

Ballyhale Flood Relief Scheme

Response to ABP Submissions
ABP-317082-23

200055-TN-001

INFRASTRUCTURE

March 2024



DBFL CONSULTING ENGINEERS







Project Title:	Ballyhale Flood Relief Scheme		
Document Title:	Response to ABP Submissions ABP-317082-23		
File Ref:	200055-TN-001		
Status:	S2 Suitable for Information	Rev:	P01

Rev.	Date	Description	Prepared	Reviewed	Approved
1	25/03/24	First Issue	Declan Fitzpatrick	John Carr	John Carr

Disclaimer

This document has been prepared for the exclusive use of our Client and unless otherwise agreed in writing with DBFL Consulting Engineers no other party may use, make use of or rely on the contents of this document. The document has been compiled using the resources agreed with the Client and in accordance with the agreed scope of work. DBFL Consulting Engineers accepts no responsibility or liability for any use that is made of this document other than for the purposes for which it was originally commissioned and prepared, including by any third party or use by others of opinions or data contained in this document. DBFL Consulting Engineers accepts no liability for any documents or information supplied by others and contained within this report. It is expressly stated that no independent verification of any documents or information supplied by others for this document has been made. DBFL Consulting Engineers has used reasonable skill, care and diligence in compiling this document and no warranty is provided as to the report's accuracy.

Copyright

The contents and format of this report are subject to copyright owned by DBFL Consulting Engineers unless that copyright has been legally assigned by us to another party or is used by DBFL Consulting Engineers under licence. This report may not be copied or used for any purpose other than the intended purpose.



Contents

1 Introduction..... 4

2 Summary of Submissions Received 5

3 Statutory Bodies – Responses 6

Appendix A : Submissions Received A

Appendix B : BMA Response to NMS Submission B



1 Introduction

Kilkenny County Council acknowledges receipt of the letter sent by An Bord Pleanála (ABP) on 06/03/24 in respect to the application for confirmation of the CPO for the proposed Ballyhale Flood Relief Scheme (ABP reference no. ABP-317082-23).

This document, and its supporting appendices comprise the response of Kilkenny County Council to the issues raised in the submissions and observations received by ABP. Kilkenny County Council reserves its entitlement to further expand on its reply in relation to these issues as may be appropriate at the Oral Hearing.



2 Summary of Submissions Received

A copy of all submissions received by ABP were issued to Kilkenny County Council on the 12/07/23 and are presented below. For ease of reference an identification number has been assigned to each submission. These can be viewed in Appendix A1 of this report, together with submitted name and ABP submission ID where one is assigned. Submissions were received from the following;

Stat 1.	Inland Fisheries Ireland (IFI)	(Statutory Body)
Stat 2.	Transport Infrastructure Ireland (TII)	(Statutory Body)
Stat 3.	National Monuments Service (NMS)	(Statutory Body)



3 Statutory Bodies – Responses

Stat 1. Inland Fisheries Ireland (IFI)

Inland Fisheries Ireland (IFI) is the statutory authority tasked under section 7(1) of the Inland Fisheries Act 2010 (No. 10 of 2010) with responsibility for the protection, management and conservation of the inland fisheries resource.

The site of the proposed development is located on the Knockwilliam_010 surface water body, a tributary of the Little Arrigle. The Ecological Status of the Knockwilliam is Moderate. It is At Risk of not reaching its Water Framework Directive (WFD) objectives by 2027. The works area is immediately upstream of the Barrow-Nore SAC, whose qualifying interests include Salmon and Lamprey. These waters also contain populations of Brown Trout of European Eel, which is listed by the IUCN as a critically endangered species.

In respect of this application IFI wish to make the following observations.

- 1) *IFI welcomes the commitment within the applicant's proposals to remove / mitigate barriers to fish passage along the length of the proposed works area for the scheme. IFI requests that the mitigation measures identified in the applicants Natura Impact Statement (NIS) and the Construction Environment Management Plan (CEMP) are implemented in full. These measures, including monitoring and enforcement, should be a binding condition of any consent granted.*

Response:

Noted. Mitigation measures have been incorporated into the design of the Proposed Project and will be applied during the construction and operation of the Proposed Project.

- 2) *IFI acknowledges the applicant's provision of preliminary method statements in Appendix 5-2 of the document submitted. Before works commence IFI requests that the applicant or the appointed contractor must provide full site-specific Risk Assessment / Method Statements (RAMS) for the proposed instream or riparian works. Method Statements should be provided to IFI at least ten working days before works commence. They must describe in detail the method and the duration of the proposed works and mitigation measures. Where dewatering of channels is proposed, these must be electro-fished in advance. The application is requested to liaise with IFI on this matter.*

Response:

Noted. The requirement for the appointed contractor to produce site specific construction stage method statements for agreement is set out in Planning Documents.

- 3) *Furthermore, no instream works should take place during fisheries close period for the protection of fish spawn and juvenile fish. Instream works can only take place during the period 1 July to 30 September and during periods of low flow.*

Response:

Noted, As set out in Planning Documents, all elements of work will need to monitor weather conditions to ensure suitable conditions and carry out any in-stream works during the instream window to ensure no adverse environmental effects.

- 4) *The storage, management and conveyance of materials on site must not permit any deleterious matter to reach adjacent surface water systems either directly or indirectly. There should be*



no mixing of soiled water from hard surfaces or works areas with uncontaminated water from other sources. Only clean, uncontaminated waters should be discharged to soak-away systems or to surface water. Should invasive species occur on site, appropriate biosecurity measures should be put in place to prevent their spread or transmission to other locations.

Response:

Noted, These requirements are also included in submitted Planning Documents/Environmental Commitments.

- 5) Proposed buffer zones should be clearly marked in advance of works commencing to preserve their integrity. Machines should not enter these zones unless absolutely necessary. Temporary drainage associated with construction works should be diverted water away from buffer zones and must not be allowed to discharge directly into aquatic areas.*

Response:

Noted, These requirements are also included in submitted Planning Documents/Environmental Commitments.

- 6) Any fuels, oils or other hazardous substance on site must be stored in lockable bunded containers. Where temporary diesel or petrol driven pumps are used within the site, they shall be positioned within portable bunded areas. Appropriately sized spill kits for hydrocarbons must be kept on site at all times and staff must be trained in their correct use.*

Response:

Noted, These requirements are also included in submitted Planning Documents/Environmental Commitments.

- 7) With regard to the proposed landscaping works adjacent to the watercourse, IFI's recommends that the applicant consult with its document Planning for Watercourses for the Urban Environment. This document provides guidelines on managing riparian zones to protect watercourses through the use of buffer zones, Sustainable Drainage Systems (SuDS), instream rehabilitation and recreational planning. The document is available at <https://www.fisheriesireland.ie/media/ifi-urban-watercourse-planning-guide>.*

Response:

Noted, This document was reviewed during scheme development and will continue to be considered in subsequent project stages.

