

Nicholas O'Dwyer Ltd.

Staleen Water Treatment Plant to Duleek Trunk Watermain

Appropriate Assessment Screening

P00013387

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1. Introduction

APEM Group (herein APEM) was commissioned by Nicholas O'Dwyer in February 2025 to prepare an Appropriate Assessment (AA) screening report for the proposed Staleen Water Treatment Plant to Duleek Trunk Watermain works. The project involves the construction of circa 7 km of a 700 mm trunk main linking the Staleen Water Treatment Plant (WTP) to the existing network along the L1610 within the townland of Deenes. The proposed trunk main will allow the decommissioning of an existing section of 400 mm PVC trunk main that currently links the Staleen WTP to the Primatestown Pump Station.

1.1. Background

Staleen WTP and associated network connections are proposed for upgrade. This WTP abstracts water from the River Boyne at Roughgrange and treats it prior to usage by the network. Staleen WTP provides water to Drogheda and its environs.

Recent upgrades in 2019 to the WTP were completed under planning permission (reference no. LB150899) from Meath County Council which covered upgrades of the existing water and sludge dewatering systems within the boundary of the plant itself. Upgrades included demolition and removal of an existing disused raw water balancing tank and berm, new chemical storage and dosing facilities and chemical storage silos, internal modifications to tanks and pump sump structures, new flocculation tank, sludge dewatering system, vehicular access and associated site works. These upgrades were accompanied by an AA Screening report, carried out by RPS (RPS, 2015). The AA Screening report concluded that *"Staleen WTP upgrade will not have a significant effect on the European Sites network and a Stage 2 Appropriate Assessment is not required"* (RPS, 2015).

APEM have provided ecological services for pipeline projects linking Staleen WTP to Windmill Hill pipeline (APEM, 2024) and Staleen WTP to the Donore Reservoir (APEM, 2023). A screening for AA was completed for both which concluded that there is no likelihood for significant effects on any European site, in the absence of mitigation, either arising from the project alone or in combination with other plans and projects.

The proposed pipeline assessed in this report follows a corridor similar to the Staleen WTP to Windmill Hill, however, is now less than half the original length, herein the Staleen Water Treatment Plant to Duleek Trunk Watermain. The requirement for this AA screening report will update that completed in 2024 (APEM, 2024) to account for the change to length and modification to the construction (open-cut construction at the three river crossings as opposed to directional drilling, in accordance with Inland Fisheries Ireland guidelines).

1.2. Site Description

The proposed development site ("the Site") extends from Staleen WTP at ITM coordinates 703963, 771948 to Boolies crossroads on the L1610 at ITM coordinates 703179, 765701. The proposed pipeline will cross agricultural fields, a railway line, watercourses within the River Nanny catchment and existing roads (Figure 1). The primary land use for the area is agricultural.

1.3. Brief Description of the Project

The project involves the construction of c. 7 km of a 700 mm trunk main linking the Staleen WTP to the existing network along the L1610 within the townland of Deenes. The proposed trunk main will allow the decommissioning of an existing section of 400 mm PVC trunk main that currently links the

Staleen WTP to the Primatestown Pump Station. Hereafter the development is referred to as the “Proposed Pipeline”. A detailed description is provided in Section 3.

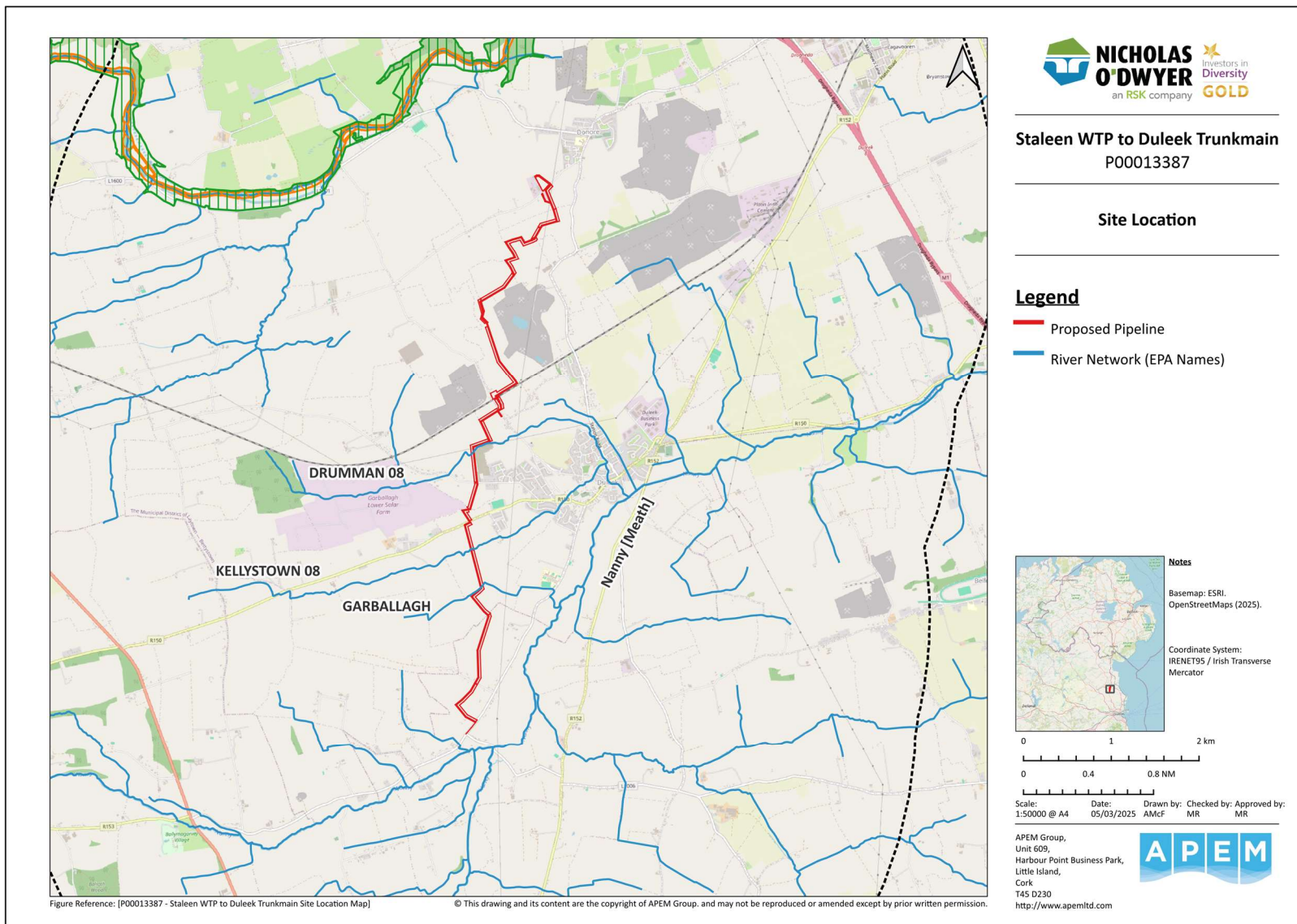


Figure 1. Site Location

1.4. Aim of the Report

The aim of this AA Screening report is to provide supporting information to assist the competent authority, to carry out screening for appropriate assessment of the proposed pipeline from Staleen WTP to Duleek Trunk Watermain.

1.5. Objectives of the Appropriate Assessment Process

The Habitats Directive 92/43/EEC promotes a hierarchy of avoidance, mitigation and compensatory measures to be addressed in the AA process¹ as follows:

- Firstly, a plan / project should aim to avoid any negative impacts on European sites² by identifying possible impacts early and designing the project / plan to avoid such impacts;
- Secondly, mitigation measures should be applied during the AA process to the point where no adverse impacts on the site(s) remain;
- Thirdly a plan / project may have to undergo an assessment of alternative solutions. Under this stage of the assessment, compensatory measures are required for any remaining adverse effects, but they are permitted only if (a) there are no alternative solutions and (b) the plan / project is required for imperative reasons of overriding public interest (the 'IROPI test'). European case law highlights that consideration must be given to alternatives outside the plan / project boundary area in carrying out the IROPI test.

