of relevance:

5.2.10. The land area of the site is zoned Amenity under the Tipperary County Development Plan 2022-2028, with the associated objective ‘To provide, preserve and enhance open space and amenity uses’.

5.2.11. Section 9 Tourism:

- Policy 9-1: this policy encourages and supports tourism development, including accommodation and related facilities.
- Policy 9-2: relates to the assessment of proposals for tourism development outside of settlement centres, with consideration of environmental conditions and sensitivity.
- Objective 9-F: To co-operate with Fáilte Ireland, Waterways Ireland and other relevant bodies and agencies, in promoting the county’s waterways and Lough Derg Lakelands as part of an overall tourism development and marketing strategy.
- Objective 9-H: To support, encourage and promote sports tourism within the county.
- Objective 9-I: relates to supporting the provision of accessible tourism, ensuring facilities are accessible to people with mobility issues.

5.2.12. Section 11 Environment and Natural Assets

- Policy 11-1: relates to the assessment of proposals for new development alongside consideration of protection and enhancement of the natural environment. The policy states that no plans, projects etc. will that give rise to significant impact on European sites will be permitted in line with the Habitats Directive.
- Policy 11-2: concerns ensuring the protection, integrity and conservation of European Sites and Annex I and II species listed in EU Directives, and the requirement for the submission of an NIS and need for Appropriate Assessment where necessary.
- Policy 11-4: relates (a) to the protection of areas of local biodiversity value, habitats, ecosystems and ecological corridors; (b) the safeguarding, enhancement and protection of waterbodies; (c) the incorporation of SUDS; and (d) the retention or replacement of trees and hedgerows.
- Policies 11-5, 11-7: concern the protection of water quality.
- Policy 11-6: Ensure the integration of river corridors with green infrastructure in settlements in line with the 'Planning for Watercourses in the Urban Environment' (Inland Fisheries Ireland 2020).
- Policy 11-8: relates to providing for sustainable development of fisheries.
- Policies 11-9, 11-10, 11-11: concerns the assessment of flood risk.
- Policy 11-12: concerns the protection and conservation of geological heritage.
- Policy 11-13: concerns control of the spread of invasive plant and animal species.
- Policy 11-19: relates to minimising light pollution.
- Objective 11-I: Comply with the Arterial Drainage Act 1945 (as amended) prior to carrying out of construction/alteration works, or drainage works etc on water channels.

5.2.13. Section 12 Transport

- Policy 12-1: requires development to incorporate cycle parking.

- Policy 12-7: encourages new development to enable installation of EV charging points.

5.2.14. The Development Management Standards in Volume 3 Appendix 6 of the Plan described car parking standards.

5.2.15. Section 13 Built Heritage

- Policy 13-4: concerns the consideration of archaeological heritage in the assessment of development applications.
- Policy 13-7: Consider underwater archaeology and ensure that development to river banks or coastal edges within the vicinity of a site of archaeological interest shall not be detrimental to the character of the archaeological site or its setting.

5.2.16. Section 14 Green and Blue Infrastructure

- Objective 14-E: Support investment in the ongoing development, maintenance and enhancement of trails and recreational infrastructure in Tipperary.

5.2.17. Section 15 Water and Energy Utilities

- Policies 15-5 to 15-7: relates to connection to existing water infrastructure.

6.0 Consultations

6.1. Prescribed Bodies

6.2. The application was circulated to the following bodies:

- The Heritage Council
- Department of Housing, Local Government and Heritage
- Department of Environment, Climate and Communications
- Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media
- Department of Rural and Community Development
- Tipperary County Council
 - Planning & Development Section

- Chief Fire Officer
- Roads, Transportation & Infrastructure Section
- Environment and Climate Action, Corporate and Human Resources Section
- Uisce Éireann
- An Taisce
- Fáilte Ireland
- The Arts Council
- Inland Fisheries Ireland
- National Parks and Wildlife Services
- Waterways Ireland

6.2.1. Responses were received from the Department of Housing, Local Government and Heritage and Uisce Éireann. Summaries of these submissions are presented as follows:

6.2.2. Department of Housing, Local Government and Heritage:

- Archaeology – To mitigate the impact of the development on cultural heritage it is recommended that a programme of archaeological monitoring of dryland works be undertaken and to mitigate the proposed works within the harbour area an underwater archaeological impact assessment is recommended. While the Department broadly concurs with the proposed mitigation in the submitted archaeological assessment, the following conditions are recommended; archaeological assessment mitigation; project archaeologist; underwater archaeological impact assessment; archaeological monitoring (terrestrial); archaeological monitoring (underwater); construction environmental management plan (CEMP).
- Nature Conservation – Recommend conditions regarding the following: With respect to otter, it is recommended that a further survey for otters is carried out in advance of the works, focussing on areas within 150m of the site not previously covered on foot. The results of the survey to be communicated to

the Department before works begin. In relation to lighting, the woodland to the east is likely to provide foraging habitat for bats. Proposed service lighting bollards are located on the pontoon facing directly across onto the woodland. Recommend these lighting fixtures are cowled to ensure no glare toward the woodland. Recommend that construction hours are limited to daylight only to avoid disturbance to otters and bats, as well as waterbirds.

6.2.3. Uisce Éireann:

- Recommend conditions with respect to a connection agreement, that development be carried out in compliance with Uisce Éireann's Standard Details and Codes of Practice, and that if it is proposed to build over Uisce Éireann assets, a Confirmation of Feasibility of Diversions will be required prior to works commencing.

6.3. Public Submissions

6.3.1. Garrykennedy Tidy Towns Development Group:

- No communication or project briefing has taken place with the resident's groups representatives.
- The proposal was not available to view at the Nenagh Municipal District offices as advertised.
- With reference to the Ecological Impact Assessment Report, request that the ornamental/non-native shrubs be removed and the invasive species listed also be removed.
- Object to the development of 4 RV parking areas as this will adversely affects the availability of parking for cars. If there is warm weather, there can be up to 10 RV's in the existing car parks greatly reducing car parking for day trippers. This also leads to traffic congestion and may cause delays to emergency vehicles. The proposed parking will only increase the number of RV's.
- Query management of the facility to prevent dumping/abandoning of boats in future.
- No clarification of time line for the project. Work should take place outside of May through to mid-September when the harbour is busy.

- Request CCTV cameras to deter anti-social behaviour and theft.

6.3.2. Commodore Garrykennedy Sailing Club:

- Request for 12 berths in the redeveloped Garrykennedy Inner Harbour for use by Garrykennedy sailing club, who have used / depended on the harbour since the clubs establishment in 1985.

6.4. Response of Applicant to Submissions

6.4.1. Response to the Department of Housing, Local Government and Heritage:

- No submission on this observation as it is broadly in line with the submitted Archaeological Impact Assessment.

6.4.2. Response to Uisce Éireann:

- No submission on this observation as it is a standard response.

6.4.3. Response to Garrykennedy Tidy Towns Development Group:

- Acknowledge that specific representatives of this group were not communicated with directly. A subsequent meeting has taken place with a commitment to further engagement should planning be obtained.
- The proposal was available for review at the Customer Services Desk in the Civic Offices as advertised. A link to documents online was also provided to the group representative on 22nd July.
- Ornamental plants are a large part of the established flora planted around the harbour and removal of these would include the removal of established shrubs and trees. The majority of species present are not invasive. Tables in the EclA report list Invasive Species in the wider area, with control covered in the EclA and NIS. Outside the scope of the proposal to remove all invasive aquatic species from the Harbour and Lough Derg. Sycamore is established in the area, and removal would impact birds and bats. Butterfly bush can be removed if required, however such removal will have a negligible ecological benefit as it is likely present in the wider area and gardens.
- The intention of the proposed 4 RV parking is to cater for the existing RV traffic with designated suitably sized parking, thereby reducing the impact of RVs on existing car parking and risk of emergency access being blocked.

- Premature to specify future management arrangements. Further reengagement will take place with representatives of the group in the event of the development proceeding and future management arrangements will be developed in consultation with stakeholders.
- Premature to specify a timeline for the project which can only proceed once planning and funding is secured. Tipperary CC is aware of the importance of ensuring that as little disruption as possible takes place during the tourist season.
- Proposals for provision of CCTV cameras are not considered appropriate for inclusion in the planning application, with such proposals needing to be considered in the context of the council's countywide policy and compliance with regulation, approval by Garda Commissioner and securing of funding.

6.4.4. Response to Commodore Garrykennedy Sailing Club:

- Note that the Garrykennedy Sailing Club along with others (Garrykennedy Powerboat Club, Garrykennedy Fishing Club and local users) have indicated to TCC that they would have need for a number of berths. TCC are committed to liaising with all users of the existing harbour to ensure their needs are met.

