& NIEA



Planning Response Team Klondyke Building Cromac Avenue Gasworks Business Park Lower Ormeau Road Belfast BT7 2JA Telephone: 028 9056 9604

Date: 28 September 2022

Dear Sir/Madam,

Planning Application Ref.:	LA11/2021/1211/TBA
Location:	Between Station Road Lifford County Donegal and Strabane County Tyrone.

Proposal:

Proposed Riverine Pedestrian and Cycle Bridge at Station Road, Lifford, County Donegal - 11m in length between Lifford Co. Donegal and Strabane, County Tyrone.

Thank you for your consultation on the above which was received by the Department on 02/08/2022.

This letter provides a single combined response for your consultation request across all of DAERA's area of environmental responsibility. Summary comments in relation to the reason for consultation are provided in the table below at Annex A, and, where appropriate, more detailed advice is enclosed and attached to this letter.

You should be aware that, in the absence of comment, no inference can be made on DAERA's position with regard to other environmental matters. It is the responsibility of the planning authority to ensure that all risks to the environment and requirements under environmental legislation and planning policy have been considered.

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If you are deaf or have a hearing difficulty you can contact the Department via the Next Generation Text Relay Service by dialling 18001 + telephone number.



This advice and guidance will enable you to identify and consider if there are other potential risks to the environment due to impacts from the construction and operation of the proposed development and also its location.

In addition, we would also refer you to DAERA's published advice and guidance on development proposals where there is potential for effects on the natural and marine environments and fisheries interests, available at: <u>https://www.daera-ni.gov.uk/topics/environmental-advice-planning</u>.

As the Planning Authority is the competent authority under The Conservation (Natural Habitats, etc.) Regulations 1995 (as amended), this responsibility extends to the carrying out of Habitat Regulations Assessments (HRAs) before a planning decision is made.

Should you require assistance or if you wish to discuss anything further, please do not hesitate to contact the Planning Response Team using the contact details below.

Kind regards.

Planning Response Team On behalf of DAERA

Email: planningresponse.team@daera-ni.gov.uk

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Annex A

Advice Provided By:	Summary
Water Management Unit and Inland Fisheries	Water Management Unit is content, subject to: The applicant referring and adhering to standing advice. Any required statutory permissions being obtained. To the caveat explained within the explanatory note. Inland Fisheries advises that The Loughs Agency should be consulted in relation to this application.
Regulation Unit	Regulation Unit Land and Groundwater Team have not been provided with sufficient information to advise the Planning Authority as to the environmental risks from this development.
Natural Environment Division	Natural Environment Division has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to conditions.

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Water Management Unit

Section Reference

WMU/PC/ 33835-2

Considerations:

Water Management Unit is content, subject to:

- The applicant referring and adhering to standing advice
- Any required statutory permissions being obtained
- To the caveat explained within the explanatory note

Explanatory note:

Water Management Units response is related to the elements of the scheme that are within Northern Ireland only. All elements outside of Northern Ireland are outside of Water Management Units jurisdiction.

Water Management Unit (WMU) has considered all the documentation uploaded to the Planning Portal since the date of our last response for the issues that fall within our remit and remain content subject to the considerations outlined above.

WMU have the following comments to make in relation to the updated information:

- Please note that all recommendations (including the condition request for a Final CEMP submission) made in our previous response (WMU/PC/ 33835-1) remain valid.
- Water Management Unit's Pollution Prevention Team will be happy to advise on the CEMP or to provide any other pollution prevention advice the applicant requires. The appointed contractor can liaise with Water Management Unit Pollution Prevention Team at <u>nieapollutionprevention@daera-ni.gov.uk</u>.
- WMU would direct the applicant to contact our colleagues at <u>industrialconsents@daera-ni.gov.uk</u> to discuss the following consent requirements:
 - o proposed car park interceptor and associated discharges.
 - site drainage both during construction and operational phases of this development.