1.6. Relevant Legislation and Policy

The legislation relevant to this report is as follows:

- The Habitats Directive 92/43/EEC;
- The Birds Directive 2009/147/EC;
- European Communities (Birds and Natural Habitats) Regulations 2011 – 2021; and,
- Planning and Development Acts 2000 to 2021 - PART XAB.

The relevant sections of the legislation are summarised in Appendix A of this report.

1.7. Evidence of Technical Competence and Experience

This report was prepared by Senior Ecologists Adon McFarlane and Amy Adwan. Jason Guile, Michael Dobson and Maeve Riley carried out the technical review of this report.

Dr Adon McFarlane (Senior Freshwater Ecologist) - Adon is a senior freshwater ecologist, specialising in protected species. He is an experienced field scientist, with extensive skills in the fields of freshwater habitat assessment; freshwater pearl mussel survey; white-clawed crayfish survey, macroinvertebrate survey, fish habitat assessment and electrofishing survey. He has built up skills in the collection of data both in the field and laboratory, analysis of data using statistical software programs such as R, BORIS, RAVEN and Minitab, creation of distribution maps using GIS. Adon has very strong technical skills in both freshwater and marine laboratory and fieldwork instrumentation and equipment usage. Adon

¹ The objectives as outlined are based on those set out in Scott Wilson and Levett-Therivel, (2006).

² European Site sites are also referred to as European sites in some guidance documents and legislation such as the Planning and Development Acts 2000 – 2020.

has worked on a number of ecological reports, including Appropriate Assessments, Ecological Impact Assessments (EclA), Preliminary Ecological Appraisal Reports (PEAR) and Invasive Species Reports.

Amy Adwan (Senior Terrestrial Ecologist) – Amy is a Senior ecologist with APEM Ireland and has 7 years' experience in the ecological sector in Ireland. She holds a BSc in Environmental Science from the University of Limerick. Amy is a qualified ecologist experienced in a wide range of ecological survey techniques and methodology including bats, mammals, freshwater and habitats. She has an extensive knowledge of environmental laws with reference to Ireland as well as the EU and the Habitats Directive. Her experience has involved regularly undertaking AA reporting, including Screening for AA and NIS, as well as legal reviews of same, in relation to relevant Court of Justice of the European Union (CJEU) rulings and European Commission Guidance. She also undertakes EclA, Environmental Impact Assessment (EIAR) and Preliminary Ecological Appraisal (PEA) reporting.

Jason Guile BSc (Principal Ecologist) – Jason is a Principal ecologist with APEM Ireland and has over 10 years' experience in ecological assessment and holds a BSc in Marine Biology/Oceanography from the University of Wales, Bangor and a HND in Coastal Conservation with Marine Biology from Blackpool and Fylde College. Jason has a wide range of experience in the preparation of EIARs, AA Screening reports and NIS. Jason was the lead ecologist on a range of projects in the UK, including large scale infrastructural schemes. Since moving to Ireland, he has been lead ecologist / author (EIAR, EclA, AA Screening reports and NIS's) for a number of projects including historic landfill remediation works, urban planning applications and commercial regeneration sites.

Dr Michael Dobson FLS, MCIEEM (Associate Director) – Michael is an Associate Director with APEM. He holds a BSc (Hons) in Biology from the University of Southampton and a PhD in freshwater ecology from the University of London (Queen Mary College). Michael spent 20 years as a research scientist, specialising in ecology and management of rivers and freshwater wetlands throughout Europe and East Africa, along with developing biotic indices for river quality assessment in Central America. He was Director of the Freshwater Biological Association for six years before joining APEM in 2013, working initially in the limnology and water quality team before starting APEM's invasive species team in 2019 and moving in 2022 to APEM Ireland. Michael has written many peer-reviewed papers in ecology and biogeography, along with two undergraduate textbooks for Oxford University Press (both in their second editions) and seven identification guides to freshwater invertebrates of Britain and Ireland. He has extensive experience of survey design, data analysis and reporting, including publication and verbal reporting for non-technical audiences.

Maeve Riley MSc, BSc, MCIEEM (Principal Ecologist) – Maeve has almost fourteen years ecological consultancy experience and has a broad knowledge of planning and development requirements. Project management skills are at the forefront of her roles, and she has experience of managing and carrying out Appropriate Assessment (AA), Preliminary Ecological Appraisals (PEA), Ecological Impact Assessments and BREEAM studies. She works closely with clients through all stages of projects from feasibility, through optioneering, statutory processes including advance works, supervision input to construction, and operational monitoring. She coordinates teams of multi-disciplinary experts for a range of projects such as LRD, transport, residential and renewables. Maeve has extensive skills in the fields of: Terrestrial mammal surveying; Freshwater habitat assessment; Terrestrial and freshwater habitat management plans; Environmental and Ecological Impact Assessments; and Non-native invasive species impacts, control and management.

2. Methods

2.1. Guidance and Practice Notes

This report has been compiled in accordance with guidance contained in the following documents:

- Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities. (Department of Environment, Heritage and Local Government, 2010 revision);
- Appropriate Assessment under Article 6 of the Habitats Directive: Guidance for Planning Authorities. Circular NPWS 1/10 & PSSP 2/10;
- Assessment of Plans and Projects in Relation to European Site sites: Methodological Guidance on Article 6(3) and (4) of the Habitats Directive 92/43/EEC (European Commission, 2021);
- Communication from the Commission on the precautionary principle (European Commission, 2000);
- Managing European Site Sites: The Provisions of Article 6 of the Habitats Directive 92/43/EEC (European Commission, 2019); and
- EC (2013) Interpretation Manual of European Union Habitats. Version EUR 28. European Commission.
- Office of the Planning Regulator (2021). Appropriate Assessment Screening for Development Management. OPR Practice Note PN01.
- Mullen *et al.*, (2021). Strict Protection of Animal Species: Guidance for Public Authorities on the Application of Articles 12 and 16 of the EU Habitats Directive to development / works undertaken on or on behalf of a Public Authority. National Parks and Wildlife Service Guidance Series.

2.2. Zone of Influence

The ‘*zone of influence*’ (Zol) for a project is the area over which ecological features may be affected by biophysical changes as a result of the proposed project and associated activities. This is likely to extend beyond the project site, for example where there are ecological or hydrological links beyond the site boundaries. The Zol will vary for different ecological features depending on their sensitivity to an environmental change (CIEEM, 2018).

Irish guidance (DoEHLG, 2010)³ states, for the Zol of plans, that “*A distance of 15 km is currently recommended in the case of plans, and derives from UK guidance (Scott Wilson et al, 2006)*”. The guidance goes on to state that “*for projects, the distance could be much less than 15 km, and in some cases less than 100 m, but this must be evaluated on a case-by-case basis with reference to the nature, size and location of the project, the sensitivities of the ecological receptors, and the potential for in-combination effects.*”

In determining the Zol, an initial distance of 15 km is considered, but the Source – Pathway – Receptor (S-P-R) model is also applied. OPR Practice Note (2021) describes the S-P-R model for determining the Zol of a project, identifying all pathways via which a designated site could be affected irrespective of distance. This model also reflects guidance described in CIEEM (2018) above.

³ *Appropriate Assessment of Plans and Projects in Ireland -Guidance for Planning Authorities*

The ZoI for this project was identified through reviewing the project details, the type of impacts and effects that could arise as a result, the distance between the project and European sites, and the qualifying interests of the European sites.