7.0 EIA Screening

7.1. The proposed development which involves the upgrade of an existing harbour is not a class of development under the classes listed at Schedule 5 of the Planning & Development Regulations 2001 (as amended). No mandatory requirement for EIA arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of this report.

8.0 Assessment

8.1. The assessment will be undertaken in three parts as per the requirements of Section 177AE as follows:

- The likely effects on the environment

- The likely consequences for the proper planning and sustainable development of the area
- The likely significant effects on a European site

8.2. The likely effects on the environment

8.2.1. From a review of the application documents and consultation responses, I am satisfied that the main potential environmental effects (other than issues addressed in appropriate assessment) can be addressed under the following headings:

- Amenity and Recreation
- Biodiversity
- Archaeology
- Vehicle Parking
- Water

8.2.2. Amenity and Recreation / Tourism

8.2.3. Policies and objectives within the Tipperary County Development Plan 2022-2028 promote recreational uses in the County, including objective 14-E which supports investment in recreational infrastructure in Tipperary, and policies in chapter 9 which promote tourism development in the county. Objective 9-I also relates to supporting the provision of accessible tourism.

8.2.4. The proposed development is intended to improve the appearance of the Inner Harbour area at Garrykennedy, with removal of abandoned boats and replacement of the boardwalk with a floating pontoon, provision for 47no. small boat berths and extensions and alterations to meet accessibility requirements. The proposed development will provide space for day boat commercial businesses to drop and collect boat passengers as well as facilitate local fishing and sailing communities.

8.2.5. The proposed development relates to the upgrading of an existing harbour with the nature of the use remaining as is existing, therefore there will be no significant change in relation to amenity impacts. The proposed extension is minor in size and will not generate adverse amenity impact. The provision of accessible facilities will

be a beneficial amenity for those with mobility needs and will allow for greater participation in the uses facilitated at the harbour area.

- 8.2.6. The proposed upgraded harbour will facilitate recreational use for boat passengers, and promote tourism use of the lake. Therefore, the proposal is appropriate with respect to policies and objectives under the development plan relating to recreation and tourism.
- 8.2.7. I note the request from Garrykennedy sailing club for 12 boat berths for their use. The proposed development includes 47 small boat berths, and the applicant response confirms that Tipperary County Council will liaise with users of the existing harbour to ensure their needs are met.
- 8.2.8. In relation to the request from Garrykennedy Tidy Towns Development Group for a project timeline and that construction works don't take place during busy tourist season, I note the applicant response in this regard. The Council acknowledge the importance of ensuring as little disruption as possible during the tourist season in lakeside locations. It would not be appropriate in my view to restrict works during the May to September tourist period, as construction works need to be carried out in accordance with other mitigation commitments, which include avoiding months where specific ecological receptors could be adversely impacted. Overall, I am satisfied with the applicant response in relation to this matter.
- 8.2.9. I also note the request from Garrykennedy Tidy Towns Development Group for CCTV cameras, and the response from the applicant. I am satisfied that CCTV provision is more appropriately considered as part of a wider policy and in discussion with the Garda Commissioner. As such, there is no obligation for the current proposal to incorporate such provision. In relation to the query concerning management of the harbour, I accept the applicant response with respect to the prematurity of the scheme and commitments around future management arrangements for the harbour. I also note and accept the applicants response with respect to consultation and access to documentation for the application proposal.
- 8.2.10. Overall, I am satisfied that the proposal will not generate adverse amenity impacts as it reflects the current use of the site and responds positively to policies and objectives under the development plan related to recreation and tourism.
- 8.2.11. Biodiversity

- 8.2.12. The application submission includes an Ecological Impact Assessment (EclA) which describes the existing ecological conditions of the site and potential impacts that could arise from the proposed development works. Potential effects upon European designated sites are considered further below in this report.
- 8.2.13. There is a mixture of habitats within the site, including mesotrophic lakes (FL4), buildings and artificial surfaces (BL3), and amenity grassland (GA1). Surrounding the harbour there are other habitats, including scattered trees and parkland (WD5), riparian woodland (WN5), mixed broadleaved/conifer woodland (WD2), Ornamental / non-native shrub (WS3), and reed and large sedge swamps (FS1). Mesotrophic lakes (FL4) is a protected aquatic habitat of national importance. Protected habitats of local importance also include reed and large sedge swamps (FS1), scattered trees and parkland (WD5), riparian woodland (WN5) and mixed broadleaved/conifer woodland (WD2), which provide opportunities for nesting birds. Tables 4.3 and 4.4 of the EclA list the invasive species recorded at Lough Derg.
- 8.2.14. Site surveys of birds were undertaken with results included in table 4.5 of the submitted EclA. There was 1 Annex 1 (E.U. Birds Directive) species, Kingfisher (*Alcedo atthis*), 1 Red List species, Grey Wagtail (*Motacilla cinerea*) and 7 Amber Listed species (Birds of Conservation Concern in Ireland), alongside other species. There is no suitable nesting habitat for Kingfisher at the proposed pontoon location as the bank is modified and lacks exposed muddy banks.
- 8.2.15. The subject site is located within the current distribution, range and favourable reference range of Soprano Pipistrelle (*Pipistrellus pygmaeus*) [5009], Daubenton's Bat (*Myotis daubentonii*) [1314], Leisler's Bat (*Nyctalus leisleri*) [1331] and Common pipistrelle (*Pipistrellus pipistrellus*) [1309]. Brown long-eared Bat (*Plecotus auratus*) [1326], Whiskered Bat (*Myotis mystacinus*) [1330] and Natterer's Bat (*Myotis nattereri*) [1322] are outside the current distribution but within the current range of the proposed development site. The EclA also identifies that Bat Conservation Ireland's habitat suitability index classifies the landscape within the site as having a low habitat suitability for bats.
- 8.2.16. In relation to otter, the majority of the site consists of boardwalk, amenity grassland and artificial surfaces that would not be suitable habitat for otter (*Lutra lutra*). The wider Lough Derg area is in use by otter for breeding, commuting and foraging,

however otter is unlikely to be breeding within the harbour given the lack of suitable habitat and high disturbance at the active harbour. The amenity park has recreational activity and dogs can access the boardwalk and outer pontoon. The banks have also been artificially altered. No evidence of otter was recorded in the site area. Similarly, there was no evidence of Badger (*Meles meles*) recorded, with badger activity more likely to be associated within the woodland areas. No other mammals of note were observed at the site.

8.2.17. European SPA or SAC areas are considered further below, in relation to Natural Heritage Areas (NHA), there are 9 NHAs or (proposed) pNHAs within 12km of the site as listed below with site code and approximate distance stated:

- Lough Derg pNHA (site code: 000011) within boundary;
- Cloonamirran Wood pNHA (site code: 001686) 5.5km;
- Clarren Lough pNHA (site code: 000929) 7km;
- Derryoover Bog NHA (site code: 002379) 10.1km;
- Loughatorick South Bog pNHA (site code: 000308) 10.3km;
- Lough Ourna pNHA (site code: 000650) 11km;
- Willsborough Esker pNHA (site code: 000943) 11km;
- Newchapel Turlough pNHA (site code: 000653) 12km; and
- Lough Avan pNHA (001995) 12.1km.

8.2.18. There is a direct connection from the subject site to Lough Derg pNHA as it is within the boundary, other sites lack connection and would not be effected by the proposal.

8.2.19. In terms of potential effects, these are addressed in section 6 of the submitted EclA. During construction, commuting or foraging bats can be impacted by artificial lighting and tree removal or other activities could disturb potential roosting sites for bats. Although roosting potential of trees at the pontoon location and directly around the harbour are considered low/negligible. No significant impacts are anticipated with respect to birds, as the proposed development site does not contain suitable nesting habitat for Kingfisher, Cormorant, Tern or any other waterfowl of conservation concern. The proposed development site does not contain an otter holt, however it is possible that commuting otter could be disturbed by construction activities. No other

significant impacts are anticipated upon terrestrial fauna. With respect to aquatic fauna, there is potential for construction activities to effect water quality that would have negative impact upon aquatic species. There is also potential for construction works to spread invasive species.

8.2.20. During operation, artificial lighting has the potential to negatively impact commuting or foraging bats. No significant impacts are anticipated with respect to birds, otter, or any other terrestrial fauna. There is potential for water quality to be impacted in the absence of mitigation adversely effecting aquatic species.

