Application for Substitute Consent for Fencing at Fenit Island, Co Kerry

REMEDIAL NATURA IMPACT STATEMENT

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EXECUTIVE SUMMARY

The current document provides a Natura Impact Statement (remedial) in relation to an application for Substitute Consent for Fencing at Fenit Island, Co Kerry. The project proposal relates to fencing that is already in place in a number of locations on the Island. It is understood that the subject fencing works commenced around 1994 after a small number of cases of people trespassing onto the lands. The landowners have claimed that the fencing is historical and due to storm damage it was reinstated and repaired. The fencing comprises various styles, from chain-link fences to post and rail electric fences. The subject fencing is located along several ownership boundaries on the western, northern and eastern side of Fenit Island. The fencing is continuous with other extensive fencing and stone wall field boundaries on the island, but this other fencing does not form part of the project/plan. It was previously argued that the fencing was exempted development, but this has been disputed. Keep Ireland Open referred the case to An Bord Pleanála.

The subject fencing is located within the boundaries of both the Akeragh, Banna and Barrow Harbour SAC and the Tralee Bay Complex SPA. In 2022, a Screening for Appropriate Assessment was completed (Ecofact, 2022), and it was concluded that there is no potential for significant direct, indirect, or cumulative impacts to arise from the fencing development at Fenit Island, Co. Kerry. The decision in the 2022 report was based on the fact that the fencing was already present, was installed to replace previous fencing at the site, was not located in any Annex I habitats, was localized and small scale, and was part of extensive historic fencing present all over the Island.

The brief for the current work was to prepare a Remedial Natura Impact Statement (NIS) to support the application for Substitute Consent. This NIS again considers the potential for impacts on the Natura 2000 network arising from the previous installation of the fencing. The report also considers any required mitigation measures or remedial measures required to protect the Akeragh, Banna and Barrow Harbour SAC and the Tralee Bay Complex SPA. The NIS also covers any required future maintenance of the fencing.

The fencing was visited in March 2022 and April 2024, and the length of fencing was walked, with the environs inspected for evidence of ecological features of high conservation concern, such as flora and fauna occurring in the closest Natura 2000 sites. Most of the habitats where the fencing is located are dry grassland habitats merging into rocky outcrops. There are some small areas of shingle and rubble from fallen stone walls, blown over in previous storms. The fencing is not located in any Annex I habitat. The subject fencing is continuous with extensive other fencing on the Island. The Island is already heavily impacted by long-term ongoing agricultural activities, other fencing, grazing, flood protection works, roads, farm buildings, and dwellings. The fencing is consistent with the other extensive fencing present and is indeed indistinguishable. The subject fencing is generally located on the margin of where the managed agricultural areas merge into foreshore habitats. The entire area has been heavily modified and impacted by historical and ongoing agricultural activities, most notably cattle grazing.

The subject fencing is located within the Akeragh, Banna and Barrow Harbour SAC, with some parts within the Tralee Bay Complex SPA. Nine of the ten Qualifying Habitats for the SAC mapped within the Conservation Objectives of the site are located 1.2km of more away from the area of the subject fencing. The extent of Dry Heath habitat within the SAC is not known. However, no Annex I habitats are present in the area of the fencing. It was thought that there was one patch of degraded and fragmented Dry Heath habitat not meeting the criteria for an Annex I habitat present when the site was visited in March 2022. However, this survey was completed too early in the growing season and the April 2024 field surveys ruled out the presence of this habitat.

Due to the habitats found during the survey and the minimal footprint of fencing and its historic nature, it is considered that no significant direct effects have occurred due to the reinstatement of the fencing. The fencing present is obviously not different from all the other fencing on the Island. No invasive species were recorded during the site visit, and there is no evidence to suggest invasive species were introduced as a result of the fencing repairs. The ongoing impacts on the island from agricultural activities are historical and were occurring prior to the designation of the Natura 2000 sites. While the overall management of the Island should be looked at in relation to biodiversity, it is clear that the installation of the fencing in the subject areas are just part of the ongoing background activities on the Island. The effect of fencing and repairs are considered to be below the threshold of a significant direct and indirect effect on the qualifying interests of the Akeragh, Banna and Barrow Harbour SAC. This is because no Qualifying Interests of the SAC are located within 1.2km of the fencing.

In relation to the Tralee Bay Complex SPA, the fencing is above the foreshore and therefore outside of Wetland and Waterbirds habitat. It is considered that the subject fencing in this location is very minor in the context of the SPA; no significant indirect impacts have occurred. The construction of the fencing on Fenit Island is considered to be small scale, and construction activities would have been short-term. Furthermore, disturbance and human activity would not exceed that normally experienced on the island due to ongoing agricultural activities. Indeed, the fencing, by restricting access to the island, is likely to have reduced disturbance to birds. Significant numbers of Whimbrel and Bar-tailed Godwits were present in the fields beside the fencing during the April 2024 visit. These are passage migrants and were using the fields for resting/feeding on their stopover. Choughs – a species listed under Annex I of the EU Birds Directive – were recorded on the site during both the 2022 and 2024 site visits. These species are likely to have benefited from the absence of recreational access.

The fencing at Fenit Island serves for the protection of livestock and securing of lands on the island as they are in private ownership. There are also extensive stretches of dry-stone walls and other fencing which serve as the historical field boundaries. The fencing development is not expected to increase grazing on the island or result in a change in the grazing activity already present. As there will be no change expected no pathways for cumulative impacts relating to grazing are identified. The disturbance recorded south of the Island, relating to loose dogs, walking, horse-riding, and other activities, was not present on Fenit Island during the site visits. This is because access to the island is restricted by the fencing. This is having a positive impact in relation to birds associated with the SPA by reducing disturbance on the island.