The conservation interests of these European sites were examined in order to ascertain whether there could be potential physical or ecological connectivity to the project and the associated likely project impacts. Additionally, any European sites beyond the initial 15 km buffer with hydrological or physical connectivity were also identified for further examination.

2.3. Desk Study

A desk study was carried out to collate information available on European sites within the potential ZoI of the project. This comprised a review of the following publications, websites, data sources and datasets:

- Google Maps⁴
- Ordnance Survey of Ireland (OSI)⁵
- Environmental Sensitivity Mapping (ESM)⁶
- Meath County Council planning portal⁷.
- National Parks and Wildlife Service (NPWS) website⁸
- National Biodiversity Data Centre (NBDC)⁹
- Environmental Protection Agency (EPA) Maps¹⁰
- Geological Survey of Ireland (GSI)¹¹
- National Parks and Wildlife Service – Information on the status of EU protected habitats in Ireland (Article 17 and Article 12 Reports and datasets).
- Inland Fisheries Ireland (IFI)¹²

The desk study also included a review of the previous Screening for Appropriate Assessment carried out by RPS (2015) for the Staleen upgrades under Meath County Council planning permission reference LB150899.

2.4. Screening Report

The approach taken in preparing the AA screening report is summarised as follows:

- Identify European sites within the potential ZoI of the project;
- Identify the qualifying interests of the European sites and review their conservation objectives;

⁴ <https://www.google.ie/maps> (last accessed 04/03/25)

⁵ <http://www.osi.ie> (last accessed 04/03/25)

⁶ enviromap.ie (last accessed 04/03/25)

⁷ [Select Search Type \(eplanning.ie\)](http://selectsearchtype.eplanning.ie) (last accessed 04/03/25).

⁸ <https://www.npws.ie/protected-sites> (last accessed 04/03/25)

⁹ www.biodiversityireland.ie (last accessed 04/03/25)

¹⁰ <http://gis.epa.ie/> (last accessed 04/03/25)

¹¹ gsi.ie (last accessed 04/03/25)

¹² fisheriesireland.ie (last accessed 04/03/25)

- Review whether there is potential for the qualifying interests to be affected by the project based on information such as the vulnerabilities of the European site, proximity to the Site and the nature and scale of the works associated with the project, certain design and standard measures may be taken into account at Stage 1 in assessing likely significant effects (Case C-721/21 Eco Advocacy CLG v An Bord Pleanála);
- Consider the likelihood of the identified potential impacts, in the absence of mitigation, occurring based on the information collated and professional judgement;
- Consider the likelihood of cumulative effects arising from the project in-combination with other plans and projects; and,
- Identify the likelihood of significant effects on European sites occurring because of the project.

2.5. Cumulative Effects

Cumulative effects can result from individually insignificant but collectively significant actions taking place over a period of time or concentrated in a location. Cumulative effects can occur where a proposed project results in individually insignificant impacts that, when considered in-combination with impacts of other proposed or permitted plans and projects, can result in significant effects (CIEEM, 2018).

The scope of work for the Proposed Pipeline was considered in deciding the search radius for cumulative effects. Given the localised and temporary nature of the proposed works and taking account of watercourse crossings, a search area of 2km from the proposed pipeline and downstream of the three crossing points was taken to address cumulative effects.

Plans and projects to be considered include the following types of future development within the search area:

- Current and ongoing work for the upgrade of the Staleen WTP;
- Proposals for which consent has been applied which are awaiting determination in any regulatory process (not necessarily limited to planning permission);
- Projects which have been granted consent (not limited to planning permissions) but which have not yet been started or which have been started but are not yet completed (i.e., under construction); and,
- Proposals for which consent has not been applied.

3. Detailed Description of the Project

The detailed description of the Proposed Pipeline has been summarised using information provided by Nicholas O'Dwyer.

The Proposed Pipeline involves the construction of c. 7 km of a 700 mm trunk main linking the Staleen WTP to the existing network along the L1610 within the townland of Deenes. The proposed trunk main will allow the decommissioning of an existing section of 400 mm PVC trunk main that currently links the Staleen WTP to the Primatestown Pump Station

The proposed work is primarily within private land corridors and will be an open-cut construction on agricultural lands. There is also a railway crossing of the Drogheda to Navan railway line which will also be constructed using trenchless technology techniques.

The private land corridors will consist of a 10 m permanent wayleave to construct the permanent works and a 25 m temporary working area to facilitate the construction of the trunk main. These corridors change at locations where further temporary works are required for the construction works such as the railway crossing and the stream crossings. The depth of the pipeline is 1200 mm in roads and 900 mm in fields/private lands. The pipeline is constructed deeper at locations under streams and the railway.

There are 3 stream crossings along this route which will be constructed using open-cut construction in line with the Inland Fisheries Ireland guidelines. For crossing any watercourses or drainage ditches along the offline section of the route an open cut trench method will be used, with any water diverted around the trench, and reinstated. The open cut trench method includes blocking the drain with sandbags, where there is little water or no flow any build up will be pumped away to vegetation, the trench will be dug, pipeline installed, trench backfilled, and the drain will be reformed.

The decommissioning of the existing PVC trunk mains will be carried out by leaving them in situ and then blanking off by sealing the ends of the pipeline to ensure they remain closed. Following testing and commissioning of the proposed pipeline, and in line with standard engineering design to comply with the Surface Water Regulations the water used for testing will be dechlorinated in the scour chamber before emptying through the scour chamber into the watercourses or surrounding lands.

Construction will involve construction equipment including but not limited to excavators, dumpers, generators, drills, hand tools. It is estimated that approximately 40 to 50 workers will be employed for the construction works of the pipeline and associated infrastructure. Temporary construction compounds will be located along the length of the proposed pipeline works. Temporary welfare facilities will be located at the temporary compound locations, and mobile, self-contained temporary welfare facilities / toilets will be at the pipeline installation locations. It is intended that works will commence in January 2026. Materials required include ductile iron trunk main, pipe fittings, type "A" granular material, concrete, steel, backfill material which includes Clause 804/804, road resurfacing which includes surface dressing to Clause 919/921 and Hot Rolled Asphalt as well as other miscellaneous materials.

Predicted wastes arising from the construction phase include ductile iron, PVC, HDPE and asbestos cement, concrete waste associated with foundation construction, granular waste associated with road construction, soil waste associated with construction in private lands, potential hazardous wastes e.g., waste oils, associated with operation of vehicles and plant, general waste, office waste and canteen waste associated with the temporary construction compound area, construction waste including pipeline material waste e.g. ductile iron, soil waste associated with construction in private lands, concrete residues/wastewater and water for testing.

4. Appropriate Assessment Screening

This section of the report identifies the potential Zol of the project, provides information on the European sites within the identified Zol and sets out the potential impacts and effects and the likelihood of significant effects.

4.1. Identification of European Sites

The first step in identification of relevant European sites is to determine the potential Zol of the project. When the Zol of the project has been determined European sites within this area can be identified and the potential for these sites to be affected by the project can be evaluated by considering:

- Scale and type of the project;
- Proximity to the project;
- Qualifying interests (QI) and Special Conservation Interests (SCI) of European sites; and,
- Ecological¹³ and Landscape¹⁴ connectivity.

4.1.1. Zone of Influence

Following the guidance for Zol outlined in section 2.2, an initial search radius of 15 km was used due to hydrological connectivity and the presence of river crossings, as well as utilising the S-P-R model, to determine which European sites may have connectivity to the proposed scheme.

The closest European site to the Proposed Pipeline is the River Boyne and River Blackwater SAC (Site Code: 002299), located c. 1.1 km north, followed by the River Boyne and River Blackwater SPA (Site Code: 004232) located c. 1.3 km north (Figure 2).