8.2.21. Mitigation measures during construction are summarised below:

- Avoiding construction works in darkness and when bats are active (April-October), only taking place where necessary to reduce higher ecological impact;
- Light spill onto Lough Derg to be avoided;
- Where lighting required during construction, use of low height to minimise light spill, and use of timers or motion sensors where practicable;
- Directional lighting to be used where possible, use of louvres or shields;
- White light emitting diode (LED) to be used where possible;
- No tree removal works to take place during the bird breeding season;
- Stormwater from the proposed extension to comprise of clean rainwater run-off and directed to a soakaway to percolate to ground;
- No construction works within Lough Derg or along the marginal zone between dusk and dawn (works stop at least 1 hour before dusk and not commencing again until at least 1 hour after sunrise);
- Daily visual inspections of Lough Derg and use of silt mats and fencing;
- Monitoring of weather at the Inner Harbour daily, if there is a risk of flooding the site will be secured and all potential pollutants removed;
- Use of biosecurity measures to prevent the spread of aquatic pathogens such as Crayfish plague;

- Checks of all equipment and remove plant and animal matter before leaving the site and disinfect all equipment, footwear etc, but not alongside the waterbody;
- Treatment of the existing structure of the boardwalk to prevent the spread of invasive molluscs (such as Zebra Mussel and Asian Clam);
- Inspect boardwalk, equipment and machinery for adult Zebra Mussels/Asian Clam and remove them;
- Clean boardwalk with hot water and allow it to dry out;
- Dry out or disinfect coarse angling keep-nets that may have been in contact with infected water bodies.

8.2.22. Mitigation measures during operation are summarised below:

- Implementation of a Lighting Plan to ensure minimum impact upon local bat/fauna populations, with luminaires featuring peak wavelengths higher than 550nm to avoid the component of light most disturbing to bats;
- Lighting directed to where it is required only;
- Lighting of Lough Derg to be avoided;
- All lanterns calculated at 0° tilt;
- Lighting of sufficient height to minimise light spill;
- White LED or amber coloured LED outdoor lighting to be used.

8.2.23. Section 7 of the submitted EclA considers potential for cumulative impacts, with no significant impacts identified.

8.2.24. I note the submission from Garrykennedy Tidy Towns Development Group with respect to the removal of non-native shrubs / ornamental shrubs and invasive species from the area around the Harbour. The applicant response to this submission highlights that the ornamental plants referred to are part of the established flora planting around the harbour and their removal could have consequential impact upon birds and bats. The majority of the species are not invasive and while sycamore and butterfly bush are present, this would result in adverse or negligible ecological benefit. It is also outside of the scope of the proposal

to remove all invasive aquatic species from the Harbour and Lough Derg. I am satisfied that the proposed development appropriately considers biodiversity in the area and that removal of ornamental shrubs and invasive species established in the area is beyond the parameters of the development proposed and would not be reasonable or practical to require by condition. There would also be potential for consequential ecological effect as a result of such removal that has not been considered in the submitted EclA as it does not form part of the proposal. Therefore, I am satisfied with the applicant response with respect to this matter.

8.2.25. The consultation response from the Department of Housing, Local Government and Heritage recommends that a further survey for otter is carried out in advance of the proposed development, focusing on areas within 150m of the site not previously covered on foot. It is also recommended with respect to lighting and potential effects upon bats, that the lighting bollards to be located on the pontoon facing the woodland to the east are cowled to ensure no glare toward the woodland. There is also a recommendation to restrict construction hours to daylight only to avoid disturbance of otter, bats and waterbirds. These recommendations can be appropriately secured by condition. The recommendations with respect to lighting are reflective of the approach set out in the EclA. In relation to construction hours, the proposed mitigation states works be limited to 8am-6pm Mon-Fri, 8am-2pm Sat, with notification of relevant bodies of works required outside of these times, or, for works taking place during winter months, works will stop at dusk and resume at dawn. It can be clarified within a condition that works should be limited to daylight hours where daylight hours are shorter than the limits specified, and I have included the same in my recommended order. I am satisfied that the attachment of the recommended conditions will provide further assurance that significant adverse effects will not result from the proposed lighting.

8.2.26. I am satisfied that with the application of the proposed mitigation measures outlined above, no significant residual effects are anticipated with respect to biodiversity as a result of the proposed development.

8.2.27. Archaeology

8.2.28. Policies 13-4 and 13-7 of the County Development Plan requires the consideration of archaeological features, including underwater archaeology. The application

submission includes an Archaeological Assessment Report. This outlines a desk top study of the site, highlighting archaeological records for the area.

- 8.2.29. There is one listed architectural heritage site within 1km of the subject site, namely Garrykennedy Quay (NIAH Reg. No. 22401301; RPS No. TRPS559). There are also several Registered Protected Structures in Garrykennedy as identified in the submitted report. The remnants of Garrykennedy Castle (RMP TN013-001) stands on the north wall of a 18th/19th century quay (NIAH Reg. No. 22401301, RPS TRPS559), to the north-west of the subject site. The quay (NIAH Reg. No. 22401301, RPS TRPS559) and castle (RMP TN013-001) represent an archaeologically and architecturally important element of the larger local recreational amenity character of the area. The subject site is visible from the monument to the south-east. The subject site is already developed as a marina with associated facilities building, therefore the submitted report concludes that the proposed development works will have little additional impact on the visual amenity of the monument and quay.
- 8.2.30. The subject site itself does not contain any known or recorded archaeological monuments; however the submitted report identifies the location as an area of strong archaeological potential due to its position in a potentially archaeologically rich lakeside and riverine landscape, and its proximity to the Garrykennedy Castle (15th century tower house RMP TN013-001) and the stone cut quay (NIAH Reg. No. 22401301, RPS TRPS559). It is possible that the proposed works could therefore impact unknown archaeological material.
- 8.2.31. The construction of the proposed extension to the welfare facilities building will require excavation and groundworks, including for the associated soakaway area. It is possible that groundworks could be in an area that was historically the lake edge or in the location of the former quay. The proposed floating pontoon includes steel driven piles installed from a barge, with no removal of lakebed material.
- 8.2.32. The submitted report outlines proposed mitigation measures. For the dryland part of the development, licensed archaeological monitoring can be carried out by a suitably qualified professional during initial ground investigation trial pits and construction groundworks. With respect to the lakebed and the proposed piles for the floating pontoon, an archaeological underwater inspection can be undertaken prior to

commencement of works and once the final pile design is established. This will allow identification of any anomalies on the lakebed in the vicinity of the piles, with pile positions to be adjusted to avoid impinging or impacting upon any feature of archaeological interest. This work will be carried out in consultation with, and under the supervision of, a suitably qualified underwater archaeologist.

8.2.33. I note that the Department of Housing, Local Government and Heritage consultation response with respect to archaeology, and the request for conditions related to a programme of archaeological monitoring of dryland works and an underwater archaeological impact assessment. These conditions are incorporated into the recommended order below and reflect the approach set out in the submitted Archaeological Assessment report.

8.2.34. I am satisfied that the submitted detail is commensurate with the scale of development proposed, and that with the application of the mitigation set out in the report which can be secured by conditions, there will be no significant adverse impact to archaeological features. As such, the proposed development positively accords with policies and objectives under the Development Plan as highlighted in this report.

8.2.35. Vehicle Parking

8.2.36. The Development Management Standards in Volume 3 Appendix 6 of the Plan described car parking standards and state at section 6.5.1 that all new development will normally be required to provide adequate off-street car parking facilities. Table 6.4: Minimum Car Parking Standards states that with respect to 'other' recreational and leisure uses, this will be assessed on a case-by-case basis and dependant upon the nature, scale and location of the use. Policy 12-1 requires the incorporation of cycle parking.

8.2.37. The proposal incorporates partial areas of the existing car park to the north west and south west of the harbour. The parking area to the south west remains unaltered in the proposed plans. To the north west, it is proposed to alter 10 no. existing parking bays, enlarging 6 bays and resulting in a reduction in the overall number of spaces, to accommodate 4 no. spaces for RVs (recreational vehicles / camper vans), and 2 no. designated disabled bays. Remaining parking areas for the harbour remain unaltered, with 46 bays in total (inclusive of the proposed bays), reduced from 50 as

currently provided for at the site. Adjacent to the proposed RV parking bays are water and power points. It is also proposed to provide bike parking and eBike charging facilities to the rear of the welfare building, accommodating 4 no. bikes. Alterations are also proposed to the footpath between the parking, welfare building and harbour to ensure accessibility.