- 8) Before works commence the applicant or the appointed contractor should appoint a suitably qualified person to monitor and implement environment mitigation measures, Contact details for this person should be shared with IFI. Records of environmental monitoring should be kept and made available upon requested to persons authorised under section 28 of the Local Government (Water Pollution) Act, 1997 (as amended).*

Response:



Noted, These requirements are also included in submitted Planning Documents/Environmental Commitments. A Project Ecologist is proposed to be appointed to monitor works and water quality on site.

Stat 2. Transport Infrastructure Ireland (TII):

- 1) The Authority acknowledges receipt of referral of the above proposed Local Authority Development application.*
- 2) TII has reviewed the documentation made available in relation to the subject application and notes that the subject site is located at a remove from the strategic national road network in the area. There are no implications for the national road network to address.*
- 3) The Authority has no other observations to make in relation to the proposed development.*
- 4) The Authority trusts that the foregoing comments prove of assistance to the Board in dealing with this matter.*

Response:

No concerns within the TII submission noted.

Stat 3. National Monuments Service (NMS):

The National Monuments Service Submission is included in full in Appendix A

A detailed response from Byrne Mullins & Associates Archaeological & Historical Heritage Consultants (authors of EIAR Chapter 10) is included in Appendix B.

Please refer to the Byrne Mullins & Associates Response in Appendix B for full response on Cultural Heritage aspects however at a high level the following points are noted.

- The submission initially requests ABP to seek further information in the form of an Underwater Archaeological Impact Assessment (UAIA) and Archaeological Impact Assessment (AIA).
- The submission also lists a number of Planning Conditions to be imposed in the event that further information is not requested by ABP. The planning conditions suggested are largely consistent with the Mitigation measures proposed in the EIAR
- It is noted that both UAIA and AIA assessments require intrusive works on lands which are currently in private ownership. It is also requirement of Archaeological Licences that permission from landowners be granted for archaeological investigations. Landowner submissions in opposition the scheme have been received, it is therefore considered that



intrusive investigations could only be carried out after the subject lands have been acquired under the CPO Process.

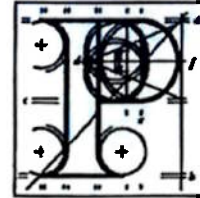
- Furthermore a pre planning UAIA assessment would involve intrusive instream works. These works would likely require a Natura Impact Statement and determination by the ABP in their own right (which would cause very significant project delays). Instream Archaeological Works post consent would be subject to the overall mitigation measures for the scheme

In summary the proposed development was the subject of a detailed Cultural Heritage Assessment and a robust suite of mitigation measures was suggested which includes Intrusive Archaeological Testing and extensive Archaeological Monitoring . Due to land access and planning constraints intrusive works is only proposed post consent/CPO but in advance of the main construction contract. The applicant has no opposition to the planning conditions suggested which are largely consistent with mitigation measures already proposed however completion of AIA/UAIA pre consent does not appear feasible due to the constraints outlined.



Appendix A : Submissions Received

Our Case Number: ABP-317082-23



**An
Bord
Pleanála**

Inland Fisheries Ireland
Cormac Goulding
Fisheries Environmental Officer
Anglesea Street
Clonmel
Co. Tipperary
E91 RD25

Date: 29 June 2023

**Re: Proposed flood relief works at Ballyhale and Kiltorcan (townlands)
Co. Kilkenny**

Dear Sir,

An Bord Pleanála has received your recent submission in relation to the above-mentioned proposed development and will take it into consideration in its determination of the matter. Inland Fisheries Ireland are a prescribed body and therefore no fee is required. A refund of €50 will be made to the debit/credit card used to make payment.

Please note that the proposed development shall not be carried out unless the Board has approved it or approved it with conditions.

As the Board has also received an application for confirmation of a compulsory purchase order, which relates to this proposed development, the person conducting any oral hearing in relation to the compulsory acquisition of land shall be entitled to hear evidence in relation to the likely effects on the environment of the proposed development and the likely consequences for proper planning and sustainable development in the area in which it is proposed to situate the said development. The Board shall also make a decision on both applications at the same time.

You will be notified of the arrangements for the opening of any oral hearing in due course.

If you have any queries in relation to the matter please contact the undersigned officer of the Board. Please quote the above-mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

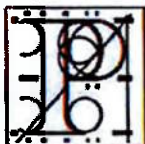
Yours faithfully,

Sarah Caulfield
Executive Officer
Direct Line: 01-8737287

JA03A

Tell	Tel	(01) 858 8100
Glaio Áitiúil	LoCall	1800 275 175
Facs	Fax	(01) 872 2884
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maolbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902



An
Bord
Pleanála

SID Online Observation

Online Reference
SID-OBS-000920

Online Observation Details

Contact Name
Cormac Goulding

Lodgement Date
23/06/2023 13:04:44

Case Number / Description
317082

Payment Details

Payment Method
Online Payment

Cardholder Name
Cormac Goulding

Payment Amount
€50.00

Fee Refund Requisition

Please Arrange a Refund of Fee of

€

Lodgement No

LDG—

Reason for Refund

Documents Returned to Observer

☐

Yes

☐

No

Request Emailed to Senior Executive Officer for Approval

☐

Yes

☐

No

Signed

EO

Date

Finance Section

Payment Reference

ch_3NM8jHB1CW0EN5FC0SniK1V0

Checked Against Fee Income Online

EO/AA (Accounts Section)

Amount

€

Refund Date

Authorised By (1)

SEO (Finance)

Authorised By (2)

Chief Officer/Director of Corporate Affairs/SAO/Board
Member

Date

Date



**Iascach Intíre Éireann
Inland Fisheries Ireland**

An Bord Pleanála,
64 Marlborough Street,
Dublin 1,
D01 V902

23 June 2023

An Bord Pleanála Ref. JA10.317082

Description: Proposed flood relief works at Ballyhale and Kiltorcan (townlands).
Application by Kilkenny County Council to An Bord Pleanála under Section 177AE and Section 175 of the Planning and Development Act, 2000 (as amended) to carry out proposed works

Location: Townlands of Ballyhale and Kiltorcan in County Kilkenny

Submitted via <https://online.pleanala.ie/en-ie/sid/observation>

AN BORD PLEANÁLA

23 JUN 2023

LTR DATED _____ FROM _____

LDG- _____

ABP- _____

To whom it may concern:

Inland Fisheries Ireland (IFI) is the statutory authority tasked under section 7(1) of the Inland Fisheries Act 2010 (No. 10 of 2010) with responsibility for the protection, management, and conservation of the inland fisheries resource.

The site of the proposed development is located on the Knockwilliam_010 surface water body, a tributary of the Little Arrigle. The Ecological Status of the Knockwilliam_010 is *Moderate*. It is *At Risk* of not reaching its Water Framework Directive (WFD) objectives by 2027. The works area is immediately upstream of the Barrow-Nore SAC, whose qualifying interests include Salmon and Lamprey. These waters also contain populations of Brown Trout and of European Eel, which is listed by the IUCN as a critically endangered species.