Informatives:

The applicant should comply with all the relevant NIEA Standing Advice documents and Guidance for Pollution Prevention (GPPs) to minimise the impact of the project on the environment. Paying particular attention to:

• DAERA Standing Advice Pollution Prevention

- DAERA Standing Advice Discharges to the Water Environment
- DAERA Standing Advice Sustainable Drainage Systems
- DAERA Standing Advice Commercial or Industrial Developments
- GPP1 Understanding your environmental responsibilities good environmental practices:
- GPP2 Above ground oil storage tanks
- GPP3 Use and design of oil separators in surface water drainage systems
- GPP4 Treatment and disposal of wastewater where there is no connection to the public foul sewer
- PPG6 Working at construction and demolition sites
- PPG7 The safe operation of refuelling facilities
- GPP8 Safe storage and disposal of used oils
- PPG18 Managing Fire Water And Major Spillages
- GPP21 Pollution incident response planning
- GPP22 Dealing with spills
- GPP26 Safe Storage of Drums and Intermediate Bulk Containers (IBCs)

NIEA Standing Advice can be viewed at:

https://www.daera-ni.gov.uk/publications/standing-advice-development-may-haveeffect-water-environment-including-groundwater-and-fisheries

Guidance for Pollution Prevention (GPPs) documents can be obtained at:

http://www.netregs.org.uk/library of topics/pollution prevention guides/all ppgs.aspx

The contractor / person carrying out the works is responsible for ensuring that any and all required mitigation measures are in place and ultimately under the Water (Northern Ireland) Order 1999 is liable for any discharge or deposit, whether knowingly or otherwise, of any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata.

thereafter.

The following is the response of Inland Fisheries of the Department for Agriculture, Environment and Rural Affairs (DAERA) to this application.

The Loughs Agency is the lead body for provision of advice regarding impacts to salmonid and inland fisheries interests within the catchments of Lough Foyle and Carlingford Lough. Consequently, said agency should be consulted in relation to this application. DAERA Inland Fisheries will provide fisheries advice for those areas outside of the catchments of Foyle and Carlingford Loughs.

Regulation Unit

Section Reference: LA11/2021/1211/TBA

Between Station Road Lifford County Donegal and Strabane County Tyrone.

Considerations

An Addendum Volume 2 EIAR has been provided by MCL Consulting Ltd in support of this planning application. The Chapter 9 appendices which are stated to include the necessary land contamination risk assessment reports have not been included in the information provided.

Regulation Unit Land and Groundwater Team have not been provided with sufficient information to advise the Planning Authority as to the environmental risks from this development.

Explanatory note

The comments below are not exhaustive but serve to capture key points in support of the Regulation Unit (RU) position outlined above. These comments are made on consideration of:

- MCL Consulting Ltd. Addendum Environmental Impact Assessment: Volume 2 EIAR Addendum Text. Riverine Community Park. Ref. P2288. April 2022.
- The priorities of the RU Land and Groundwater Team in assessing this planning application are to consider the potential for contamination to be present at the site that could impact on environmentally sensitive receptors including groundwater and surface water. It should be noted that Derry City and Strabane District Council is the authoritative body with respect to environmental health matters and we would ask that you ensure they have an opportunity to comment on all relevant information.
- 2. An Addendum Volume 2 EIAR has been provided by MCL Consulting Ltd in support of this planning application. The Chapter 9 appendices which are stated to include the necessary land contamination risk assessment reports have not been included in the information provided.
- 3. Regulation Unit Land and Groundwater Team have not been provided with sufficient information to advise the Planning Authority as to the environmental risks from this development.
- 4. It is advised that the applicant provides the supporting environmental information for developing this site as set out in the Environmental Advice for Planners available at: <u>https://www.daera-ni.gov.uk/topics/environmental-advice-planners</u> and utilise the information available in the DAERA Developers Guide Redeveloping Land Affected by Contamination available at: <u>https://www.daera-ni.gov.uk/publications/best-practice-guidance-documents</u>
- 5. Site investigations should be designed and undertaken in accordance with appropriate guidance including British Standards BS 10175:2011+A2:2017 Code of practice for investigation of potentially contaminated land sites.