- 8.2.38. While the proposal results in the reduction in the overall number of vehicle parking bays by 4, the proposed arrangement will better accommodate RVs which currently reduce available parking space for cars visiting the harbour. The proposals also incorporates 2 bays which meet designated disabled parking standards. In this context, the small reduction in the overall number of bays is justified in my view and will better accommodate the parking needs for the site. As highlighted above, the minimum car parking standards for recreational and leisure use under the Development Plan is assessed on a case-by-case basis, and for the aforementioned reasons, I am satisfied that the proposed approach to car parking is acceptable in this regard.
- 8.2.39. I note the consultation response from the Garrykennedy Tidy Towns Development Group with respect to the incorporation of 4 RV parking spaces. Concern is raised regarding the effect on the availability of parking for cars, congestion, and reduced access for emergency vehicles, as a result of RVs using the car park; and that the proposed bays will increase the number of RVs, consequently reducing parking for day trippers. The applicant's response states that it is intended that the provision of suitable RV parking will reduce the impact of RVs on the existing car park, including reducing the risk of emergency access being blocked.
- 8.2.40. The concern raised by the observer is legitimate in my view, that the provision of dedicated RV bays with power etc could serve as an attraction to RVs to visit the car park. As a result, this could lead to scenarios where dedicated bays are occupied, and RVs then park irresponsibly across remaining car parking bays, reducing space for day trippers. While I accept that the applicant has provided a response to this matter, I consider that management is also needed to supplement the proposed layout. This can be achieved through a Car Parking Management Plan, which can be secured by condition should the Commission agree with this approach. The Car Parking Management Plan can describe the provisions for addressing irresponsible RV parking and this would adequately address the legitimate concerns raised in my

view. With the implementation of management measures to control RV use of parking bays, I am satisfied that the proposal is acceptable in this regard.

8.2.41. Water

8.2.42. The proposed development includes an extension to the existing welfare facilities building with provision for a 'changing places' facility which will form an accessible changing facility. This will require connection to watermain and wastewater services. Drawing ref. 24152-150 Rev.2 illustrates the proposed water services arrangements for the development, with modifications to existing services to allow connection to the proposed extension. The proposed development will utilise existing wastewater and watermain infrastructure, with minimal increased demand ensuring no impact upon capacity. Uisce Éireann have recommended conditions with respect to the connection and protection of their infrastructure and assets, and these are included in the recommended order below.

8.2.43. In relation to flood risk, section 6 of the submitted Planning Report addresses this, detailing that the proposed extension to the existing welfare building is outside of the CFRAM mapping flood zones. The site is located on the bank of Lough Derg, where water levels are managed by ESB for the purposes of electricity generation, with minimal level difference in the top and bottom water level, the risk of flooding is minimal, and a stage 1 flood risk assessment is not necessary for the proposed development.

8.2.44. With respect to objectives set out in Article 4 of the Water Framework Directive, I refer to appendix 2 of this report where I have outlined the baseline hydrological conditions of the site / surrounds, and I am satisfied that with the application of the proposed mitigation summarised in this report (and appendix 2 specifically), the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment. This conclusion has been informed by the submitted EclA and NIS.

8.3. The likely consequences for the proper planning and sustainable development of the area

- 8.3.1. The proposed development concerns the upgrade of an existing Inner Harbour, replacing the existing boardwalk with floating pontoons, an extension to existing welfare facilities to provide for accessibility, as well as ancillary vehicle and cycle parking provision. The works seek to address safety concerns with respect to the condition of the existing boardwalk for the Inner Harbour, meet accessibility needs, and improve the general aesthetic of the harbour. It is intended that the improved harbour will provide space for day boat commercial businesses to drop and collect boat passengers and facilitate local fishing and sailing communities.
- 8.3.2. The land area of the site is zoned Amenity under the Tipperary County Development Plan 2022-2028, with the associated objective 'To provide, preserve and enhance open space and amenity uses'. The proposed development is an upgrade of the existing Inner Harbour facilities and therefore permissible under the zoning for the site, which permits community and sports/leisure facilities.
- 8.3.3. The principle of the proposed works also corresponds with policies and objectives under the Development Plan, including the following: Policy 9-1 encouraging and supporting tourism development, including accommodation and related facilities; Objective 9-F with respect to promoting the county's waterways and Lough Derg Lakelands as part of an overall tourism development; Objective 9-I which relates to supporting the provision of accessible tourism, ensuring facilities are accessible to people with mobility issues; and Objective 14-E concerning supporting maintenance and enhancement of trails and recreational infrastructure in Tipperary.
- 8.3.4. The principle of the proposed upgrade to the Inner Harbour at Garrykennedy is therefore supported under the Development Plan.

8.4. The likely significant effects on a European site

- 8.4.1. The areas addressed in this section are as follows:
- Compliance with Articles 6(3) of the EU Habitats Directive
 - The Natura Impact Statement
 - Appropriate Assessment

8.4.2. **Compliance with Articles 6(3) of the EU Habitats Directive**

8.4.3. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.

8.4.4. **The Natura Impact Statement**

8.4.5. The application was accompanied by an NIS which describes the proposed development, the project site and the surrounding area. The NIS contained a Stage 1 Screening Assessment which concluded that a Stage 2 Appropriate Assessment was required. The NIS outlined the methodology used for assessing potential impacts on the habitats and species within several European Sites that have the potential to be affected by the proposed development. It predicted the potential impacts for these sites and their conservation objectives, it suggested mitigation measures, assessed in-combination effects with other plans and projects and it identified any residual effects on the European sites and their conservation objectives.

8.4.6. The NIS was informed by the following studies, surveys and guidance:

- A desk top study.
- A survey of the proposal site and surroundings including of both terrestrial and aquatic flora and fauna.
- Data sources from Tailte Éireann mapping and aerial photography; National Parks and Wildlife Service; Google and Bing aerial imagery; EPA Envision Maps; National Biodiversity Data Centre; National Planning Application Database; Water Quality Data from the EPA; Geological Survey of Ireland; and Wetland Maps of Ireland.

8.4.7. The report concluded that, subject to the implementation of best practice and the recommended mitigation measures, the proposed development would not undermine

the conservation objectives or have an adverse effect upon the integrity of any European sites (the Natura 2000 network) during the construction or operational phases of the project, either alone or in-combination with other plans/projects.

- 8.4.8. Having reviewed the NIS and the supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions, does clearly identify the potential impacts, and does use best scientific information and knowledge. Details of mitigation measures are provided, and they are summarised in Section 8 of the NIS. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development (see further analysis below).

8.5. **Appropriate Assessment**

8.5.1. **Stage 1 – Screening for Appropriate Assessment**

- 8.5.2. I have had regard to submissions in relation to the potential impacts on European sites, as part of the Natura 2000 Network of sites. Appendix 3 attached to this report sets out a detailed screening for AA and should be read in conjunction with this section of my report.

8.5.3. AA Screening Conclusion

- 8.5.4. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that it is not possible to exclude that the proposed development, alone or in combination with other plans and projects will give rise to significant effects on Lough Derg (Shannon) SPA European Site in view of the site's conservation objectives. Appropriate Assessment is required.

- 8.5.5. This determination is based on:

- (i) Potential for disturbance arising from construction activities, adversely impacting nesting or wintering QI bird species, consequently reducing the overall productivity or leading to abandonment of breeding sites, or affecting targets for population trend and/or distribution for wintering QI bird species.

- (ii) Potential for the spread of invasive aquatic species such as Zebra Mussel or Asian Clam during the removal of structures from the site, resulting in adverse effects upon wetland habitat or prey species for QI bird species.
- (iii) Potential for the release of sediments or pollutants during the construction phase, resulting from soil disturbance or the use of construction materials or fuels for construction plant / vehicles, resulting in a degradation of water quality and damaging supporting habitats or prey populations for QIs associated with the SPA.

8.5.6. The potential impacts are expanded upon in further detail as part of a Stage 2 Appropriate Assessment below.

8.5.7. In relation to the remaining European sites considered, taking into consideration the distance between the proposed development site to these designated European sites, the downstream location of the subject site with respect to the designated site, or the large body of water over which extensive dilution would occur of any emission, as well as the lack of any other pathway or link to these European sites, it is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the construction and operation of the proposed development, individually or in combination with other plans or projects, would not be likely to have an adverse effect on the conservation objectives or features of interest of Lough Derg, North-east Shore SAC and Lower River Shannon SAC. Therefore, I agree with the applicant's submitted screening report that a Stage 2 Appropriate Assessment is not required with respect to these aforementioned European sites.

8.5.8. **Stage 2 – Appropriate Assessment**

8.5.9. The submitted NIS identifies the potential for negative effects upon Lough Derg (Shannon) SPA as a result of the proposed development and I concur that an Appropriate Assessment (AA) of the proposed development is required with respect to this aforementioned European site.

8.5.10. Appendix 4 of this report sets out the detailed consideration of potential effects upon the European site as part of an Appropriate Assessment for this proposed development. The site-specific conservation objectives and species of conservation

interest for Lough Derg (Shannon) SPA is set out in Appendix 3 and 4. The AA determination is set out below.

8.5.11. AA determination – Conclusion

8.5.12. 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.

8.5.13. In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on Lough Derg (Shannon) SPA in view of the conservation objectives of that site and that Appropriate Assessment was required.

8.5.14. Following an examination, analysis and evaluation of the NIS all associated material submitted including the EclA, and taking into account observations, I consider that adverse effects on site integrity of Lough Derg (Shannon) SPA can be excluded in view of the conservation objectives of that site and that no reasonable scientific doubt remains as to the absence of such effects.