In respect of this application IFI wish to make the following observations:

IFI welcomes the commitment within the applicant's proposals to remove / mitigate barriers to fish passage along the length of the proposed works area for the scheme. IFI requests that the mitigation measures identified in the applicant's Natura Impact Statement (NIS) and the Construction Environmental Management Plan (CEMP) are implemented in full. These measures, including monitoring and enforcement, should be a binding condition of any consent granted.

IFI acknowledges the applicant's provision of preliminary method statements in Appendix 5-2 of the document submitted. Before works commence IFI requests that the applicant or the appointed contractor must provide full site-specific Risk Assessment / Method Statements (RAMS) for the proposed instream or riparian works. Method statements should be provided to IFI at least ten working days before works commence. They must describe in detail the method and the duration of the proposed works and mitigation measures. Where dewatering of channels is proposed, these must be electro-fished in advance. The applicant is requested to liaise with IFI on this matter.



**Iascach Infire Éireann
Inland Fisheries Ireland**

Furthermore, no instream works should take place during fisheries close period for the protection of fish spawn and juvenile fish. Instream works can only take place during the period 1 July to 30 September and during periods of low flow.

The storage, management and conveyance of materials on site must not permit any deleterious matter to reach adjacent surface water systems either directly or indirectly. There should be no mixing of soiled water from hard surfaces or works areas with uncontaminated water from other sources. Only clean, uncontaminated waters should be discharged to soak-away systems or to surface water. Should invasive species occur on site, appropriate biosecurity measures should be put in place to prevent their spread or transmission to other locations.

Proposed buffer zones should be clearly marked in advance of works commencing to preserve their integrity. Machines should not enter these zones unless absolutely necessary. Temporary drainage associated with construction works should be diverted water away from buffer zones and must not be allowed to discharge directly into aquatic areas.

Any fuels, oils or other hazardous substances on site must be stored in lockable bunded containers. Where temporary diesel or petrol driven pumps are used within the site, they shall be positioned within portable bunded areas. Appropriately sized spill kits for hydrocarbons must be kept on site at all times and staff must be trained in their correct use.

With regard to the proposed landscaping works adjacent to the watercourse, IFI's recommends that the applicant consult with its document *Planning for Watercourses for the Urban Environment*. This document provides guidelines on managing riparian zones to protect watercourses through the use of buffer zones, Sustainable Drainage Systems (SuDS), instream rehabilitation and recreational planning. This document is available at <https://www.fisheriesireland.ie/media/ifi-urban-watercourses-planning-guide>.

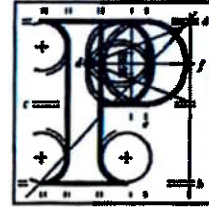
Before works commence the applicant or the appointed contractor should appoint a suitably qualified person to monitor and implement environmental mitigation measures. Contact details for this person should be shared with IFI. Records of environmental monitoring should be kept and made available upon request to persons authorised under section 28 of the Local Government (Water Pollution) Act, 1977 (as amended).

Any future correspondence in respect of this application should be sent by email to cormac.goulding@fisheriesireland.ie or by post to the address below.

Yours sincerely,

Cormac Goulding
Fisheries Environmental Officer
South-Eastern River Basin District

Our Case Number: ABP-317082-23



An
Bord
Pleanála

Transport Infrastructure Ireland
Michael McCormack
Parkgate Business Centre
Parkgate Street
Dublin 8
D08 DK10

Date: 19 May 2023



Re: Proposed flood relief works at Ballyhale and Kiltorcan (townlands)
Co. Kilkenny

Dear Sir / Madam,

An Bord Pleanála has received your recent submission in relation to the above-mentioned proposed development and will take it into consideration in its determination of the matter.

Please note that the proposed development shall not be carried out unless the Board has approved it or approved it with conditions.

As the Board has also received an application for confirmation of a compulsory purchase order, which relates to this proposed development, the person conducting any oral hearing in relation to the compulsory acquisition of land shall be entitled to hear evidence in relation to the likely effects on the environment of the proposed development and the likely consequences for proper planning and sustainable development in the area in which it is proposed to situate the said development. The Board shall also make a decision on both applications at the same time.

You will be notified of the arrangements for the opening of any oral hearing in due course.

If you have any queries in relation to the matter please contact the undersigned officer of the Board.

Please quote the above-mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,


Sarah Caulfield
Executive Officer
Direct Line: 01-8737287

JA03A

Tel
Glao Áitúil
Fax
Láithreán Gréasáin
Ríomhphost

Tel
LoCall
Fax
Websíte
Email

(01) 858 8100
1800 275 175
(01) 872 2684
www.pleanala.ie
bord@pleanala.ie

64 Sráid Maolbhríde
Baile Átha Cliath 1
D01 V902

64 Marlborough Street
Dublin 1
D01 V902

Dear Michael,

The Board acknowledges receipt of your email and attached submission in relation to the above-mentioned application.

Kind Regards,
Sarah

From: Landuse Planning <LandUsePlanning@tli.ie>
Sent: Thursday, May 18, 2023 2:08 PM
To: SIDS <sids@pleanala.ie>
Subject: ABP Case ref. JA10.317082 (Ballyhale Flood Relief Scheme)

Dear Sir/Madam,

Please find attached a copy of TII's observations on the above Local Authority Development Application.

Yours sincerely,
Michael McCormack
Senior Land Use Planner

In accordance with TII's Right to Disconnect policy, if you are receiving this email outside of normal working hours, I do not expect a response or action outside of your own working hours unless it is clearly noted as requiring urgent attention.

De réir pholasáí BIÉ An Ceart gan a bheith Ceangailte, má tá an ríomhphost seo á fháil agat lasmuigh de na gnáthuaireanta oibre, nílím ag súil le freagra ná le gníomh uait lasmuigh de do ghnáthuaireanta oibre féin mura bhfuil sé ráite go solléir go bhfuil gá gníomhú go práinneach.

TII processes personal data provided to it in accordance with its Data Protection Notice available at <https://www.tii.ie/about/about-tii/Data-Protection/>

Próiseálann BIÉ sonraí pearsanta a sholáthraítear dó i gcomhréir lena Fhógra ar Chosaint Sonraí atá ar fáil ag <https://www.tii.ie/about/about-tii/Data-Protection/?set-lang=ga>

TII E-mail system: This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error then please notify postmaster@tli.ie and delete the original including attachments.

Córas r-phoist BIE: Tá an ríomhphost seo agus aon chomhaid a tharchuirtear leis faoi rún agus beartaíthe lena n-úsáid ag an duine aonair nó ag an eintiteas a bhfuil siad dírithe chuige/chuici amháin. Más rud é go bhfuair tú an ríomhphost seo trí bhotún, cuir sin in iúl do postmaster@tli.ie, le do thoil, agus scríos an ríomhphost bunaidh agus aon cheangaltáin.

In accordance with TII's Right to Disconnect policy, if you are receiving this email outside of normal working hours, I do not expect a response or action outside of your own working hours unless it is clearly noted as requiring urgent attention.