The Boyne Estuary SAC (Site Code: 001957) and Boyne Estuary SPA (Site Code: 004080) are located c. 7.3 km and 8.5 km north-east of the site respectively (Figure 2).

The River Nanny Estuary and Shore SPA (Site Code: 004158) is located c. 10.3 km west in a direct line, and c. 13.1 km downstream of the Proposed Pipeline. The Proposed Pipeline crosses 3 watercourses, which are all directly hydrologically connected to the River Nanny Estuary and Shore SPA.

The only European site within the 15km initial search radius with direct hydrological connectivity to the Proposed Pipeline is the River Nanny Estuary and Shore SPA. There is ecological connectivity between the Proposed Pipeline and River Boyne and River Blackwater SAC and River Boyne and River Blackwater SPA based on the distance of these sites to the Proposed Pipeline.

There is no ecological or hydrological connectivity between the Proposed Pipeline and the Boyne Estuary SAC and Boyne Estuary SPA. The Boyne Estuary SAC is designated for coastal habitats which are not considered to be found in land at the Proposed Pipeline route. Additionally, the Boyne Estuary SPA is designated for predominantly coastal species. Included in the QIs for this SPA is golden plover

¹³ Connectivity is defined as a measure of the functional availability of the habitats needed for a particular species to move through a given area. Examples include the flight lines used by bats to travel between roosts and foraging areas or the corridors of appropriate habitat needed by some slow colonising species if they are to spread (CIEEM, 2018).

¹⁴ Landscape connectivity is a combined product of structural and functional connectivity, i.e. the effect of physical landscape structure and the actual species use of the landscape (Kettunen et al. 2007)

Pluvialis apricaria which can utilise inland habitats typically moorland and heath land. The dominant land use along the Proposed Pipeline is agricultural and therefore not considered to support golden plover.

Therefore, the ZOI is considered to be the extent of the River Boyne and River Blackwater SAC, River Boyne and River Blackwater SPA and River Nanny Estuary and Shore SPA.

4.2. Description of European Sites

The European sites identified as being within the ZOI of the project are described below. The description of the sites has been prepared and summarised using the supporting information available on the NPWS website¹⁵.

4.2.1. River Boyne and River Blackwater SAC

This site comprises the freshwater element of the River Boyne as far as the Boyne Aqueduct, the Blackwater as far as Lough Ramor and the Boyne tributaries including the Deel, Stoneyford and Tremblestown Rivers. This site is designated for Annex I habitats Alluvial Forests and Alkaline Fens and Annex II species River lamprey *Lampetra fluviatilis*, Atlantic Salmon *Salmo salar* and Otter *Lutra lutra*. The site is noted in the site synopsis to have a range of Red Data book plant and animal species as well as nationally rare plant species (NPWS, 2014).

4.2.2. River Boyne and River Blackwater SPA

The River Boyne and River Blackwater SPA is a long, linear site that comprises stretches of the River Boyne and several of its tributaries; most of the site is in Co. Meath, but it extends also into Cavan, Louth and Westmeath. This site is designated for one qualifying interest: Kingfisher *Alcedo atthis*. The site synopsis states that a survey in 2010 recorded 2019 pairs (NPWS, 2010). Other bird species also occur such as Mute Swan, Teal, Mallard, Cormorant, Grey Heron, Moorhen, Snipe and Sand Martin. This SPA is noted to be of high ornithological importance as it supports a nationally important population of Kingfisher (NPWS, 2010).

4.2.3. River Nanny Estuary and Shore SPA

The River Nanny Estuary and Shore SPA comprises the estuary of the River Nanny and sections of the shoreline to the north and south of the estuary in Co. Meath. The site is a SPA under the E.U. Birds Directive, of special conservation interest for the following species: Oystercatcher, Ringed Plover, Golden Plover, Knot, Sanderling and Herring Gull as well as Wetland habitats that these birds utilise. This site is of ornithological importance as it supports five species of wintering waterbirds and one gull species in numbers of national importance, as well as the regular occurrence of two species listed on Annex I of the E.U. Birds Directive (NPWS, 2015).

4.3. Qualifying Interests and Conservation Objectives

The features of interest and conservation objectives for the European sites identified within the ZOI of the project are listed within Table 1. This information was obtained from the resources available on the NPWS website.

¹⁵ <https://www.npws.ie/protected-sites>

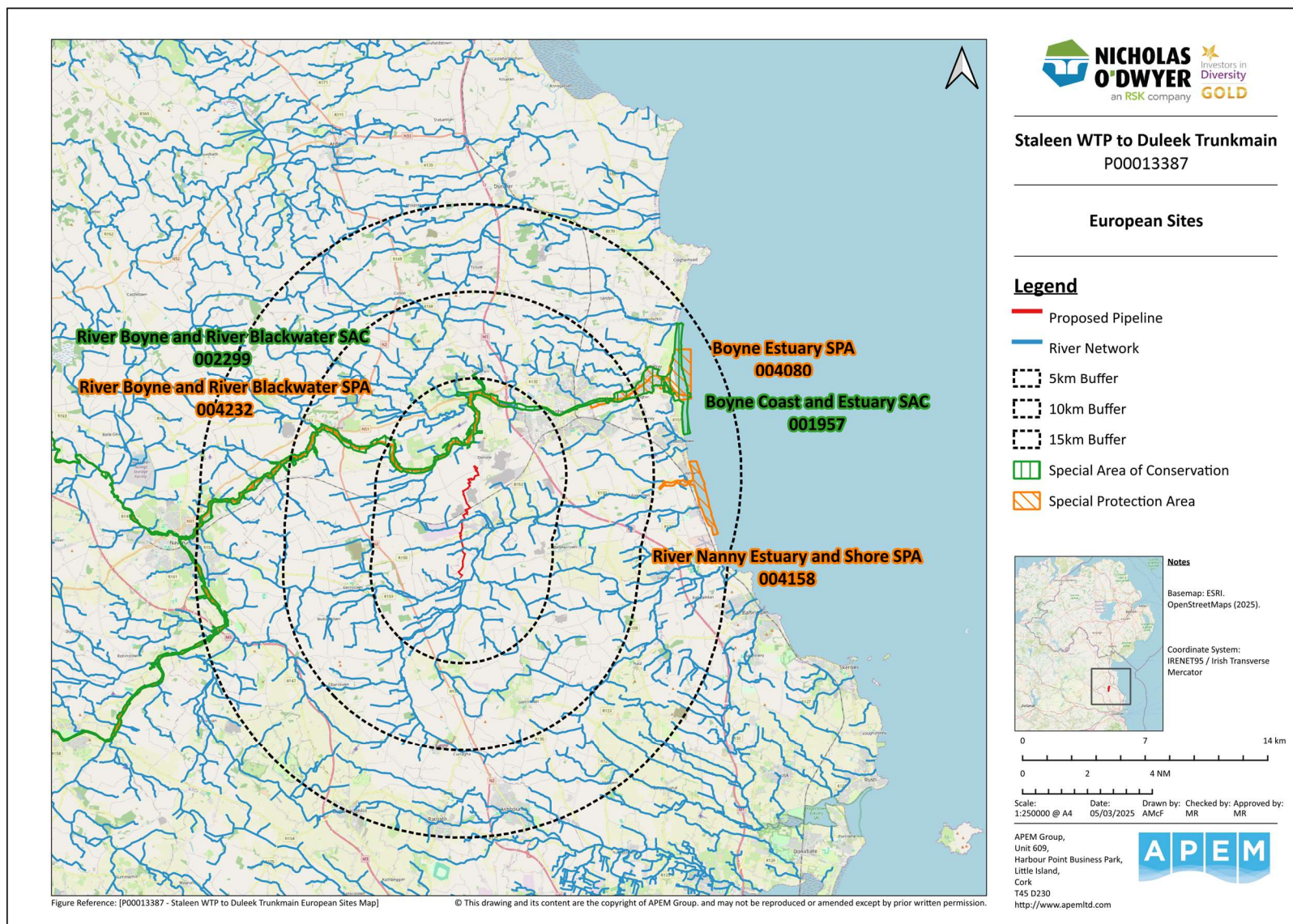


Figure 2. European Sites within 15km

Table 1. Qualifying Interests and Conservation Objectives of European Sites within the Zol