8.5.15. My conclusion is based on the following: The application of mitigation measures to protect water quality through the prevention of silt laden runoff or pollution events / including spillage of hydrocarbons / oils, measures to prevent disturbance of QI species (including restricting hours of construction activity), as well as biosecurity measures, and measures specific to invasive molluscs, to prevent the spread of invasive species.

9.0 Recommendation

9.1. I recommend that the Commission APPROVE the proposed development, for the following reasons and considerations and subject to the conditions set out below.

10.0 Reasons and Considerations

10.1. The Commission reached its decision in accordance with its duties under Section 15(1) of the Climate Action and Low Carbon Development Act 2015, as amended, and the requirement to, in so far as practicable, perform its functions in a manner

consistent with inter alia the Climate Action Plan 2025 and the furtherance of the national climate objective.

And in coming to its decision, the Commission had regard to the following:

(a) European Union legislation including in particular:

- EU Directive 2014/52/EU amending Directive 2011/92/EU (EIA Directive) on the assessment of the effects of certain public and private projects on the environment,
- Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directives) which set out the requirements for Conservation of Natural Habitats and of Fauna and Flora.

(b) National Legislation including in particular:

- Section 175 and section 177 of the Planning and Development Act 2000 (as amended) which sets out the provisions in relation to local authority projects which are subject to Environmental Impact Assessment (EIA) and Appropriate Assessment (AA)

(c) National, Regional Policy and Guidance in particular:

- Project Ireland 2040 National Planning Framework which supports tourism and the sustainable development of the maritime economy (NPO 34 and NPO 49),
- Climate Action Plan 2025 which supports a modal shift,
- Architectural Heritage Protection: Guidelines for Planning Authorities, Department of Arts, Heritage and the Gaeltacht, 2011,
- Regional Spatial & Economic Strategy for the Southern Region 2020-2032 which seeks to support tourism development RPO 53 and 54, as well as growth of the marine economy and harbour infrastructure in RPO 76 and RPO 81; and
- The National Biodiversity Plan 2023-2030.

(d) Local Planning Policy including in particular:

- The provisions of the Tipperary County Development Plan 2022-2028.

(e) The following matters:

- the nature, scale and design of the proposed works as set out in the application for approval and the existing character of the area,

- the documentation including the ecological impact assessment report, the natura impact statement and associated documentation submitted with the application and the range of mitigation and monitoring measures proposed,
- the submissions and observations made to An Coimisiún Pleanála in connection with the application,
- the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on European sites,
- the conservation objectives, qualifying interests and special conservation interests for the Lough Derg (Shannon) SPA (site code: 004058), and
- the report and recommendation of the Inspector.

Appropriate Assessment Stage 1:

The Commission noted that the proposed development is not directly connected with or necessary for the management of a European Site. The Commission completed an appropriate assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the Screening Report for Appropriate Assessment submitted with the application and the report and screening assessment completed by the Inspector. The Commission agreed with the Inspector's assessment and conclusion that the European Site for which there is potential for significant effects is Lough Derg (Shannon) SPA. The Commission concluded, in agreement with the Inspector, that Appropriate Assessment is required for that European Site.

Appropriate Assessment Stage 2:

The Commission considered the Natura Impact Statement and associated documentation submitted with the application, the mitigation measures contained therein, the submissions and observations on file, and carried out an Appropriate Assessment of the implications of the proposed development for European Sites in view of the conservation objectives for Lough Derg (Shannon) SPA. The Commission considered that the information before it was adequate to allow the

carrying out of an Appropriate Assessment and to allow it to reach complete, precise and definitive conclusions for Appropriate Assessment.

In completing the assessment, the Commission considered, in particular, the likely direct and indirect impacts arising from the proposed development, both individually and in combination with the other plans and projects and taking into account any mitigation measures which are included as part of the current proposal, in view of the conservation objectives for the European Sites.

The Commission accepted and adopted the Appropriate Assessment carried out in the Inspector's report with respect to the potential effects of the proposed development on the integrity of the aforementioned European Site, having regard to the Site's conservation objectives.

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

This conclusion is based on a complete assessment of all aspects of the proposed project, both alone and in combination with other plans and projects of relevance and took into account all submissions received during the course of the application.

Proper Planning and Sustainable Development

- 10.1.1. The proposed development is in accordance with aims and objectives of the Tipperary County Development Plan 2022-2028 and is therefore acceptable in principle. In particular, the proposed development accords with Policy 9-1 encouraging and supporting tourism development, including accommodation and related facilities; Objective 9-F with respect to promoting the county's waterways and Lough Derg Lakelands as part of an overall tourism development; Objective 9-I which relates to supporting the provision of accessible tourism, ensuring facilities are accessible to people with mobility issues; and Objective 14-E concerning supporting maintenance and enhancement of trails and recreational infrastructure in Tipperary. Subject to condition, the Commission concludes that the proposed upgraded

harbour, is in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions.</p> <p>Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the environment.</p>
2	<p>The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.</p> <p>Reason: To protect the integrity of European Sites.</p>
3	<p>The mitigation measures contained in the submitted Ecological Impact Assessment (EclA), shall be implemented.</p> <p>Reason: To protect biodiversity.</p>
4	<p>Prior to the commencement of works, a further survey for Otters to be completed, focussing on areas within 150m of the site not previously covered on foot, to confirm the absence of breeding Otter; results of the survey to be communicated to the Department of Housing, Local Government and Heritage – Developments Applications Unit; and held on file by the Local Planning Authority.</p> <p>Reason: To protect Otter an Annex II species.</p>
5	<p>Lighting to the east end of the inner harbour shall be cowled in order to ensure no glare directed towards the woodland.</p> <p>Reason: To protect biodiversity.</p>
6	<p>Construction hours to be limited to 8am-6pm Mon-Fri, 8am-2pm Sat, or, should daylight hours be shorter than the specified times, works will stop at dusk and resume at dawn.</p> <p>Reason: To protect biodiversity and the integrity of European Sites.</p>

7	<p>(a) All mitigation measures in relation to archaeology and cultural heritage as set out in the submitted Desk-Based Archaeological Assessment Report for the application, shall be implemented in full, except as may otherwise be required in order to comply with the specific requirements of the National Monuments Service (NMS).</p> <p>(b) A Project Archaeologist shall be appointed to oversee and advise on construction works and the management of archaeological works.</p> <p>Reason: To ensure the continued preservation [either in situ or by record] of places, caves, sites, features or other objects of archaeological interest.</p>
8	<p>The developer shall engage a suitably qualified (license eligible) archaeologist to carry out an Underwater Archaeological Impact Assessment (UAIA) following consultation with the National Monument Service (NMS) in advance of any site preparation works and groundworks, including site investigation works/topsoil stripping/site clearance/dredging and/or construction works. The UAIA shall a desk based assessment and wade/dive survey accompanied by hand-held metal detection survey (subject to licence/consent under the National Monuments Act), to be submitted to the NMS and held on file at the Local Planning Authority.</p> <p>Where archaeological remains are shown to be present, preservation in-situ, establishment of 'buffer zones', preservation by record (archaeological excavation) or archaeological monitoring may be required and mitigatory measures to ensure the preservation and/or recording of archaeological remains shall be included in the UAIA. Any further archaeological mitigation requirements in consultation with the National Monuments Service, shall be complied with by the developer. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any subsequent archaeological investigative works and/or monitoring following the completion of all archaeological work on site and the completion of any necessary post-excavation work. All resulting and associated archaeological costs shall be borne by the developer.</p>

	<p>Reason: To ensure the continued preservation [either in situ or by record] of places, caves, sites, features or other objects of archaeological interest.</p>
9	<p>The developer shall engage a suitably qualified (licensed eligible and experienced) maritime/underwater archaeologist to monitor (licensed under the National Monuments Acts) all in-lake/lake margin construction activities or works with the potential to impact on underwater cultural heritage. Prior to the commencement of such works the archaeologist shall consult with and forward to the NMS a method statement.</p> <p>A Finds Retrieval Strategy shall be implemented and agreed with the NMS.</p> <p>Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending consultation with the National Monuments Service, regarding appropriate mitigation.</p> <p>The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified in consultation with the National Monuments Service, shall be complied with by the developer.</p> <p>Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required.</p> <p>The Construction Environmental Management Plan shall be updated to include the location of any and all archaeological or underwater cultural heritage constraints for the proposed development, with clear identification of potential impacts and relevant mitigation.</p> <p>All resulting and associated archaeological costs shall be borne by the developer.</p>