De réir pholasáí BIÉ An Ceart gan a bheith Ceangailte, má tá an ríomhphost seo á fháil agat lasmuigh de na gnáthuaireanta oibre, nílím ag súil le freagra ná le gníomh uait lasmuigh de do

ghnáthuaireanta oibre féin mura bhfuil sé ráite go solléir go bhfuil gá gníomhú go práinneach.

TII processes personal data provided to it in accordance with its Data Protection Notice available at <https://www.tii.ie/about/about-tii/Data-Protection/>

Próiseálann BIÉ sonraí pearsanta a sholáthraítear dó i gcomhréir lena Fhógra ar Chosaint Sonraí atá ar fáil ag <https://www.tii.ie/about/about-tii/Data-Protection/?set-lang=ga>

TII E-mail system: This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error then please notify postmaster@tii.ie and delete the original including attachments.

Córas r-phoist BIÉ: Tá an ríomhphost seo agus aon chomhaid a tharchuirtear leis faoi rún agus beartaithe lena n-úsáid ag an duine aonaí nó ag an eintiteas a bhfuil siad dírithe chulge/chuici amháin. Más rud é go bhfuair tú an ríomhphost seo trí bhotún, cuir sin in iúl do postmaster@tii.ie, le do thoil, agus scríos an ríomhphost bunaidh agus aon cheangaltáin.



The Secretary
An Bord Pleanála
64 Marlborough St.
Dublin 1
D01 V902

by e.mail; sids@pleanala.ie

Dáta | Date
18 May, 2023

Ár dTag | Our Ref.
TII23-122862

Re. Ballyhale Flood Relief Scheme, Co. Kilkenny

ABP Case ref. JA10.317082

Dear Secretary,

The Authority acknowledges receipt of referral of the above proposed Local Authority Development application.

TII has reviewed the documentation made available in relation to the subject application and notes that the subject site is located at a remove from the strategic national road network in the area. There are no implications for the national road network to address.

The Authority has no other observations to make in relation to the proposed development.

The Authority trusts that the foregoing comments prove of assistance to the Board in dealing with this matter.

Yours sincerely,

Michael McCormack
Senior Land Use Planner

Próiseálann BIE sonraí pearsanta a sholáthraítear dó i gcomhréir lena Fhógra ar Chosaint Sonraí atá ar fáil ag www.tii.ie.
TII processes personal data in accordance with its Data Protection Notice available at www.tii.ie.



Bonneagar Iompair Éireann
Ionad Gró Gheata na Páirce
Sráid Gheata na Páirce
Baile Átha Cliath 8
Éire, D08 DK10



Transport Infrastructure Ireland
Perlegha Business Centre
Perlegha Street
Dublin 8
Ireland, D08 DK10



info@tii.ie



www.tii.ie



+353 (0)1 646 3600



+353 (0)1 646 3601



Planning Ref: 177AE- KK-Ballyhale Flood Relief

(Please quote in all related correspondence)

11 Aug 2023

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1
D01 V902

Via email: bord@pleanala.ie

Re: Notification under the Planning and Development Act, 2000, as amended

Proposed Development: Section 177AE application in respect of Ballyhale flood relief scheme in the townlands of Ballyhale and Kiltorcan in County Kilkenny.

A chara

I refer to correspondence received in connection with the above. Outlined below are heritage-related observations/recommendations co-ordinated by the Development Applications Unit under the stated headings.

Archaeology

We refer to your consultation in relation to the above proposed development and please find outlined below the archaeological recommendations of the Underwater Archaeology Unit (UAU) of the National Monuments Service (NMS) of the Department of Housing, Local Government and Heritage. The UAU of the NMS is tasked, on behalf of the Minister for Housing, Local Government and Heritage, with the protection and preservation of Ireland's underwater cultural heritage. As a Prescribed Body or Statutory Consultee in the planning process under the Planning and Development Act 2000 (as amended), UAU make recommendations to the relevant planning authorities and other regulatory bodies on developments which have the potential to impact on underwater archaeology. Within the NMS the UAU has responsibility for making observations and recommendations to relevant authorities on flood relief scheme projects.

The proposed Ballyhale Flood Relief Scheme involves:

Aonad na nIarratas ar Fhorbairt

Development Applications Unit

Oifigí an Rialtais

Government Offices

Bóthar an Bhaile Nua, Loch Garman, Contae Loch Garman, Y35 AP90

Newtown Road, Wexford, County Wexford, Y35 AP90



- Construction of embankments located upstream of the village to prevent overland flooding
- Flood wall to the western perimeter of “Arrigle View”
- Section of new river channel re-connecting all outlets from the Chapel Lane bridge into the western river channel and removing the flow
- Excavation of the existing church pedestrian access and replacement via a new pedestrian connection which also serves to form a new bank to the redirected stream
- Landscaping of eastern river channel to allow for a low flow channel to reflect reduced flow flood defences (wall and embankments) between the western channel and the properties at risk on Main Street.
- Landscaping to provide a riverside walkway/park
- Removal of one of two existing minor private bridges providing access across the river to a private land parcel.
- Removal of the existing weir and bridge at the Ballyhale Business Park access and replacement of bridge with clear span access with regrading of channel to improve channel capacity
- Low flood wall alongside the road opposite Brookfield to prevent out of bank flows emerging onto the road surface.
- Provision of rock ramp to existing weir at Ballyhale Shamrocks access to improve fish pass conditions
- Channel reprofiling at the existing Main street bridge to improve bridge inlet
- Provision of additional conveyance capacity to the Main street Bridge. The additional conveyance will be provided by an additional bridge opening (box culvert) set at high level to provide capacity for extreme flood events.
- Provision of rock ramp to downstream face of the Main Street Bridge to improve fish pass conditions
- Provision of a temporary construction fencing, accommodation works and all site development and landscaping

The full planning submission made by Kilkenny County Council to An Bord Pleanála, including the Environmental Impact Assessment Report (EIAR) and its chapter on Cultural Heritage (Ballyhale Flood Relief Scheme, Environmental Impact Assessment Report Chapter 10), has been reviewed by UAU. Prior engagements by UAU with this FRS project have included our response to a pre-planning submission consultation (ref. G Pre00181/2020, 3 October 2020) and a site walkover with the Office of Public Works Project Archaeologist 8th March 2023. Our October 2020 submission recommended that ‘the Cultural Heritage assessment should therefore assess both the terrestrial archaeological potential of all areas within the footprint of flood relief works and the underwater cultural heritage potential for all watercourses, including riverbanks, stream banks, wetlands, etc. and all associated fixtures and features, sites and elements (e.g. fording points, bridges, stepping stones, landing slips, wrecks, etc.). A suitably qualified



and suitably experienced archaeologist with underwater archaeological experience should carry out the Cultural Heritage Section of the EIAR to ensure it informs fully on the full spectrum of archaeological potential, both above and below water, and to propose mitigation to address risks to that cultural heritage (whether known/recorded or previously unknown/potential)'. Similarly, in the site meeting of 8th March 2023, the high archaeological potential of the proposed development area was highlighted and it was stressed that the maximum amount of archaeological mitigation possible would be carried out in advance, ideally at design stage (Stage I), of the commencement of the main works at Stage IV, thus reducing the risk of adverse effects on archaeological heritage and, potentially, attendant delays to the construction programme. It is noted that the Cultural Heritage chapter of the EIAR 'consists of the results of a paper survey and detailed field inspection/reconnaissance survey. In addition, Geotechnical Site Investigations were monitored by an archaeologist'. No further archaeological investigations or surveys have been undertaken to inform the EIAR.