European Site	Distance from Site ¹⁶	Qualifying Interests	Conservation Objectives
River Boyne and River Blackwater SAC 002299	ca. 1.1 km north	- Alkaline fens [7230] (M) - Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0] (R) <i>Lampetra fluviatilis</i> (River Lamprey) [1099] (R) <i>Salmo salar</i> (Salmon) [1106] (R) <i>Lutra lutra</i> (Otter) [1355] (M)	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. Full details of the conservation objectives can be found at: CO002299.pdf (npws.ie)
River Boyne and River Blackwater SPA 004232	ca. 1.3 km north	Kingfisher <i>Alcedo atthis</i> [A229]	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SPA has been selected. Full details of the conservation objectives can be found at: CO004232.pdf (npws.ie)
River Nanny Estuary and Shore SPA	ca. 10.3 km east	- Oystercatcher <i>Haematopus ostralegus</i> [A130] (M) - Ringed Plover <i>Charadrius hiaticula</i> [A137] (M) - Golden Plover <i>Pluvialis apricaria</i> [A140] (M) - Knot <i>Calidris canutus</i> [A143] (M) - Sanderling <i>Calidris alba</i> [A144] (M) - Herring Gull <i>Larus argentatus</i> [A184] (M) - Wetland and Waterbirds [A999] (M)	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. Full details of the conservation objectives can be found at: Site specific cons obj (npws.ie)

*(M) – To maintain the favourable conservation condition, obtained from conservation objectives.; **(R) – To restore the favourable conservation condition, obtained from conservation objectives.

¹⁶ Measured in a straight line between the Site and closest point of European Site boundary

4.4. Identification of Potential Impacts and Effects on European Sites

The potential impacts of the project on the habitats and species listed as QIs for the River Boyne and River Blackwater SAC, the River Boyne and River Blackwater SPA and the River Nanny Estuary and Shore SPA are discussed in this section.

NPWS (2010) guidance for planning authorities states *“If the effects are deemed to be significant, potentially significant, or uncertain, or if the screening process becomes overly complicated, then the process must proceed to Stage 2 (AA). Screening should be undertaken without the inclusion of mitigation, unless potential impacts clearly can be avoided through the modification or redesign of the plan or project, in which case the screening process is repeated on the altered plan. The greatest level of evidence and justification will be needed in circumstances when the process ends at screening stage on grounds of no impact.”* This approach is adopted in this report to appraising likely significant effects of the proposed development.

A significant effect is defined in paragraph 49 of the Waddenzee Case C-127/02¹⁷ as follows *“..... pursuant to the first sentence of Article 6(3) of the Habitats Directive, where a plan or project not directly connected with or necessary to the management of a site is likely to undermine the site's conservation objectives, it must be considered likely to have a significant effect on that site. The assessment of that risk must be made in the light inter alia of the characteristics and specific environmental conditions of the site concerned by such a plan or project.”*

The likelihood of impacts occurring as a result of the proposed development is established in light of the type and scale of the project, the location of the project with respect to European sites within the Zol and the qualifying interests and conservation objectives of those European sites.

Table 2 identifies the potential occurrence of QIs / SCIs within the Zol, as well as potential sources, pathways and the potential for likely significant effects, to determine which sites will be included further in the screening.

¹⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62002CJ0127>

Table 2. SPR model for QIs of the European sites within the Zol of potential impacts.

European site and Code	Qualifying Interests	Source	Pathway	Receptor	Potential for Likely Significant Effects	Screened In (Yes / No)
River Boyne and River Blackwater SAC 002299	- Alkaline fens [7230] (M) - Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0] (R) <i>Lampetra fluviatilis</i> (River Lamprey) [1099] (R) <i>Salmo salar</i> (Salmon) [1106] (R) <i>Lutra lutra</i> (Otter) [1355] (M)	Construction phase habitat removal Construction phase noise / vibration Construction phase Introduction and / or spread of non-native invasive species	Proximity (terrestrial)	Habitat	This SAC is located c. 1.1 km north of the proposed pipeline route at it's closest point. There is no hydrological connection between the Proposed Pipeline and this SAC and the lands surrounding the proposed pipeline are predominantly agricultural. The proposed works associated with the pipeline will be localised. There are no interactions predicted between the pipeline works locations and the locations of the QIs for this SAC. The main areas of alkaline fen in the SAC are documented to occur in the vicinity of Lough Shesk, Freekan Lough, Newtown Lough in the upper reaches of the Stonyford River c. 32.2 km southwest of the proposed pipeline route. Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> are documented to occur c. 3.9 km northeast of the proposed pipeline. As no works are being undertaken within the SAC or along or within watercourse hydrologically connected to the River Boyne a distance of c. 1.1 km is considered to be too far for likely significant effects relating to noise / vibration impacts for river lamprey, salmon and otter. Otter can experience disturbance if present within c. 150 m of piling works (NRA, 2008). A distance of c. 1.1 km is therefore considered sufficient to not cause Likely Significant Effects on these QIs. The Proposed Pipeline is located c. 1.1km at its closest point from the SAC. There is no proposed ingress to the SAC boundary at any point therefore there is no Likely Significant Effects on the SAC from the introduction of invasive species. This distance also includes many barriers, of roads, agricultural fields, residential housing as well as some woodland. Any potential for invasive species spread or introduction would be localised and would be unlikely to	No

European site and Code	Qualifying Interests	Source	Pathway	Receptor	Potential for Likely Significant Effects	Screened In (Yes / No)
					travel this distance to the boundary of the SAC and the extent of its QIs.	
River Boyne and River Blackwater SPA 004232	Kingfisher <i>Alcedo atthis</i> [A229]	Construction phase noise / vibration	Proximity (terrestrial)	Species	The SPA is located c. 1.3 km north of the proposed pipeline route with no hydrological connection with Proposed Pipeline. There is no ecological connectivity to support movement of kingfisher populations associated with the SPA to within the Proposed Pipeline. Generally, birds can experience disturbance impacts if disturbance incident occurs within 500m of foraging, nesting, or roosting areas (Holloway, 1997; Maarten & Henkensj, 1997; Scarton, 2018). This SPA boundary is over double this distance (1.3 km) from the Proposed Pipeline therefore no likely significant effects are predicted from noise and vibration effects. The watercourses which are proposed to be crossed by the Proposed Pipeline are not connected to this SPA therefore no Likely Significant Effects from these works on the kingfisher assemblage associated with the River Boyne and River Blackwater SPA. No potential impacts on ex-situ species are expected to occur as there is no hydrological connectivity.	No
River Nanny Estuary and Shore SPA 004158	- Oystercatcher <i>Haematopus ostralegus</i> [A130] (M) - Ringed Plover <i>Charadrius hiaticula</i> [A137] (M) - Golden Plover <i>Pluvialis apricaria</i> [A140] (M)	Construction phase noise / vibration Construction phase Introduction and spread of non-native invasive species	Hydrological connection via the River Nanny	Bird species Habitats utilised by bird species	This SPA is located c. 10.3 km east (as the crow flies) and c. 13.1 km downstream via the River Nanny, at its closest point. The Proposed Pipeline crosses watercourses at 3 points along the route, which are directly hydrologically connected to the SPA. Methods of working include instream works (open cut techniques) working to standard guidelines (IFI, 2016) for safe working in water, therefore potential effects are restricted to accidental emission to water.	No