	<p>Reason: To ensure the continued preservation [either in situ or by record] of places, caves, sites, features or other objects of archaeological interest.</p>
10	<p>Prior to the commencement of development the developer shall enter into a Connection Agreements with Uisce Éireann (Irish Water) to provide for a service connections to the public water supply and/or wastewater collection network. (a) All development to be carried out in compliance with Uisce Éireann’s Standard Details and Codes of Practice. (b) Where build over of Uisce Éireann assets is proposed, Confirmation of Feasibility of Diversion(s) from Uisce Éireann is required prior to works commencing.</p> <p>Reason: In the interest of public health and to ensure adequate water/wastewater facilities.</p>
11	<p>Prior to commencement of works, the developer shall prepare a final Construction Environmental Management Plan, which shall be adhered to during construction. This plan shall reflect all required mitigation for the project and provide details of intended construction practice for the development, including hours of working, noise and dust management measures and off-site disposal of construction/demolition waste. The CEMP shall be submitted to the Local Planning Authority to be held on file prior to the commencement of works.</p> <p>Reason: In the interest of public safety and amenity.</p>
12	<p>Prior to the commencement of the development, the applicant shall prepare a Car Park Management Plan detailing the management of the car park, particularly in relation to recreational vehicles. The plan shall be submitted to the Local Planning Authority and implemented as part of the development.</p> <p>Reason: In the interest of sustainable transport and safety.</p>

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

Rachel Gleave O'Connor
Senior Planning Inspector

12th November 2025

12.0 Appendix 1: Form 1 - EIA Pre-Screening

Case Reference	323094-25
Proposed Development Summary	Upgrade to Garrykennedy Inner Harbour.
Development Address	Garrykennedy Inner Harbour, County Tipperary.
	In all cases check box /or leave blank
<p>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</p> <p>(For the purposes of the Directive, "Project" means:</p> <ul style="list-style-type: none"> - 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) 	<p><input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.</p>
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<p><input type="checkbox"/> Yes, it is a Class specified in Part 1.</p> <p>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</p>	State the Class here
<p><input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3</p>	
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?	
<p><input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road</p>	

<p>development under Article 8 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 type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>State the Class and state the relevant threshold</p>

<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)?</p>	
<p>Yes <input type="checkbox"/></p>	<p>Screening Determination required (Complete Form 3)</p>
<p>No <input checked="" type="checkbox"/></p>	<p>Pre-screening determination conclusion remains as above (Q1 to Q3)</p>

Inspector: _____ Date: _____

13.0 Appendix 2: Water Framework Directive

WFD IMPACT ASSESSMENT STAGE 1: SCREENING			
Step 1: Nature of the Project, the Site and Locality			
An Coimisiún Pleanála ref. no.	323094-25	Townland, address	Inner Harbour Garrykennedy, Co. Tipperary
Description of project		Upgrade of the existing Inner Harbour, including removal of abandoned boats, replacement of boardwalk with new floating pontoon with space for 47 small boat berths, extended welfare facilities building to provide for accessible use, 4 RV vehicle spaces as well as cycle and charging points.	
Brief site description, relevant to WFD Screening,		The site is located in Lough Derg and formed of the existing Inner Harbour at Garrykennedy, as well as adjacent areas including existing welfare facilities building and areas of car parking. The site includes the bank and water edge to Lough Derg for the existing Inner Harbour area. The site is located along the shoreline and marginal zone of Garrykennedy Harbour within Lough Derg (Code: 25_191a).	
Proposed surface water details		The existing surface water for the welfare building discharges to a soakaway. It is proposed to discharge the surface water from the proposed extension to a new soakaway. It is proposed to continue existing wastewater and watermain connections, with modifications to connect to proposed extension. Drawing ref. 24152-150 Rev.2 illustrates the proposed water services arrangements for the development, with storm water, drainage and surface water arrangements	

	outlined. Surface runoff from the proposed extension would comprise of clean rainwater run-off that will not discharge directly to Lough Derg, and would be directed to a soakaway where it will percolate to ground (pages 47 and 49 EclA).
Proposed water supply source & available capacity	Existing Uisce Éireann mains water connection, increased demand would be minimal and not impact capacity.
Proposed wastewater treatment system & available capacity, other issues	Existing Uisce Éireann Wastewater connection, increase volume of the development will be minimal and not impact the capacity of existing infrastructure (section 7 Planning Report).
Others?	n/a

Step 2: Identification of relevant water bodies and Step 3: S-P-R connection

Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
River Waterbody	The Garranmore River (EPA Code: 25G83 – Order 1) flows into Lough Derg within Garrykennedy Harbour,	Closest monitoring station: Garranmore	Review	The SW 2019-2024 status is recorded with a 'Good' value on the EPA catchments.ie website.		The site is located at the discharge point of the Garranmore into Lough Derg, any linkage would

		the River Shannon (Segment Code: 25- _191_88 – Order 7) flows through Lough Derg.	(Shannon lower_040)				therefore be downstream of the river.
Lake Waterbody	Within		Closest monitoring station: Lough Derg (IE_SH_25_1 91a)	At Risk	The SW 2019-2024 status is recorded with a 'Moderate' value on the EPA catchments.ie website.	Hydro morphological, Invasive Species, Agriculture	Potential for surface run- off during construction. During operation, surface water will be directed to a soakaway from the proposed extension to the welfare building.
Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.							
CONSTRUCTION PHASE							
No.	Component	Waterbody receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or

							'uncertain' proceed to Stage 2.
1.	Surface	Garranmore (Shannon lower_040)	Existing run-off, but weak pathway, as connection is at the discharge point to Lough Derg (downstream)	Potential for release of suspended solids during soil disturbance works. Potential for release of hydrocarbons (oils, fuels) from construction plant and equipment or concrete, cement from construction activities.	Standard construction practice CEMP. Silt control features (fences / mats), monitoring for suspended solids, weather conditions and water levels to be taken into account. Use of pre-cast concrete where possible.	No - site is situated downstream of the river at its discharge point to Lough Derg, which alongside mitigation, ensures no residual risk that WFD status could be impacted.	Screened out
2.	Surface	Lough Derg (IE_SH_25_1 91a)	Existing run-off	As above.	As above.	Yes – proximity to monitoring location.	Screened in
OPERATIONAL PHASE							
3.	Surface	Garranmore (Shannon lower_040)	Surface water will be directed to a soakaway and	No direct pathway therefore no likely impacts.	None required.	No	Screened out

			not discharge directly into waterbodies				
4.	Surface	Lough Derg (IE_SH_25_1 91a)	As Above.	As Above.	None required.	No	Screened out
DECOMMISSIONING PHASE							
5.	NA						
STAGE 2: ASSESSMENT							
Details of Mitigation Required to Comply with WFD Objectives							
Surface Water							
Development/Activity e.g. culvert, bridge, other crossing, diversion, outfall, etc	<u>Objective 1:Surface Water</u> Prevent deterioration of the status of all bodies of surface water	<u>Objective 2:Surface Water</u> Protect, enhance and restore all bodies of surface water with aim of achieving good status	<u>Objective 3:Surface Water</u> Protect and enhance all artificial and heavily modified bodies of water with aim of achieving good ecological potential and good surface water chemical status	<u>Objective 4: Surface Water</u> Progressively reduce pollution from priority substances and cease or phase out emission, discharges and losses of priority substances	Does this component comply with WFD Objectives 1, 2, 3 & 4? (if answer is no, a development cannot proceed without a derogation under art. 4.7)		

	Describe mitigation required to meet objective 1:	Describe mitigation required to meet objective 2:	Describe mitigation required to meet objective 3:	Describe mitigation required to meet objective 4:	
Construction works Site clearance works (removal of boats, boardwalk etc) and construction of extension to existing welfare building	Site specific construction mitigation methods described in the CEMP e.g. silt fences, site-specific design of settlement ponds, etc. Monitoring of suspended solids, weather conditions and water levels.	Site specific construction mitigation methods described in the CEMP e.g. silt fences, site-specific design of settlement ponds, etc. Monitoring of suspended solids, weather conditions and water levels.	NA	NA	YES

15.0 Appendix 3: Stage 1 Screening for Appropriate Assessment

Screening for Appropriate Assessment Test for likely significant effects	
Step 1: Description of the project and local site characteristics	
Brief description of project	The proposed development is intended to improve the appearance of the Inner Harbour area at Garrykennedy, with removal of abandoned boats and replacement of the boardwalk with a floating pontoon, provision for 47no. small boat berths and extensions and alterations to meet accessibility requirements. The application is being made by Tipperary County Council pursuant to Section 177AE of the Planning and Development Act, 2000 (as amended).
Brief description of development site characteristics and potential impact mechanisms	The site is located towards the south east edge of Lough Derg. The harbour is accessed from Ballyvaughan road which leads to Garrykennedy Slipway and the Inner Harbour area where the works are proposed to take place. To the south and east beyond the harbour lies a woodland. There is a mixture of habitats within the site, including mesotrophic lakes (FL4), buildings and artificial surfaces (BL3), and amenity grassland (GA1). Surrounding the harbour there are other habitats, including scattered trees and parkland (WD5), riparian woodland (WN5), mixed