Three sites of 'Archaeological Heritage interest/potential' are identified within the defined study area of the EIAR and nine individual structures of 'Architectural Heritage interest'. The three archaeological heritage sites are identified as follows:

CH-1 (RMP KK031-034) Church, Graveyard, Font and Castle (unclassified)

CH-2 (RMP KK031-070) Souterrain

CH-3 (RMP KK031- 090) burnt mound.

These monuments are afforded statutory protection in the Record of Monuments and Places (RMP) established under section 12 (Recorded Monuments) of the National Monuments (Amendment) Act 1930-2014. It should be noted, however, that the RMP is not an exhaustive list of all archaeological and cultural heritage in existence, and it is the published policy of the NMS (Framework and Principles for the Protection of the Archaeological Heritage (Government of Ireland 1999) and is stated in Section 3.3.6 of the Environmental Protection Agency's Guidelines on the Information to be Contained in Environmental Impact Assessment Reports (EPA 2022), that archaeological assessment must include a broad range of cultural heritage assets, beyond those that are subject to statutory protection(s). In this regard, it is noted that the Cultural Heritage chapter of the EIAR omits any reference to the historically documented medieval borough that has been historically recorded as having formerly occupied the area to the west of St Martin's parish church RMP KK031-034001- (see Carrigan, Rev. W. 1905 (vol. III), *The History and Antiquities of the Diocese of Ossory*, Dublin, p. 14.). Likewise, historic structures and features that are present within the proposed development area but are not included in the National Inventory of Architectural Heritage and/or Record of Protected Structures, have not been incorporated. The absence of prior archaeological test-excavations to inform the design of the flood relief scheme, for example to assess the effect of the development on the graveyard RMP KK031-034002- of St Martin's parish church RMP KK031-034001-, means it remains unknown whether the flood relief works that are proposed in its immediate environs will impact on, for example, sub-surface human skeletal remains associated with the graveyard or the sub-surface remains of a boundary that predates the present early twentieth century enclosing wall.



It is also noted that no Underwater Archaeological Impact Assessment (UAIA) has been undertaken to assess the effects of the project on underwater cultural heritage, including on wrecks and underwater objects that may be contained within the River Arrigle. Section 3 of the National Monuments (Amendment) Act 1987 is the primary piece of legislation for the protection of wrecks over 100 years old and archaeological objects underwater, irrespective of age. Wrecks that are less than 100 years old and archaeological objects or the potential location of such a wreck or archaeological object can also be protected under Section 3 of the 1987 (Amendment) Act. Underwater cultural heritage also encompasses, for example, weirs, historic bridges, fording points, revetment walls, historic flood defences and other riverine structures and features, many of which are present within the proposed development area and/or are marked on historic maps.

In light of the above omissions in the Cultural Heritage chapter of the EIAR we are unable, at this juncture, to make a determination, to inform An Bord Pleanála's decision, as to whether or not the effects of the proposed project on cultural heritage have been adequately identified, described and assessed. Likewise, we are unable to determine whether the likely significant effects on cultural heritage resulting from the construction and operation of the project have been identified and whether the proposed mitigation measures would adequately allow for the avoidance, reduction or offsetting of significant effects on cultural heritage.

Accordingly, it is the recommendation of the National Monuments Service that the completion of a programme of pre-development underwater archaeological assessment of all in-stream works, archaeological testing (licensed under the National Monuments Acts 1930-2014) in the areas of proposed groundworks and other investigations as set out below should be undertaken as FURTHER INFORMATION. The UAIA and AIA should be completed well in advance of any construction contract to ensure the identification of any surviving underwater and terrestrial archaeological structures, features, deposits and human skeletal remains within the proposed development area. This should be carried out at the earliest possible stage to facilitate the embedding of mitigation within the detailed design for the project, as necessary, in order to ensure the preservation in-situ of cultural heritage and to develop an informed archaeological strategy to be implemented in agreement with the National Monuments Service.

It is recommended therefore that An Bord Pleanála request submission of an Underwater Archaeology Impact Assessment (UAIA) and Archaeological Impact Assessment (AIA) as **further information**.

Underwater Archaeological Impact Assessment:

1. The developer shall commission an Underwater Archaeological Impact Assessment (UAIA) report which shall include the following:
 - a. A desktop assessment that addresses the underwater cultural heritage (including archaeological, built, vernacular, riverine and industrial heritage) of the proposed



development area. The assessment shall include a full inventory, mapping and survey (photographic, descriptive, photogrammetric, as appropriate) of underwater cultural heritage features and structures identified by fieldwork, cartographic analysis, historical research and prior archaeological investigations.

- b. The UAIA shall include a licenced wade assessment, accompanied by a hand-held metal detection survey, centred on (but not confined to) the area(s) where in-stream works are proposed. The wade assessment and metal detection survey shall be undertaken by a suitably licenced and experienced underwater archaeologist. All identified underwater cultural heritage shall be surveyed (photographic, descriptive, photogrammetric) in detail as part of the assessment. A Dive/Survey licence (Section 3 1987 National Monuments Act) and Detection Device consent (Section 2 1987 National Monuments Act) will be required for the wade survey and metal detection, respectively. Licenses should be applied for to the National Monuments Service and should be accompanied by a detailed method statement. Note a period of 3-4 weeks should be allowed to facilitate processing and approval of the licence applications and method statement. All archaeological wading/diving should comply with the Health and Safety Authority's Safety, Health and Welfare at Work (Diving) Regulations 2018/2019.
- c. Having completed the above works, the archaeologist shall undertake targeted in-river pre-development archaeologist test-excavations within specific areas of the proposed development area, to be agreed with the National Monuments Service, in order to adequately assess the nature, depth, extent and artefact-bearing potential of the riverine stratigraphy, to assess the potential for the remains of bridges, fording points and other riverine structures and features, and to facilitate further characterisation of underwater cultural heritage features and structures that have been identified in the wade survey and by prior research. The archaeological test-excavation shall be carried out under a Section 26 (National Monuments Act 1930) licence from the NMS and in accordance with an approved method statement. Licensed metal detection shall be undertaken in tandem with the test excavations. A Dive/Survey Licence (Section 3 1987 National Monuments Act) and Detection Device consent (Section 2 1987 National Monuments Act) will be required for the wade survey and metal detection, respectively. Licenses should be applied for to the National Monuments Service and should be accompanied by a detailed method statement. Note a period of 3-4 weeks should be allowed to facilitate processing and approval of the licence application and method statement. All archaeological wading/diving should comply with the Health and Safety Authority's Safety, Health and Welfare at Work (Diving) Regulations 2018/2019.
- d. Having completed the above-described works, the archaeologist shall submit a written report to the NMS describing the results of the UAIA, including archaeological underwater test-excavations. The report shall include a comprehensive Archaeological Impact Statement (AIS) that comments on the degree to which the extent, location and levels of all proposed works (flood relief structures, ground disturbances, foundations, service trenches and other sub-