European site and Code	Qualifying Interests	Source	Pathway	Receptor	Potential for Likely Significant Effects	Screened In (Yes / No)
	• Knot <i>Calidris canutus</i> [A143] (M) • Sanderling <i>Calidris alba</i> [A144] (M) • Herring Gull <i>Larus argentatus</i> [A184] (M) • Wetland and Waterbirds [A999] (M)	Construction phase Sediment run-off Construction phase Pollutants (hydrocarbons, cement-based products, oils)			The distance from the closest point of the Proposed Pipeline to the SPA (13.1km) is considered to be a barrier to movement of sediments and pollutants that could otherwise pose potential effect on the QIs for this SPA. Additionally this distance is considered to pose a dilution effect in so much that should any emissions to water from the Proposed Pipeline reach the SPA they will not cause likely significant effects on the QI features of the SPA. The birds designated in this SPA occur in wetland and mudflat habitat types, which are not present along the proposed pipeline route. There is no potential for impacts from noise and vibration effects based on the distance from the Proposed Pipeline and the SPA (c. 10.3 at its closest point). Given distance of the SPA from the Proposed Pipeline there is no likely significant effects on the introduction of invasive species that could affect the conservation objectives of these QIs. Golden plover can occur inland and will utilise open moorland, peatlands, and wet grasslands. There are no habitat recorded in the immediate area of the pipeline to support golden plover. Proposed works will be localised and are not located within or adjacent to key breeding or foraging habitats for the species. Given the temporary nature of the construction activities and the absence of suitable habitat within the development footprint, no potential impacts on Golden plover are predicted.	

*(M) – To maintain the favourable conservation condition, obtained from conservation objectives.; *(R) – To restore the favourable conservation condition, obtained from conservation objectives.

Cumulative Effects

Cumulative effects can result from individually insignificant but collectively significant actions taking place over a period of time or concentrated in a location. Cumulative effects can occur where a project results in individually insignificant impacts that, when considered in-combination with impacts of other proposed or permitted plans and projects, can result in significant effects (CIEEM, 2018).

Due to the scale and nature of the Proposed Pipeline, its location within the River Nanny catchment, only projects that are connected to the same catchment, or projects for which the ZoI overlaps, have been considered for potential in-combination impacts.

An Appropriate Assessment conducted for Staleen WTP to Donore Reservoir (APEM, 2023) concluded that no significant effects on European Sites were likely. This was due to the absence of direct or indirect pathways linking the development to the designated sites. Given that the current proposed project is linked at the location of the Staleen WTP, is of a similar nature, but does not introduce new impact pathways, no cumulative effects from this proposed development are anticipated.

All the consent applications are either retention applications, applications for one-off residential dwellings, extensions or conversions that have been already built, are in the process of being completed or have no potential for impacts on the drainage network. Developments that are currently permitted, under construction or planned within the search area for cumulative effects that have potential for in-combination effects are assessed in Table 3 below. The developments listed in Table 3 are not exhaustive but are representative of developments in the area within the search radius for cumulative effects.

There are no proposed developments that would be likely to result in in-combination effects with the Proposed Pipeline. The proposed developments returned from the search have been granted on conditions relating to surface water or wastewater treatment, installation guidance and maintenance contracts. Furthermore, as part of the conditions for approval, there are requirements that surface water run-off is not permitted to enter the public drainage network via the road or pathways external to the development sites.

Table 3. Developments currently permitted, under construction, or planned within the Zol.

Planning Application Number	Development Description	Development Conditions and Appropriate Assessment Conclusions
LB201519	The continuation of the use and further quarrying of limestone within the 57.5Ha site, granted by Substitute consent (PL17.su0088), comprising extraction from a 20.6Ha area which includes a lateral extension of 6.2Ha, using conventional drilling and blasting techniques and mineral reduction using mobile crushing and screening to a depth of 30mAOD. The development includes some 3.4Ha of advanced woodland planting, new administration office and workshop, associated septic tank with raised sand polishing filter and an oil interceptor with soak-away trench. A weighbridge with an associated dispatch office and ancillary structures to include a wheelwash and the potential in line relocation of 110kv transmission poles and the reuse of the northern void 3.24Ha at a reprofiled level of some 40mAOD using on site overburden to provide for a new low level location for a replacement concrete batching plant for the existing plant (01/4203) and a concrete block making yard with restoration of the lands to biodiverse habitats upon completion of extraction. The application is accompanied by an Environmental Impact Assessment Report and a Natura Impact Statement (NIS). Significant further information/revised plans submitted on this application.	Granted on conditions including a restriction on total volume of extracted materials, no extraction outside delineated areas and not below a certain threshold, a time limit on the works permitted, annual aerial photographs submitted, mitigation measures in the EIAR and NIS followed, boundary treatments, CEMP, a complaints register, drainage agreed with planning authority, Irish Water agreements, noise levels, noise survey and assessment, wheel-wash facility, dust management, settlement pond maintenance, screening on boundaries, preservation of any archaeological materials and special financial contributions. A NIS was prepared which concluded that the proposal will not, beyond reasonable scientific doubt, adversely affect the integrity of any European Site (European Site Site) either directly or indirectly.
23458	The proposed development will consist of an upgrade of the existing Gorman to Platin 110 kV Overhead line (OHL) (19.76 km long and comprising 109no. supporting structures between the existing Gorman substation in the townland of Causetown, Co. Meath and the existing Platin 110kV substation in the townland of Platin, Co. Meath). The proposed project is located within the townlands of Graigs, Ardmulchan, Dollardstown, Dunmoe, Carranstown, Platin, Haystown and Carnuff, Stackallan, Harmanstown, Causetown, Garballagh, Commons, Downestown, Gillinstown, Longford, Rathdrinagh, Painestown, Thurstianstown, Knockcommon, Drumman, Laughier, Newtown and Platin. The proposed uprate project will comprise: • the replacement ("restringing") of the existing OHL circuit conductor wires with a new higher capacity conductor including installation of a new fibre communication connection; • the replacement of 42no. existing polesets - any replacement structures will be constructed at, or immediately adjacent to the existing structures they will replace, will be along the same alignment as existing, and will be of a	While granted on conditions, this application is currently being appealed. A NIS was prepared and concluded: <i>'Following a comprehensive evaluation of the potential direct, indirect and in-combination effects on the qualifying interests of the aforementioned SACs and SPAs and the implementation of the proposed mitigation measures, it has been concluded by the authors of this report that there will be no adverse effects on the integrity of the River Boyne and River Blackwater SAC, River Boyne and River Blackwater SPA, River Nanny Estuary and Shore SPA, Boyne Coast and Estuary SAC and Boyne</i>