Regulation Unit

6. It is recommended that all risk assessment and risk management work follows the UK technical framework as described in the Land Contamination: Risk Management (LCRM) guidance available at <u>https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks</u>.

Section Reference: CB3128452

Planning Reference: LA11/2021/1211/TBA

Considerations

Please note that this proposal is subject to the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) (known as the Habitats Regulations).

The application site is within/hydrologically linked to the following national, European and international designated sites:

- River Foyle and Tributaries SAC, which is designated under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended);
- River Foyle and Tributaries ASSI, which is declared under the Environment Order(Northern Ireland) 2002

NED acknowledges receipt of the following documents;

- Environmental Impact Assessment (EIA) Report Volume1: Non-Technical Summary, dated August 2021
- Environmental Impact Assessment Report Volume 2: EAIR Main Text, dates August 2021
- Bridge External Lighting Drawing, dated August 2021
- Strabane External Lighting Drawing, Dated August 2021

NED has considered the proposal and highlights the following as potential impacts on the designated sites as well as all other natural heritage interests associated with the area.

This application has been assessed in combination with the associated application LA11/2021/1210/F

Considerations

The application site is in close proximity and hydrologically linked to the following national, European and international designated sites:

- River Foyle and Tributaries SAC, which is designated under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended);
- River Foyle and Tributaries ASSI, which is declared under the Environment Order (Northern Ireland) 2002.

In accordance with the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), the Competent Authority should ensure an assessment is carried out to determine if the proposal, either alone or in combination, is likely to have a significant effect on a European site and the qualifying features, in line with the site conservation objectives.

NED has considered the proposal and highlights the following as potential impacts on the designated sites;

Potential Impacts	Designated Site Considerations
Potential Impacts	Designated Site ConsiderationsNED has considered the relevant documents and drawings to date (25/03/22) uploaded to NIPP for the proposed development regarding Construction of Riverine Community Park.The proposed development is located adjacent to the River Foyle and Tributaries ASSI/SAC, and the pedestrian/cycleway bridge (covered in a separate application: LA11/2021/1211/TBA) is contained within, and traverses over, the designated sites. The above sites are designated for Atlantic salmon and otter populations along with watercourses of plain to montane levels with <i>Ranunculus fluitans</i> and <i>Callitricho-Batrachion</i> vegetation.NED acknowledge that the applicant has undertaken the relevant species ecological assessments and the results are summarised within the Environmental Impact Assessment Report (EIAR) (MCL Consulting, 14/12/21).
Disturbance of protected and priority species through;	Species identified as being at risk of impact due to this development include otter and Atlantic Salmon. While evidence of otter foraging was found on site (tracks and
 Prevention of access to suitable foraging or resting areas. Destruction of habitat/holts/setts/nests/roosts etc. 	

- Proximity of works, vibrations and noise	EIAR (MCL Consulting, 14/12/21) and are summarised below;
	- Piling methods changed from percussion piling to corkscrew CFA piling, with piling activities will take place outside of the Atlantic Salmon migratory season (as per consultation with Loughs Agency).
	- Machinery will only operate during daylight hours and will implement soft start approach where applicable
	- Lighting schemes restricted to 1 LUX and preferably red coloured wildlife lighting, no lighting directed onto woodland features or watercourses
	- No excavations will be left uncovered or without means of egress, no buildings or hazardous substances to be left unsecure in case of entrapment or poisoning.
	- Fencing will facilitate free movement of otters for passage/foraging.
Degradation of adjacent aquatic environment from contaminated runoff resulting during construction and operational works.	- Inclusion of culvert/ledge in the bridge landing area for free access for otters across areas where the bridge will make contact with land
	- If priority species are discovered work will cease immediately and the ecologist will be sought for advice.
	- Compensatory planting scheme for areas where vegetation is removed so as to re-create foraging habitat
	NED note that all water features flowing from the application site discharge eventually to the River Foyle, with the two major drains being the Nancy Burn and Park Road Drain. Storm water will discharge via a number of outfalls to local watercourses.