surface works including Site Investigation works) required for the development will impact upon any underwater cultural heritage, archaeological materials, objects and/or areas of archaeological potential that have been identified. The AIS shall describe the potential impact(s) of all proposed in-stream development, access and ingress routes to the river, and shall also assess any proposed additional Site Investigation/Geotechnical impacts and potential secondary/indirect impacts such as scouring resulting from changes in hydrology. The AIS should be illustrated with appropriate plans, sections and photographs that clearly describe any adverse effect(s) of the development on the underwater cultural heritage and proposals for their mitigation. Mitigation may include recommendations for redesign to allow for full or partial preservation in situ, the institution of archaeological exclusion zones, further wade/dive surveys, test-excavations, excavations ('preservation by record') and/or monitoring, as deemed appropriate. NMS will advise with regard to these matters. No construction works shall commence until after the UAIA has been submitted and reviewed. All recommendations will require the agreement of the NMS. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Archaeological Impact Assessment (Terrestrial):

2. The developer shall commission an Archaeological Impact Assessment (AIA), as follows:
 - a. A desktop assessment shall be compiled that addresses the cultural heritage (archaeological, built, vernacular, riverine and industrial heritage) of the proposed development area, to include a full inventory, mapping and surveys (photographic, descriptive, photogrammetric, as appropriate) of cultural heritage features and structures identified by fieldwork, cartographic analysis, historical research and prior archaeological investigations.
 - b. The AIA shall include licenced test-excavations, accompanied by a hand-held metal detection survey, at areas of the development area where ground disturbance is to take place, including (but not limited to) locations of all proposed flood embankments (E-001, E-002, E-003, E-004, E-005), new channels (D-001) and the Site Compound. The archaeological test-excavation shall be carried out under a Section 26 (National Monuments Act 1930) licence from the NMS and in accordance with an approved method statement. Licensed metal detection shall be undertaken in tandem with the test excavations. All test-excavations that have the potential to uncover human skeletal remains shall be undertaken in conjunction with a suitably qualified osteoarchaeologist. A Detection Device consent (Section 2 1987 National Monuments Act) will be required for the metal detection survey. Licenses should be applied for to the National Monuments Service and should be accompanied by a detailed method statement. Note a



period of 3-4 weeks should be allowed to facilitate processing and approval of the licence application and method statement.

- c. The AIA shall include a comprehensive historical and architectural analysis and analytical assessment and record of all historic structures (including but not limited to, bridges, weirs, revetments, buildings, former mills) that will potentially be impacted upon by the proposed development. The assessment shall comprise of archaeological recording (annotated plans, elevations, sections, details of features and interpretative drawings derived from measured surveys, photographic surveys, digital surveys, opening-up works) that secures an understanding of the development and phasing of all impacted architectural structures and features (including any reused architectural carved stones) and their condition and vulnerabilities.
- d. The outcome of the assessment shall inform recommendations, to be agreed with the National Monuments Service, that prioritise the preservation in situ of identified structures and features and shall also inform the preparation, as required, of specifications (prepared in liaison with a conservation specialist and structural engineer as appropriate) that provide for their stabilisation, conservation and repair. Where identified historic features and structures are proposed for removal or part removal as part of the proposed development, the rationale and justification for this shall be described and mitigation measures shall be recommended and agreed with the National Monuments Service. These may include, as appropriate, further archaeological investigations (including test-excavations aimed at securing a greater understanding of a feature or structure), surveys, conservation and engineering interventions, monitoring, preservation by record, and interpretation. Any associated groundworks shall also be assessed and mitigatory measures outlined accordingly.
- e. The AIA shall include an assessment of the effects of the proposed development, if any, on the setting of St Martin's parish church RMP KK031-034001- and its graveyard RMP KK031-034002-. Assessment shall include a description, illustrated with photomontages, photographs and drawings, that describe the significance of the setting of the monuments and how it will be affected by the proposed development. Where adverse effects on its setting are identified, mitigation measures (e.g. design modifications, public realm works, archaeological interpretation panels) that enhance the setting of the monuments shall be proposed and agreed with the National Monuments Service.
- f. A final AIA report that details the results of the assessment shall be furnished to the National Monuments Service for review and comment. The report shall include a comprehensive Archaeological Impact Statement (AIS) that comments on the degree to which the extent, location and levels of all proposed works (flood relief structures, ground disturbances, foundations, service trenches and other sub-surface works including Site Investigation works) required for the development will impact upon any cultural heritage, archaeological materials,



objects, the setting of St Martin's parish church RMP KK031-034001- and its graveyard RMP KK031-034002-, and/or areas of archaeological potential that have been identified. The AIS should be illustrated with appropriate plans, sections and photographs that clearly describe any adverse effect(s) of the development on cultural heritage and proposals for their mitigation. Mitigation may include recommendations for redesign to allow for full or partial preservation in situ, the institution of archaeological exclusion zones, design modifications to enhance setting, test-excavations, excavations ('preservation by record') and/or monitoring, as deemed appropriate. No construction works should commence until after the AIA has been submitted and reviewed. All recommendations will require the agreement of the NMS. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Should An Bord Pleanála not request Further Information but instead grant permission for the development, we request that the above recommendations form conditions of planning permission. In addition, we recommend the following conditions are included:

1. All mitigation measures in relation to archaeology and cultural heritage as set out in Chapter 10 of the EIAR shall be implemented in full, except as may otherwise be required in order to comply with the conditions of this Order.
2. The Construction Environment Management Plan (CEMP) shall include the location of any and all archaeological or cultural heritage constraints relevant to the proposed development as set out in Chapter 10 of the EIAR and by any subsequent archaeological investigations associated with the project. The CEMP shall clearly describe all identified likely archaeological impacts, both direct and indirect, and all mitigation measures to be employed to protect the archaeological or cultural heritage environment during all phases of site preparation and construction activity.
3. A Project Archaeologist shall be appointed to oversee and advise on all aspects of the scheme from design, through inception to completion.