Planning Application Number	Development Description	Development Conditions and Appropriate Assessment Conclusions
	similar height and appearance; • the replacement of steel members at 8no. steel angle masts; • replacement of hardware and fittings at all structure locations; • replacement and relocation of fibre communication structures; • all associated site development works; • Earthwire to be replaced between Angle Mast 94 and End Mast 108; • Tower painting at 10no. steel Angle/End masts; • foundation strengthening works at 4no. Angle Masts; • Anti-climbing guards to be installed at 1no. location; • all associated works within the existing Gorman substation and Platin 110 kV substation to accommodate the uprated 110 kV overhead line including alterations to existing apparatus; • all associated temporary site development works to gain access to the existing structures including clearance of vegetation, disassembly and reassembly of gate posts/ piers and removal and reinstatement of existing fencing; and • other temporary associated and ancillary site development works required for the purpose of the uprate of the existing circuit, including construction compounds, silt traps, silt fences, stone tracks, ground protection mats, infrastructure crossing support systems and temporary watercourse crossings.	<i>Estuary SPA, or any other European site either alone or in combination with other plans or projects'.</i>
AA170097	The development consists of the construction of a revised house type from previously approved house type planning reference AA161026 and all associated site works.	Granted on conditions including, being a permanent residence, onsite system following EPA guidance and certifications, installation and maintenance of system will not give rise to any pollution, continuous and indefinite monitoring of wastewater system, roof colouring, noise reduction during construction. No Screening or NIS undertaken.
AA141088	The development will consist of the construction of part single storey part storey and a half style dwelling, the construction and installation of effluent treatment system, the construction of garage and the carrying out of all other ancillary site and construction works. Significant further information/revised plans submitted on this application.	Granted on conditions including planting undertaken as agreed, proposed garage not for human habitation, permanent residence, on site system constructed following EPA Guidance. No Screening or NIS undertaken.
AA180481	Planning permission to replace existing septic tank with proposed wastewater treatment system and percolation area, and retention permission for existing detached dwelling and	Granted on conditions including sand polishing filter constructed following EPA guidance, installation and maintenance does not give

Planning Application Number	Development Description	Development Conditions and Appropriate Assessment Conclusions
	detached domestic garage, existing entrance onto main road including all ancillary site works.	rise to any pollution, continuous and indefinite maintenance of wastewater system, existing septic tank decommissioned and permanently removed off site, all waste during construction recovered or disposed of appropriately. No Screening or NIS undertaken.
AA181015	Retention permission revised location of wastewater treatment system from that previously granted planning permission and for existing part constructed extension to rear of dwelling and planning permission to complete same extension, construct proposed 2 storey external stairs to rear, construct first floor extension, construct proposed front porch, application of render finish to existing dwelling, construct detached shed/outbuilding, including all ancillary site works.	Granted on conditions including external finishes as agreed, noise reduction during construction, no waste on public road, traffic and dirt management during construction, repairs to road will be paid for and undertaken by applicant if needed after construction. No Screening or NIS undertaken.
22519	A new single storey dwelling, associated detached single car garage, opening of a new vehicular entrance to site and wastewater treatment system and polishing filter together with all associated site development works. Significant further information/revised plans submitted on this application.	Granted on conditions including being a permanent residence, revised elevations, existing hedgerows, trees, shrubs preserved, landscaping as agreed, removing roadside hedge boundary, agricultural entrances closed, road drainage not impeded, onside wastewater constructed with EPA guidance, installation and maintenance will not give rise to pollutants, surface water not discharged to public road or adjoining property, garage for domestic purposes only, financial contributions. No Screening or NIS undertaken.

4.4.1. Likelihood of Significant Effects on European Sites

There is no potential for significant effects on the QIs of any European Sites within the designated ZOI due to distance and the sensitivity of receptors.

4.5. AA Screening Conclusion

Following an examination, analysis and evaluation of all relevant information and in view of best scientific knowledge, and applying the precautionary principle, it can be concluded that there is no likelihood for significant effects on any European site, in the absence of mitigation, either arising from the project alone or in combination with other plans and projects.

Therefore, in view of best scientific knowledge, and in-line with recommendations of guidance and case law, it is considered that that the Proposed Pipeline does not require progression to Stage Two AA and consequently, does not require the preparation of an NIS.

References

APEM (2023) *Appropriate Assessment Screening Report for the proposed Staleen WTP to Donore Reservoir Trunk Main*. Prepared for Nicholas O'Dwyer Ltd.

APEM (2024) *Appropriate Assessment Screening Report for the proposed Staleen WTP to Windmill Hill Pipeline*. Prepared for Nicholas O'Dwyer Ltd.

CIEEM (2018) *Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine*. Chartered Institute of Ecology and Environmental Management, Winchester.

DoCHG (2019) *The Status of EU Protected habitats and Species in Ireland: Species Assessments; Volume 3: 2019*. Department of Culture, Heritage and the Gaeltacht.

DoEHLG (2010). *Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities*. National Parks and Wildlife Service, Department of the Environment, Heritage and Local Government. Dublin.

European Commission (2001). *Assessment of Plans and Projects significantly affecting European Site Sites: Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC*. Office for Official Publications of the European Communities, Luxembourg.

European Commission (2018). *Managing European Site Sites: The Provisions of Article 6 of the 'Habitats Directive' 92/43/EEC*. Office for Official Publications of the European Communities, Luxembourg

European Union Habitats Directive, (1992). *Council Directives 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora*.

Holloway, S. (1997) *Winter Distribution and Disturbance of Wildfowl and Waders on Findhorn Bay*. BTO Research Report No. 179. British Trust for Ornithology

Holmen *et al.*, (2014). *IAQM Guidance on the assessment of dust from demolition and construction*, Institute of Air Quality Management, London.

Kettunen, M, Terry, A., Tucker, G. & Jones A. (2007) *Guidance on the maintenance of landscape features of major importance for wild flora and fauna - Guidance on the implementation of Article 3 of the Birds Directive (79/409/EEC) and Article 10 of the Habitats Directive (92/43/EEC)*. Institute for European Environmental Policy (IEEP), Brussels, 114 pp. & Annexes.

Maarten, P & Henkensj, R. H. G (1997) Possible Impacts of Disturbance to Waterbirds: Individuals, Carrying Capacity and Populations. *Wildfowl* 48: 225-236

NPWS (2010). *Site Synopsis: River Boyne and River Blackwater SPA Site Code: 004232*. Department of Arts, Heritage and the Gaeltacht.

NPWS (2012). *Conservation Objectives: River Nanny Estuary and Shore SPA 004158*. Version 1.0. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht.

NPWS (2014). *Site Synopsis: River Boyne and River Blackwater SAC Site Code: 002299*. Department of Arts, Heritage and the Gaeltacht.

NPWS (2015). Site Synopsis: River Nanny Estuary and Shore SPA Site Code: 004158. Department of Arts, Heritage and the Gaeltacht.

NPWS (2021). Conservation Objectives: River Boyne and River Blackwater SAC 002299. Version 1. National Parks and Wildlife Service, Department of Housing, Local Government and Heritage.

NPWS (2022). Conservation Objectives for River Boyne and River Blackwater SPA [004232]. First Order Site-specific Conservation Objectives Version 1.0. Department of Housing, Local Government and Heritage.

NRA (2008). *Guidelines for the treatment of otters prior to the construction of national road schemes*.

RPS (2015) *Appropriate Assessment Screening for the Staleen Water Treatment Plant Upgrade*. Prepared for Irish Water.

Scarton, F. (2018) Disturbance of Non-Breeding Waders by Pedestrians and Boats in a Mediterranean Lagoon. *Ardeola* 65: 209-220. 10.13157/arla.65.2.2018.ra1.

Scott Wilson and Levett-Therivel, (2006). *Appropriate Assessment of Plans*. Scott Wilson, Levett-Therivel Sustainability Consultants, Treweek Environmental Consultants and Land Use Consultants.

Appendix A: Relevant Legislation

European Nature Directives (Habitats and Birds)

The Habitats Directive (Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora) forms the basis for the designation of Special Areas of Conservation. Similarly, Special Protection Areas are classified under the Birds Directive (Council Directive 2009/147/EEC on the Conservation of Wild Birds). Collectively, Special Areas of Conservation (SAC) and Special Protection Areas (SPA) are referred to as the European Site network. In general terms, they are considered to be of exceptional importance for rare, endangered or vulnerable habitats and species within the European Community.

Under Article 6(3) of the Habitats Directive an appropriate assessment must be undertaken for any plan or project that is likely to have a significant effect on the conservation objectives of a European Site. An appropriate assessment is an evaluation of the potential impacts of a plan or project on the conservation objectives of a European Site¹⁸, and the development, where necessary, of mitigation or avoidance measures to preclude negative effects.