	<p>broadleaved/conifer woodland (WD2), Ornamental / non-native shrub (WS3), and reed and large sedge swamps (FS1). Mesotrophic lakes (FL4) is a protected aquatic habitat of national importance. Protected habitats of local importance also include reed and large sedge swamps (FS1), scattered trees and parkland (WD5), riparian woodland (WN5) and mixed broadleaved/conifer woodland (WD2), which provide opportunities for nesting birds. There is a direct connection from the subject site to Lough Derg (Shannon) SPA (site code 004058) as it is within the boundary. There is no source-pathway-receptor linkage to any other designated site. While a connection exists to Lough Derg, North-east Shore SAC (site code: 002241), located 6.8km to the north east, this is an upstream hydrological connection of approx. 7.2km. As the connection is upstream, and there are no QI species for this SAC, there is no significant source-pathway-receptor to this SAC.</p>
Screening report	Y
Natura Impact Statement	Y
Relevant submissions	<p>Department of Housing, Local Government and Heritage: With respect to otter, it is recommended that a further survey for otters is carried out in advance of the works, focussing on areas within 150m of the site not previously covered on foot. The results of the survey to be communicated to the Department before works begin. <i>(Inspector comment: Note Otter is a QI for the Lower River Shannon SAC, considered further in assessment of ecological connections in step 2 below).</i> Recommend that construction</p>

	hours are limited to daylight only to avoid disturbance to waterbirds [associated with the Lough Derg (Shannon) SPA].			
Step 2. Identification of relevant European sites using the Source-pathway-receptor model				
European Site (code)	Qualifying interests¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km approx.)	Ecological connections²	Consider further in screening³ Y/N
Lough Derg (Shannon) SPA (site code: 004058)	Cormorant (<i>Phalacrocorax carbo</i>) [A017] Tufted Duck (<i>Aythya fuligula</i>) [A061] Goldeneye (<i>Bucephala clangula</i>) [A067] Common Tern (<i>Sterna hirundo</i>) [A193] Wetland and Waterbirds [A999]	Within boundary.	The subject site is situated within the site boundary for the SPA.	Y
Lough Derg, North-east Shore SAC (site code: 002241)	Juniperus communis formations on heaths or calcareous grasslands [5130] Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210] Alkaline fens [7230] Limestone pavements [8240] Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0] Taxus baccata woods of the British Isles [91J0]	c.6.8km over land, c.7.2km via waterbodies	The subject site is situated downstream from this SAC. It is unlikely that any pollutants traveling upstream over c.7.2km and diluted over a large lake, would result in any impact upon the SAC. Therefore, this is a weak hydrological connection. No QIs for this SAC are found within the harbour. There are also no mobile species for this SAC and therefore no associated potential for disturbance of ex-situ species as a result of the proposed works. As there is no likely source-pathway-receptor between this SAC and the subject site, it can be screened out.	N

<p>Lower River Shannon SAC (site code: 002165)</p>	<p>Sandbanks which are slightly covered by sea water all the time [1110] Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Coastal lagoons [1150] Large shallow inlets and bays [1160] Reefs [1170] Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation [3260] Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410] Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0] <i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029] <i>Petromyzon marinus</i> (Sea Lamprey) [1095] <i>Lampetra planeri</i> (Brook Lamprey) [1096]</p>	<p>c.12.4km to the south west, or c.16.3km hydrologically downstream via Lough Derg</p>	<p>The hydrological link is via Lough Derg which is a large body of water and given the type of work proposed, the hydrological link is concluded in the submitted report to be 'not significant to cause a likely significant impact to QIs for this SAC', therefore it has been screened out.</p> <p>With respect to otter, I note that the Department requests further surveys of otter activity within 150m of the site. Otter is a QI of the Lower River Shannon SAC, however this SAC is situated over 10km downstream from the site. Otters associated with this SAC will have a likely range of between 1-2km as prey is abundant in the area, as such otters will maintain small territories (NPWS otter leaflet¹). Therefore, any otter proximate to the subject site, is highly unlikely to be part of the population for the Lower River Shannon SAC. The EclA for the application has included precautionary mitigation with respect to otter as an Annex II species, however as highlighted here, the potential for impact upon otter species as a result of the proposed development, would not relate to populations associated with this SAC,</p>	<p>N</p>
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¹ www.npws.ie/sites/default/files/publications/pdf/Otter_leaflet.pdf

	<p>Lampetra fluviatilis (River Lamprey) [1099] Salmo salar (Salmon) [1106] Tursiops truncatus (Common Bottlenose Dolphin) [1349] Lutra lutra (Otter) [1355]</p>		<p>therefore the mitigation under the EclA related to otter is not relevant to the assessment set out in this Screening for AA, and as set out above, potential impact upon this SAC can be screened out.</p>	
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Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

During construction, the proposed development has the potential to impact upon the qualifying interests / special conservation interests of Lough Derg (Shannon) SPA due to potential deterioration in water quality from construction activities. There is also potential for the spread of invasive aquatic species such as Zebra Mussel and Asian Clam within the harbour, should they be present on the existing boardwalk structure to be removed from the site. The proposed development will require the removal of the existing boardwalk and an extension to the existing welfare building; therefore mitigation measures are required to prevent consequential impact upon water quality from pollutant release, disturbance and spread of invasive species during construction activities.

The submitted report concludes that due to the existing characteristics of the site and distance to waterfowl, the proposed development would not result in any significant impact to protected habitats and species of the Lough Derg (Shannon) SPA due to habitat fragmentation or loss, reduction in species density or species diversity.

AA Screening matrix

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
Site 1: Lough Derg (Shannon) SPA (site code: 004058)	<p>Disturbance events from construction activities impacting nesting or wintering QI bird species.</p> <p>Potential for spread of invasive species during removal of structures / boats from the site, should species such</p>	<p>Disturbance events from construction activities can reduce overall productivity or lead to abandonment of breeding sites, or affect targets for population trend and / or distribution for wintering QI bird species.</p>

	<p>as Zebra Mussel and Asian Clam be present in the harbour.</p> <p>Potential for indirect impacts upon QIs as a result of the release of sediments or pollutants during the construction phase, resulting from soil disturbance or the use of construction materials or fuels for construction plant / vehicles.</p>	<p>Spread of invasive aquatic species such as Zebra Mussel or Asian Clam can adversely impact wetland habitat or prey species for QIs. Loss of wetland habitat would reduce the diversity and abundance of waterbird species.</p> <p>Potential for indirect impacts upon QIs as a result of the release of pollutants during the construction phase, resulting in a degradation of water quality potentially damaging some supporting habitats or prey populations for QIs which are associated with the SPA. Loss of wetland habitat which would reduce the diversity and abundance of waterbird species.</p>
	Likelihood of significant effects from proposed development (alone): Y	
	Possibility of significant effects (alone) in view of the conservation objectives of the site	
<p>The specific conservation objectives and special conservation interests for the potentially effected European site relate to population trends, range and habitat extent. Potential effects arising from disturbance, habitat loss, spread of invasive species and release of sediments/pollutants associated with the construction of the proposed development have been highlighted above, which have the potential to affect the conservation objectives supporting the special conservation interests of the Lough Derg (Shannon) SPA. As such, likely effects on Lough Derg (Shannon) SPA cannot be ruled out, having regard to the sites' conservation objectives, and a Stage 2 Appropriate Assessment is required. The potential impacts are expanded upon in further detail as part of a Stage 2 Appropriate Assessment below.</p>		
Step 4 Conclude if the proposed development could result in likely significant effects on a European site		

It is not possible to exclude the possibility that proposed development alone would result in significant effects on the Lough Derg (Shannon) SPA from effects associated with damage to supporting habitats of Qualifying Features associated with the SPA.

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.

Proceed to AA.

Screening Determination

Significant effects cannot be excluded

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that it is not possible to exclude that the proposed development, alone or in combination with other plans and projects will give rise to significant effects on the Lough Derg (Shannon) SPA European Site in view of the site's conservation objectives. Appropriate Assessment is required.

This determination is based on:

- Potential for disturbance arising from construction activities, adversely impacting nesting or wintering QI bird species, consequently reducing the overall productivity or leading to abandonment of breeding sites, or affecting targets for population trend and/or distribution for wintering QI bird species.
- Potential for the spread of invasive aquatic species such as Zebra Mussel or Asian Clam during the removal of structures from the site, resulting in adverse effects upon wetland habitat or prey species for QI bird species.

- Potential for the release of sediments or pollutants during the construction phase, resulting from soil disturbance or the use of construction materials or fuels for construction plant / vehicles, resulting in a degradation of water quality and damaging supporting habitats or prey populations for QIs associated with the SPA.