4. Archaeological monitoring shall be undertaken as follows:

- a. The services of a suitably qualified and suitably experienced archaeologist shall be engaged to carry out archaeological monitoring of all sub-surface works carried out within the development site, including demolition of historic structures and features, in-stream excavations, ground reduction works, service trenching and all other works as advised by the monitoring archaeologist.
- b. The archaeological monitoring shall be carried out under a Section 26 (National Monuments Act 1930) licence from the NMS and in accordance with an approved method statement. The method statement shall lay out the monitoring strategy for each location where works are proposed. All monitoring works that have the potential to uncover human skeletal remains shall be undertaken in conjunction with a suitably qualified osteoarchaeologist. Licensed metal detection shall be undertaken in tandem with the monitoring. The method statement shall contain a



Finds Retrieval Strategy that includes for the spreading, systematic searching and metal detection of all excavated deposits in order to retrieve archaeological objects. If, after an agreed period of time, there is minimal artefactual evidence forthcoming, the archaeological searching and metal detecting of the spoil may be scaled down. A Detection Device consent (Section 2 1987 National Monuments Act) will be required for the metal detecting works. Note a period of 3-4 weeks should be allowed to facilitate processing and approval of licence applications and method statement.

- c. In order to ensure full communication is in place between the monitoring archaeologist and the works contractor at all times, a communication strategy shall be implemented that provides the monitoring archaeologist with adequate notice of all forthcoming works that require their attendance. Sufficient, suitably experienced and qualified, archaeological personnel shall be in place to cover all aspects of the monitoring works and all in-stream works shall be monitored by a suitably qualified and experience underwater archaeologist.
- d. Should archaeological material be found during the course of the archaeological monitoring, the archaeologist shall be authorised to suspend all construction works on the affected part of the site (as identified by the monitoring archaeologist) in order to facilitate investigative assessment, protection and prompt notification to the NMS and other statutory authorities, as required. The developer shall be prepared to be advised by the NMS with regard to any ensuing mitigating action. Mitigation may include recommendations for redesign to allow for full or partial preservation in situ, the institution of archaeological exclusion zones, test-excavations, excavations ('preservation by record') and/or monitoring, as deemed appropriate. No construction works should recommence within the affected area until after an amended method statement that describes the mitigation strategy has been submitted, reviewed and agreed in writing by the NMS. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.
- e. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of all archaeological monitoring and any archaeological investigative work/excavation required, following the completion of all archaeological work on site and any necessary post-excavation specialist analysis. All resulting and associated archaeological costs shall be borne by the developer.

You are requested to send further communications to this Department's Development Applications Unit (DAU) at manager.dau@npws.gov.ie where used, or to the following address:

The Manager
Development Applications Unit (DAU)



Government Offices
Newtown Road
Wexford
Y35 AP90

Is mise, le meas

A handwritten signature in purple ink, which appears to read 'Simon Dolan', is written over a horizontal line.

Simon Dolan
Development Applications Unit
Administration



Appendix B : BMA Response to NMS Submission

BYRNE MULLINS & ASSOCIATES
ARCHAEOLOGICAL & HISTORICAL
HERITAGE CONSULTANTS

Martin Byrne MA, Dip. EIA Mgmt, MIAI • Clare Mullins, MA, PhD, Dip. EIA/SEA Mgmt

7 CNOC NA GREINE SQUARE,
KILCULLEN,
Co. KILDARE.
PHONE 045 480688
e-mail: byrnemullins@eircom.net
VAT No.: IE 5116187J

The development was the subject of a detailed non-Intrusive Cultural Heritage Assessment and a robust suite of mitigation measures was suggested; this was reviewed by the OPW-appointed Project Archaeologists; it was determined that these should be implemented post-planning decision but in advance of the commencement of the scheme for various reasons outlined below.

Notification of the development was submitted by ABP to the Department of Housing, Local Government and Heritage; archaeology-related observations/recommendations co-ordinated by the Development Applications Unit (DAU) of the Department were submitted to ABP on 11th August 2023. In that regard, it is noted that a range of measures are suggested to be undertaken in advance of the a planning decision; however, in the event that such cannot be undertaken in advance, then a further range of measures are suggested to be included on the Grant of Planning.

The DAU Response is comprehensively themed and such themes are responded to as follows:

General

"...it is noted that the Cultural Heritage chapter of the EIAR omits any reference to the historically documented medieval borough that has been historically recorded as having formerly occupied the area to the west of St Martin's parish church RMP KK031-034001- (see Carrigan, Rev. W. 1905 (vol.III), The History and Antiquities of the Diocese of Ossory, Dublin, p. 14.).

Response:

It is considered that this is a very selective comment as the full reference (Carrigan, 1905, Vol. 4, pp14-15) refers to a castle and (associated) settlement on rising ground a couple of hundred yards to the west and south of the parish church. This is the only reference to such and is probably based on hearsay. It is noted that the possible castle and borough are not included in any Archaeological Surveys prepared by State Agencies such as Urban Archaeological Surveys, Sites and Monuments (SMR) database of the Archaeological Survey of Ireland and is not included in the Record of Monuments and Places (RMP), the latter which provides statutory protections of archaeological monuments. In addition there are no surface traces for such settlement visible on available LiDAR Survey, historic maps, aerial photography, satellite imagery, etc.; no subsurface evidence for such as been uncovered by previous archaeological investigations and studies and there are no records of any associated artefacts, particularly medieval pottery, having been discovered from the area.

Underwater Archaeological Impact Assessment

The DAU response recommended that an Underwater Archaeological Impact Assessment be undertaken in advance of the Planning Decision; such to include for a desktop assessment, wade and metal-detecting survey and, where required, targeted in-river pre-development archaeologist test-excavation.

Response:

A comprehensive desk- and surface reconnaissance survey of the development extent was undertaken as part of the preparation of the Cultural Heritage Chapter of the EIAR; no riverine-associated features were noted, apart from bridges and these were assessed as part of the overall Architectural Heritage sub-study. As noted in the EIAR, the river bed is quite overgrown in many places and any advance wade-survey would largely be inconclusive as only partial areas of the river bed are visible; in addition, some of the river banks were overgrown and extend across the river channel, hampering full access. It is also considered that an advance, full metal-detecting survey of the river bed is impractical and would be impeded by the density of the riverine plants. Furthermore, such surveys would require an ecological assessment, including, possibly, an NIS, the latter would have to be determined by ABP. It is considered that it is much more practicable that such Underwater Assessment be undertaken as a condition of planning, as the issues outlined above can be more easily mitigated in conjunction with a suitably defined ecological assessment; this approach forms a component of the suite of mitigation measures included in the EIAR.

Terrestrial Archaeological Impact Assessment

The DAU response recommended that a Terrestrial Archaeological Impact Assessment be undertaken in advance of the Planning Decision; such should include the excavation of test trenches at the locations (but not limited to) of all proposed flood embankments (E-001, E-002, E-003, E-004, E-005), new channels (D-001) and the Site Compound.

Response:

A comprehensive desk- and surface reconnaissance survey of the development extent was undertaken as part of the preparation of the Cultural Heritage Chapter of the EIAR no new/previously unidentified features of archaeological interest/potential were noted.

All pre-planning intrusive investigations will require existing landowner agreement; in that regard, it is noted that some of the landowners have made submissions in opposition to the loss of specific sections of existing landholdings to accommodate the scheme. It is a requirement of Archaeological Licences that permission from landowners be granted for archaeological investigations; consequently, permissions for such will not be granted in advance of a planning decision and any comprehensive intrusive investigations can only be carried after the subject lands have been acquired under the CPO Process.