	The applicant has considered the key works which have potential to impact the aquatic environment which include increased sediment supply/accumulation, loss of bankside, degradation of riparian habitat, smothering of fish species, contamination of run off with fuels/chemicals/cementitious materials/pesticides. NED consider that there are sufficient mitigation measures in place for prevention of pollution which are outlined below;
	- 10m buffer zones between watercourses and stockpiles, refuelling activities, storage of fuels/chemicals/hazardous materials, mixing of concrete ad wash areas.
	- All run-off will pass through treatment facilities prior to outfall e.g. temporary settlement lagoons, SuDS ponds, silt fences, check dams, bunds, vegetation and geotextile matting etc.
	- Leaks/spillages will be controlled with drip trays, stored in impervious bases, bunds, and emergency spill kits will be readily available.
	- Works likely to generate sediment laden run-off will be restricted during times of heavy rain, stockpiles will be covered, sediment removed from site.
	- Use of cementitious materials will be carefully controlled with quick setting products used in/near watercourses.
	- Sustainable Urban Drainage Design System (SUDS) will be employed to allow for containment of run-off.
Degradation of the aquatic environment as a result of in river works e.g. outfall pipes.	- Periodic visual water quality assessments will be undertaken by the appointed Environmental Clerk of Works (ECoW) where turbidity can be monitored as well as any leaks / spills from construction works and action taken where necessary.

The applicant indicates that good practice methods will be adhered to in order that installation of outfalls do not cause or generate erosion of land, banks or beds during construction, NED have given additional recommendations below with regards to outfall pipe construction for inclusion within the final CEMP.

NED acknowledge that the Stage 2 Appropriate Assessment/Habitats Regulations Assessment carried out by MCL Consulting concluded that the proposed mitigation measures were sufficient to protect designated site features from significant disturbance as a result of the proposal (EIAR, 14/12/21). NED agree that provided the mitigation measures outlined within the submitted documents along with those recommended below are implemented and there is continued monitoring throughout the construction process, the proposed project can be successfully developed without significant impacts to the designated site features/aquatic environment.

NED would advise the following are considered once all other natural heritage concerns have been addressed:

- 1. Construction of the outfall must take place only in periods of low flow.
- A suitable barrier, such as a coffer dam, shall be erected around the outfall site prior to commencement of construction of the structure. The barrier shall be adequate to prevent egress of water from the construction site and shall be removed upon completion of all construction activities.
- The area within the barrier shall be de-watered prior to use of any wet concrete and all water contained thereafter shall be collected for off-site treatment. At no point shall water be discharged from the site into the designated site during the construction phase.

Provided the recommendations made above are incorporated into the final CEMP and the mitigation measures within the outline Construction Environmental Management Plan (MCL Consulting, dated August 2021) are adhered to, and, unless there is a substantial change to the final CEMP, NED are content that if implemented it will mitigate against any potential impacts on the protected sites.

The applicant's attention is drawn to the following link, for standing advice on protection of the terrestrial and water environment:

<u>https://www.daera-ni.gov.uk/articles/standing-advice-0</u>

Other Natural Heritage Interests

Badgers

NED is content that the concerns raised during the last consultation regarding the location maps has been appropriately addressed.

While a badger sett was recorded within 25m of the red line boundary on the Strabane section of the development, NED is content that the proposal is unlikely to have any significant impact on the protected species. Provided the mitigation measures proposed in the EIA are implemented in full. It is recommended that the details of the proposed mitigation measures are either incorporated into the final CEMP or as part of a dedicated Badger Mitigation Plan in order to ensure they are implemented in full during the construction phase.

<u>Bats</u>

NED is content that the concerns regarding bats has been appropriately addressed.

The Lighting Plan submitted as part of this application indicates that the lux levels across the site are within the recommended parameters set in the guidance for bats and artificial lighting.