16.0 Appendix 4: Stage 2 Appropriate Assessment

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 for the upgrade of Garrykennedy Inner Harbour, in view of the relevant conservation objectives of the Lough Derg (Shannon) SPA based on scientific information provided by the applicant and considering observations on nature conservation.

The information relied upon includes the following:

- Natura Impact Statement including AA Screening
- Ecological Impact Assessment
- Construction and environmental management plan (CEMP)
- Applicants' response documents to submissions

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

Department of Housing, Local Government and Heritage: Recommend that construction hours are limited to daylight only to avoid disturbance to waterbirds.

The Lough Derg (Shannon) SPA (0004058):

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

- (i) Potential for disturbance arising from construction activities, adversely impacting nesting or wintering QI bird species, consequently reducing the overall productivity or leading to abandonment of breeding sites, or affecting targets for population trend and/or distribution for wintering QI bird species.
- (ii) Potential for the spread of invasive aquatic species such as Zebra Mussel or Asian Clam during the removal of structures from the site, resulting in adverse effects upon wetland habitat or prey species for QI bird species.
- (iii) Potential for the release of sediments or pollutants during the construction phase, resulting from soil disturbance or the use of construction materials or fuels for construction plant / vehicles, resulting in a degradation of water quality and damaging supporting habitats or prey populations for QIs associated with the SPA.

Qualifying Interest features likely to be affected	Conservation Objectives Targets and attributes	Potential adverse effects	Mitigation measures (summary)
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<p>Cormorant (Phalacrocorax carbo) A017</p> <p>Common Tern (Sterna Hirundo) A193</p>	<p>To restore the Favourable conservation condition defined through the following attributes and targets:</p> <p>Breeding population and size – long term SPA population trend is stable or increasing;</p> <p>Productivity rate – sufficient to maintain a stable or increasing population.</p> <p>Distribution, extent of available nesting options within the SPA – sufficient availability of suitable nesting sites throughout the SPA to maintain a stable or increasing population;</p> <p>Forage spatial distribution, extent, abundance and availability – sufficient number of locations, area of suitable habitat and available forage biomass to support the population target.</p> <p>Disturbance at the breeding site – disturbance occurs at levels that do not significantly impact on birds at the breeding site.</p>	<p>A significant impact on water quality could indirectly impact upon these QIs by causing a reduction in prey populations and availability.</p> <p>Disturbance events at the nest site / breeding colony can result in a reduction in overall productivity and even lead to the abandonment of the breeding colony.</p>	<p>Water Quality Mitigation Measures, including: visual inspections and monitoring during works; weather conditions to be taken into account to minimise silty water runoff; silt control features; silt fencing adjacent to storage areas of stockpiled soil; silt mats on manholes / gullies; sediment laden water directed to settlement tank; No discharge of sediment water to waterbodies; storage of spoil temporarily and away from surface waters; maintaining plant / machinery in good order; loading / unloading of hydrocarbons in a bunded area; spill kits available; no storage of bulk chemicals; prioritise use of precast concrete, pouring of concrete to be supervised; regular inspections of surface water drains; works to stop if suspected deterioration in water quality; storage of spoil etc min of 10m away from surface water drains; and construction waste to be removed by registered contractor.</p> <p>Adherence to best practice guidance.</p>	
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	<p>Disturbance at areas ecologically connected to the colony – disturbance occurs at levels that do not significantly impact on breeding population.</p> <p>Barriers to connectivity – no significant increase.</p>		<p>Disturbance Mitigation Measures, including: turning off of plant not in use with regular visual inspections to monitor dust control measures; construction activities to take place between 8am-6pm Mon-Fri, 8am-2pm Sat, with notification of relevant bodies of works required outside of these times, or, for works taking place during winter months, works will stop at dusk and resume at dawn to prevent disturbance of roosting waterfowl; noise screens built from solid materials; measures to minimise noise disturbance.</p>	
<p>Tufted Duck (Aythya fuligula) A061</p> <p>Goldeneye (Bucephala clangula) A067</p>	<p>To maintain the Favourable conservation condition defined by the following attributes and targets:</p> <p>Winter population trend – long term winter population trend is stable or increasing.</p> <p>Winter spatial distribution – sufficient number of locations, area, and availability (in terms of timing and intensity of use) of suitable habitat to support the population target.</p> <p>Disturbance at wintering site – disturbance occurs at levels that do not significantly impact the achievement of targets for population trend and spatial distribution.</p> <p>Barriers to connectivity and site use – barriers do not</p>	<p>The impact of any significant disturbance (direct or indirect) to the wintering population will ultimately affect the achievement of targets for population trend and/or spatial distribution. A significant impact on water quality could indirectly impact upon these QIs by causing a reduction in prey populations and availability.</p>		

	<p>significantly impact the wintering population's access to the SPA or other ecologically important sites outside the SPA.</p> <p>Forage spatial distribution, extent and abundance – sufficient number of locations, area of suitable habitat and available forage biomass to support the population target.</p> <p>Roost spatial distribution and extent – sufficient number of locations, area and availability of suitable roosting habitat to support the population target.</p>			
Wetlands A999	<p>To maintain the Favourable conservation condition by the following list of attributes and targets:</p> <p>Wetland habitat area – no significant loss to wetland habitat within the SPA, other than that occurring from natural patterns of variation.</p> <p>Wetland habitat quality and functioning – no significant impact on the quality or functioning of the wetland</p>	<p>Any significant loss to wetland habitat within the SPA would likely negatively impact the regularly – occurring migratory waterbirds that utilise this wetland habitat. Such loss of wetland habitat would likely reduce the diversity and abundance of waterbird species that the wetland can support.</p> <p>Spread of invasive species will impact the wetland habitat.</p>	<p>Biosecurity Mitigation Measures, including: checks for any plant and animal matter before equipment or plant leave the site or enter a new site; disinfect all equipment (not beside waterbody); allow equipment to dry before entering a new site and draining of residual water from boats etc before leaving the site; absorbent boom / material to be disinfected before use in waterbody; footway / clothing to be disinfected and dry before use in waterbodies.</p>	

	<p>habitat within the SPA, other than that occurring from natural patterns of variation.</p>		<p>Invasive Molluscs Mitigation Measures, including: treatment / inspection of the existing structure and machinery to prevent spread of invasive molluscs (Zebra Mussel and Asian Clam); cleaning of boats with hot water and drying out; removal of plant life from boardwalk and all equipment; and drying out and disinfection of all equipment used in Lough Derg.</p>	
<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.</p>				
<p>Assessment of issues that could give rise to adverse effects view of conservation objectives The submitted NIS identifies that there is potential for adverse effect upon water quality, the generation of disturbance, or the spread of invasive species, as a result of the proposed works during construction. Surface water runoff from the site during the groundworks phase may have silt laden run-off from excavated materials or from accidental spills of oils, hydrocarbons etc. from plant and machinery equipment. Degradation of surface water quality could potentially damage some supporting habitats of the Qualifying Features which are associated with the Lough Derg (Shannon) SPA. Noise or dust generated by construction activities could disturb QI species, particularly roosting or breeding colonies. The removal of abandoned boats and the existing boardwalk structure from the site could spread invasive aquatic (mollusc) species. Mitigation is set out which will protect against the occurrence of such events arising and/or reduce the potential for consequential negative effect with respect to such events. I note that the Department recommends that construction works only take place during daylight hours. The proposed mitigation states works be limited to 8am-6pm Mon-Fri, 8am-2pm Sat, with notification of relevant bodies of works required outside of these times, or, for works taking place during winter months, works will stop at dusk and resume at dawn. It can be clarified within a condition that works should be limited to daylight hours where daylight hours are shorter than the limits specified, and I have included the same in my recommended order.</p>				

In-combination effects

I am satisfied that in-combination effects has been assessed adequately in the NIS. Section 7 of the NIS identifies schemes in proximity to the site, the NIS concludes that there will be no in combination effect with any development that will cause an adverse effect on the Natura 2000 network.

Findings and conclusions

The applicant concluded that the construction and operation 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 the proposed development can be excluded for the European site considered in the appropriate Assessment.

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 Lough Derg (Shannon) SPA. 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 Lough Derg (Shannon) SPA in view of the conservation objectives of the site and that Appropriate Assessment was required. Following an examination, analysis and evaluation of the NIS all associated material submitted including the further information with EIAR, and taking into account observations, I consider that adverse effects on site integrity of Lough Derg (Shannon) SPA can be excluded in view of the conservation objectives of that site and that no reasonable scientific doubt remains as to the absence of such effects.

My conclusion is based on the following:

The application of mitigation measures to protect water quality through the prevention of silt laden runoff or pollution events / including spillage of hydrocarbons / oils, measures to prevent disturbance of QI species (including restricting hours of construction activity), as well as biosecurity measures, and measures specific to invasive molluscs, to prevent the spread of invasive species.