Furthermore, it is more usual to undertake such investigations as a post-planning but pre-development phase and following completion of a CPO Process; this format has been included in the EIAR as part of the suggested mitigation, with archaeological investigations to be carried out as part of a 'stand-alone' advance contract (similar to that of road schemes, etc.). In addition, there is a possibility that aspects of the design layout could be changed as a result of planning requirements; consequently, there is an aspect of uncertainty in the overall project and it is better to address the various archaeological heritage requirements in a more certain, post-planning scenario.

Planning Conditions

The DAU Response includes implied acknowledgement of the difficulties in undertaking pre-planning intrusive underwater and terrestrial assessment investigations, stating that in the event that ABP issue a direct Grant of Planning without Further Information, then the following conditions should be included

1. All mitigation measures in relation to archaeology and cultural heritage as set out in Chapter 10 of the EIAR shall be implemented in full, except as may otherwise be required in order to comply with the conditions of this Order.
2. The Construction Environment Management Plan (CEMP) shall include the location of any and all archaeological or cultural heritage constraints relevant to the proposed

development as set out in Chapter 10 of the EIAR and by any subsequent archaeological investigations associated with the project. The CEMP shall clearly describe all identified likely archaeological impacts, both direct and indirect, and all mitigation measures to be employed to protect the archaeological or cultural heritage environment during all phases of site preparation and construction activity.

3. A Project Archaeologist shall be appointed to oversee and advise on all aspects of the scheme from design, through inception to completion.
4. Archaeological monitoring shall be undertaken as follows:
 - a. The services of a suitably qualified and suitably experienced archaeologist shall be engaged to carry out archaeological monitoring of all sub-surface works carried out within the development site, including demolition of historic structures and features, in-stream excavations, ground reduction works, service trenching and all other works as advised by the monitoring archaeologist.
 - b. The archaeological monitoring shall be carried out under a Section 26 (National Monuments Act 1930) licence from the NMS and in accordance with an approved method statement. The method statement shall lay out the monitoring strategy for each location where works are proposed. All monitoring works that have the potential to uncover human skeletal remains shall be undertaken in conjunction with a suitably qualified osteoarchaeologist. Licensed metal detection shall be undertaken in tandem with the monitoring. The method statement shall contain a Finds Retrieval Strategy that includes for the spreading, systematic searching and metal detection of all excavated deposits in order to retrieve archaeological objects. If, after an agreed period of time, there is minimal artefactual evidence forthcoming, the archaeological searching and metal detecting of the spoil may be scaled down. Detection Device consent (Section 2 1987 National Monuments Act) will be required for the metal detecting works. Note a period of 3-4 weeks should be allowed to facilitate processing and approval of licence applications and method statement.
 - c. In order to ensure full communication is in place between the monitoring archaeologist and the works contractor at all times, a communication strategy shall be implemented that provides the monitoring archaeologist with adequate notice of all forthcoming works that require their attendance. Sufficient, suitably experienced and qualified, archaeological personnel shall be in place to cover all aspects of the monitoring works and all in-stream works shall be monitored by a suitably qualified and experience underwater archaeologist.
 - d. Should archaeological material be found during the course of the archaeological monitoring, the archaeologist shall be authorised to suspend all construction works on the affected part of the site (as identified by the monitoring archaeologist) in order to facilitate investigative assessment, protection and prompt notification to the NMS and other statutory authorities, as required. The developer shall be prepared to be advised by the NMS with regard to any ensuing mitigating action. Mitigation may include recommendations for redesign to allow for full or partial preservation in situ, the institution of archaeological exclusion zones, test-excavations, excavations ('preservation by record') and/or monitoring, as deemed appropriate. No construction works should recommence within the affected area until after an amended method statement that describes the mitigation strategy has been submitted, reviewed and agreed in writing by the NMS. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.
 - e. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of all archaeological monitoring and any archaeological investigative work/excavation required, following the completion of all archaeological work on site and any necessary post-excavation specialist analysis. All resulting and associated archaeological costs shall be borne by the developer.

Response:

It is considered that the above is a much more suitable approach and largely reflects the measures included in Chapter 10 of the EIAR, as listed below:

- 1. Prior to the commencement of development, a suitably qualified and licence-eligible archaeologist shall be appointed. The archaeologist should obtain an excavation licence to undertake the works listed in 2 & 3 below and a detection licence with respect to the works listed in 4 below.*
- 2. A programme of archaeological testing shall be undertaken with respect to the proposed flood embankment to rear of properties (E-004); such testing should be undertaken following transfer of the land ownership to Kilkenny County Council (i.e. post-planning decision).*
- 3. A programme of archaeological monitoring shall be undertaken with respect to the construction of the contractor's compound, E-002 (berm/embankment) D-001 (new channel), E-003 (removal of existing walkway and replacement) and LW-001 (public realm walkway) and all associated construction access routes.*
- 4. All clearance, deepening and bank regrading works in watercourses (e.g. G-001; D-002, X-003, G-002, G-003 & G-004) shall be subject to archaeological monitoring and all spoil shall be raked-over and subject to metal detecting.*
- 5. In the event of archaeological material being uncovered during the course of such monitoring, the archaeologist shall be empowered to have works stopped in the vicinity of such material pending receipt of advice from the National Monuments Service, Department of Housing, Local Government and Heritage. Likewise should archaeological/historical artifactual material be recovered during such works, the requirements of the National Museum of Ireland with regard to such items should be implemented.*
- 6. Following completion of the monitoring and any other possible archaeological investigations, the archaeologist shall prepare a full and final report for submission to the Planning Authority and the Department of Housing, Local Government and Heritage and National Museum of Ireland.*

Such requirements will allow for a more structured and comprehensive approach to archaeological heritage-related issues, allowing for immediate consultation and advice with the on-site ecological and other specialists, where required. Furthermore, any terrestrial pre-development archaeological investigations can be undertaken immediately, and with much more clarity, following completion of the CPO Process rather than in a fragmentary manner in advance of a Planning Decision where access permission for such investigations cannot be gained from those existing landowners who are not agreeable to aspects of the project. Furthermore, the appointment of a Project Archaeologist, at the post-planning phase, to oversee any archaeological mitigation measures, will allow for all archaeological actions to proceed on a more proficient and cost-effective manner.





DBFL CONSULTING ENGINEERS

Registered Office

Ormond House
Upper Ormond Quay
Dublin 7 Ireland D07 W704

+ 353 1 400 4000
info@dbfl.ie
www.dbfl.ie

Cork Office

14 South Mall
Cork T12 CT91

+ 353 21 202 4538
info@dbfl.ie
www.dbfl.ie

Waterford Office

Suite 8b The Atrium
Maritana Gate, Canada St
Waterford X91 W028

+ 353 51 309 500
info@dbfl.ie
www.dbfl.ie