Recommendations:

NED has no further concerns with the proposed development provided the following recommendation is conditioned in the event of a successful planning decision:

A Badger Mitigation Plan (as a separate document or included as part of an final Construction Environmental Management Plan (CEMP)) outlining all mitigation measures pertaining to minimisation of any/all disturbance to the local badger population is to be submitted to the Planning Authority prior to the commencement of works.

Informatives

1. The applicant's attention is drawn to The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:

- a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes all species of bat;
- b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
- c) Deliberately to disturb such an animal in such a way as to be likely to
 - i. affect the local distribution or abundance of the species to which it belongs;
 - ii. Impair its ability to survive, breed or reproduce, or rear or care for its young; or
 - iii. Impair its ability to hibernate or migrate;
- d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
- e) To damage or destroy a breeding site or resting place of such an animal.

If there is evidence of bat activity / roosts on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

To avoid any breach of The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), all mature trees and/or buildings which require works should be surveyed for the presence of bats by an experienced bat worker or surveyor within 48 hours prior to removal, felling, lopping or demolition. All survey work should be carried out according to the Bat Conservation Trust Good Practice Guidelines (http://www.bats.org.uk). If evidence of bat activity is discovered all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

2. The applicant's attention is drawn to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:

a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes the otter (Lutra lutra);

- b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
- c) Deliberately to disturb such an animal in such a way as to be likely to
 - i. affect the local distribution or abundance of the species to which it belongs;
 - ii. Impair its ability to survive, breed or reproduce, or rear or care for its young; or
 - iii. Impair its ability to hibernate or migrate;
- d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
- e) To damage or destroy a breeding site or resting place of such an animal.

If there is evidence of otter activity on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

3. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (Meles meles);
- damage or destroy, or obstruct access to, any structure or place which badgers use for shelter or protection;
- damage or destroy anything which conceals or protects any such structure;
- disturb a badger while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

If there is evidence of badger on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

Any works within 25 metres of a badger sett will require a wildlife licence to be obtained from NIEA. Licence applications should be made to the Wildlife Team, Northern Ireland

Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

Any blasting or piling within 100 metres of a badger sett will require a wildlife licence to be obtained from NIEA. Licence applications should be made to the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

4. The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- kill, injure or take any wild bird; or
- take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
- at any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or
- obstruct or prevent any wild bird from using its nest; or
- take or destroy an egg of any wild bird; or
- disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or
- disturb dependent young of such a bird.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

It is therefore advised that any tree or hedgerow loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season (e.g. between 1st March and 31st August).

No works should be carried out on any buildings or structures containing bird's nests unless an appropriate survey has been carried out prior to works commencing and it is confirmed that no active nests are present.

Any works requiring the destruction of any active bird nest will require a wildlife licence to be obtained from NIEA. Licence applications should be made to the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

5. The applicant's attention is drawn to Article 15 of The Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence for any person to plant or otherwise cause to

grow in the wild any plant included in Part II of Schedule 9 of the Order, which includes giant hogweed (Heracleum mantegazzianum). This highly invasive plant species has been recorded on site and control measures should be taken to ensure that any works do not cause it to spread either on or off the site

Giant hogweed also poses a public health risk as its sap can cause a phytophotodermatitic reaction, leading to blistering and burning of the skin, in humans and wildlife.

Any soil containing giant hogweed plant or seed material, which is removed off site, is classified as controlled waste under the Controlled Waste Regulations (Northern Ireland) 2002 (as amended).

The Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002 (as amended) also places a duty of care on 'anyone who produces, imports, stores, transports, treats, recycles or disposes of waste to take the necessary steps to keep it safe and to prevent it from causing harm, especially to the environment or to human health'. In the case of giant hogweed it is the duty of the waste producer to inform the licensed waste carrier and licensed landfill site that the controlled waste material contains giant hogweed as part of the waste transfer process.

Please see the following link for further information:

http://invasivespeciesireland.com/species-accounts/established/terrestrial/giant-hogweed

Further advice can be sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel: 028 905 69605