Article 6, paragraph 3 of the EC Habitats Directive 92/43/EEC (“the Habitats Directive”) states 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. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public”

The Habitats Directive is transposed into Irish law by the EC (Birds and Natural Habitats) Regulations 2011 – 2015. Part XAB of the Planning and Development Acts 2000 to 2020 transposes Article 6(3) and 6(4) of the Habitats Directive in respect of land use plans and proposed projects requiring development consent.

European Commission (Birds and Natural Habitats) Regulations 2011 to 2021 – Part 5

Part 5 of the European Commission (Birds and Natural Habitats) Regulations 2011 – 2021 sets out the circumstances under which an ‘appropriate assessment’ is required. Section 42(1) requires that ‘a screening for Appropriate Assessment of a plan or project for which an application for consent is received, or which a public authority wishes to undertake or adopt, and which is not directly connected with or necessary to the management of the site as a European Site, shall be carried out by the public authority to assess, in view of best scientific knowledge and in view of the conservation objectives of the site, if that plan or project, individually or in combination with other plans or projects is likely to have a significant effect on the European site.’

¹⁸ Also referred to as European Sites in the Planning and Development Acts 2000 – 2020.

Section 42(2) expands on this, stipulating that a public authority must carry out a screening for Appropriate Assessment before consent for a plan or project is given, or a decision to undertake or adopt a plan or project is taken. To assist a public authority to discharge its duty in this respect, Section 42(3)(a) gives them the authority to direct a third party to provide a Natura Impact Statement and Section 42(3)(b) allows them to request any additional information that is considered necessary for the purposes of undertaking a screening assessment.

Section 42(6) requires that *'the public authority shall determine that an Appropriate Assessment of a plan or project is required where the plan or project is not directly connected with or necessary to the management of the site as a European Site and if it cannot be excluded, on the basis of objective scientific information following screening under this Regulation, that the plan or project, individually or in combination with other plans or projects, will have a significant effect on a European site'*.

Planning and Development Acts 2000 to 2021¹⁹ - PART XAB

The relevant sections of Part XAB of the Planning and Development Acts 2000 – 2020 are set out below.

Screening for appropriate assessment

Section 177U requires that— (1) A screening for appropriate assessment of a draft Land use plan or application for consent for proposed project shall be carried out by the competent authority to assess, in view of best scientific knowledge, if that Land use plan or proposed project, individually or in combination with another plan or project is likely to have a significant effect on the European site.

(2) A competent authority shall carry out a screening for appropriate assessment under subsection (1) before—

(a) a Land use plan is made including, where appropriate, before a decision on appeal in relation to a draft strategic development zone is made, or

(b) consent for a proposed project is given.

(3) In carrying out screening for appropriate assessment of a proposed project a competent authority may request such information from the applicant as it may consider necessary to enable it to carry out that screening, and may consult with such persons as it considers appropriate and where the applicant does not provide the information within the period specified, or any further period as may be specified by the authority, the application for consent for the proposed project shall be deemed to be withdrawn.

(4) The competent authority shall determine that an appropriate assessment of a draft Land use plan or a proposed project, as the case may be, is required if it cannot be excluded, on the basis of objective information, that the draft Land use plan or proposed project, individually or in combination with other plans or projects, will have a significant effect on a European site.

(5) The competent authority shall determine that an appropriate assessment of a draft Land use plan or a proposed project, as the case may be, is not required if it can be excluded, on the basis of objective

¹⁹ <http://revisedacts.lawreform.ie/eli/2000/act/30/revised/en/html> (Updated to 1 November 2024)

information, that the draft Land use plan or proposed project, individually or in combination with other plans or projects, will have a significant effect on a European site.

(6) (a) Where, in relation to a proposed project, a competent authority makes a determination that an appropriate assessment is required, the competent authority shall give notice of the determination, including reasons for the determination of the competent authority, to the following—

(i) the applicant,

(ii) if appropriate, any person who made submissions or observations in relation to the application to the competent authority, or

(iii) if appropriate, any party to an appeal or referral.

(b) Where a competent authority has determined that an appropriate assessment is required in respect of a proposed project it may direct in the notice issued under paragraph (a) that a Natura impact statement is required.

(c) Paragraph (a) shall not apply in a case where the application for consent for the proposed project was accompanied by a Natura impact statement.

(7) A competent authority shall, as soon as may be after making the Land use plan or making a decision in relation to the application for consent for proposed project, make available for inspection by members of the public during office hours at the offices of the authority, and may also publish on the internet —

(a) any determination that it makes in relation to a draft Land use plan under subsection (4) or (5) as the case may be, and reasons for that determination, and

(b) any notice that it issues under subsection (6) in relation to a proposed project. (8) In this section ‘consent for proposed project’ means, as appropriate —

(a) a grant of permission,

(b) a decision of the Board to grant permission on a planning application or an appeal,

(c) consent for development under Part IX,

(d) approval for development that may be carried out by a local authority under Part X or Part XAB or development that may be carried out under Part XI,

(e) approval for development on the foreshore under Part XV,

(f) approval for development under section 43 of the Act of 2001,

(g) approval for development under section 51 of the Roads Act 1993, or

(h) a substitute consent under Part XA.

(9) In deciding upon a declaration or a referral under section 5 of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.

(10) In deciding upon an application under section 176A or a determination review or an application referral under section 176C, a planning authority or the Board, as the case may be, shall, where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.

Natura impact report and natura impact statement

Section 177T states that— (1) (a) A Natura impact report means a statement for the purposes of Article 6 of the Habitats Directive, of the implications of a Land use plan, on its own or in combination with other plans or projects, for one or more than one European site, in view of the conservation objectives of the site or sites.

(b) A Natura impact statement means a statement, for the purposes of Article 6 of the Habitats Directive of the implications of a proposed development, on its own or in combination with other plans or projects, for one or more than on European site, in view of the conservation objectives of the site or sites.

(2) Without prejudice to the generality of subsection (1) , a Natura impact report or a Natura impact statement, as the case may be, shall include a report of a scientific examination of evidence and data, carried out by competent persons to identify and classify any implications for one or more than one European site in view of the conservation objectives of the site or sites.

(3) As respects a draft National Planning Framework, the Government shall prepare a Natura impact report in relation to a draft Land use plan and the following bodies shall also prepare a Natura impact report in relation to a draft Land use plan—

(a) as respects a draft regional spatial and economic strategy, the regional assembly for whose area the draft strategy is made,

(aa) as respects a draft National Planning Framework, the Minister

(b) as respects a draft planning scheme in respect of all or any part of a strategic development zone, the planning authority (which term shall be construed in accordance with section 168(5)) for whose area the draft scheme is made,

(c) as respects a draft development plan or draft variation of a development plan, the planning authority for whose area the draft plan or draft variation is made, and

(d) as respects a draft local area plan, the planning authority in whose area the local area concerned is situate.

(4) The applicant for consent for proposed development may, or if directed in accordance with subsection (5) by a competent authority, shall furnish a Natura impact statement to the competent authority in relation to the proposed development.

(5) At any time following an application for consent for proposed development a competent authority may give a notice in writing to the applicant concerned, directing him or her to furnish a Natura impact statement

(6) Where an applicant for consent for proposed development who, having been directed in accordance with subsection (5) , fails to furnish a Natura impact statement within the period specified in the notice, or any further period as may be specified by the competent authority, the application for consent for the proposed development shall be deemed to be withdrawn.

(7) (a) Without prejudice to subsection (1)a Natura impact report or a Natura impact statement shall include all information prescribed by regulations under section 177AD.

(b) Where appropriate, a Natura impact report or a Natura impact statement shall include such other information or data as the competent authority considers necessary to enable it to ascertain if the draft Land use plan or proposed development will not affect the integrity of the site.