The small-scale historical fencing on Fenit Island is very minor in the context of existing and planned developments for the area. Agricultural activities on the Island are having ecological impacts – but this is a pre-existing activity, and the fencing will not result in any intensification of this activity. There are no other proposed or existing developments on the Island that would act cumulatively in relation to effects on the Akeragh, Banna and Barrow Harbour SAC and the Tralee Bay Complex SPA.

It was also noted during the 2024 site visit that the subject fencing has fallen into disrepair and will need to be maintained/upgraded. Therefore, *a priori* mitigation for this is now being recommended. Also, despite the widespread fencing on the Island and its likely pre-existence before the designation of the SAC/SPA, it would seem appropriate now to have a ‘code of practice’ for maintenance of fencing across the full island. Moreover, there is an opportunity now to review how the full island is being managed, and it is recommended that a Biodiversity Management Plan be implemented for the Island. The current restricted access to the Island makes it unique due to the lack of recreational disturbance, and this can be built on within the framework of a plan like this, for the benefit of the residents, landowners, and ecology of the island.

Therefore, this Remedial Natura Impact Statement has been prepared to cover the ongoing maintenance of the subject fencing, to provide a framework for the management of all fencing on the Island, and to provide a Biodiversity Management Plan for the island. From examination of the information available, it is concluded that the proposed fencing does not pose a risk of adversely affecting the integrity of the Akeragh, Banna and Barrow Harbour SAC and the Tralee Bay Complex SPA, either alone or in combination with other projects or plans.

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1. INTRODUCTION

Ecofact were commissioned to prepare a Remedial Natura Impact Statement for an application for Substitute Consent for Fencing at Fenit Island, Co Kerry. The fencing comprises various styles of fencing from chain link fences to post and rail electric fences. The fencing has been erected on the western, northern and eastern sides of the island away from the mainland to the south. It is understood that the fencing is historical and due to storm damage, was reinstated and repaired. The fencing is located within the boundaries of both the Akeragh, Banna and Barrow Harbour SAC and the Tralee Bay Complex SPA. Figure 1 shows the location of the fencing at Fenit Island in relation to local Natura 2000 sites.

The subject fencing crosses several ownership boundaries. Kerry County Council outlined that the fencing required planning permission. It was argued that the fencing was exempted development but this has been disputed. Keep Ireland Open referred the case to An Bord Pleanála. An Bord Pleanala's Inspector's Report on whether the fencing is or is not development or is or is not exempted development concluded that the fencing is development, due to habitual use of the coastline within 10 years of the erection of fencing, and that the works are exempted development under Article 9(1)(a)(x) of the Planning and Development Regulations 2001 (PL08.RL.3219) (An Bord Pleanála, 2015). An Bord Pleanála also note in the conclusion that the fencing does not require a Natura Impact Statement and does not require EIA (An Bord Pleanála, 2015).

In 2022, a Screening for Appropriate Assessment was completed (Ecofact, 2022), and it was concluded that there is no potential for significant direct, indirect, or cumulative impacts to arise from the fencing development at Fenit Island, Co. Kerry. The decision in the 2022 report was based on the fact that the fencing was already present, was installed to replace previous fencing at the site, was not located in any Annex I habitats, was localized and small scale, and was part of extensive historic fencing present all over the Island. It was noted in this report that Kerry County Council decided that another much larger linear development in the wider area - the 11km greenway from Tralee to Fenit – did not require Appropriate Assessment (AA). If a major road and recreational development like this did not require Appropriate Assessment, it was concluded that the replacement / maintenance of a small area of localized agricultural fencing would fall well below the threshold for AA. The brief for the current work was to prepare a Remedial Natura Impact Statement. It was also noted during the 2024 site visit that the subject fencing has fallen into disrepair and will need to be maintained/upgraded. Therefore, a priori mitigation for this is now being recommended.

Appropriate Assessment is required under the Habitats Directive (92/43/EEC) in instances where a plan or project may give rise to significant effects upon a Natura 2000 site. Natura 2000 sites are of European Importance and have been designated in accordance with the requirements of the EC Habitats Directive (1992) and EC Birds Directive (2009/147/EC); transposed into Irish legislation as the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. 477 of 2011). The Habitats Directive, in combination with the Birds Directive (2009), establishes a network of internationally important sites designated for their ecological status; identified as Special Areas of Conservation (SACs) designated under the Habitats Directive for the protection of flora, fauna and habitats and as Special Protection Areas (SPAs) designated under the Birds Directive to protect rare, vulnerable and migratory birds. These sites together form a Europe-wide 'Natura 2000' network of designated sites, referred to in this report as Natura 2000 sites.

This assessment follows the Habitats Directive 92/43/EEC, Article 6(3) and the guidance published by the National Parks and Wildlife Service (DoEHLG, 2010) '*Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities*' and the Office of the Planning Regulator

'*Appropriate Assessment Screening for Development Management. OPR Practice Note PN01'* by OPR (2021). The current Remedial Natura Impact Statement (NIS) assesses the impact of the proposed project at construction and operation stages in relation to direct, indirect and cumulative effects on the Integrity of the affected Natura 2000 sites.

1.1 Legislative context

The current assessment takes account of Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora - '*The Habitats Directive'* which was transposed into Irish law by the '*European Community (Natural Habitats) Regulations 1997*' (S.I. No. 94/1997). The most recent transposition of this legislation in Ireland is the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011). The Birds Directive (2009/147/EC) which is now included in the former Regulations seeks to protect birds of special importance by the designation of Special Protection Areas (SPAs) whereas the Habitats Directive does the same for habitats and other species groups within Special Areas of Conservation (SACs), which are designated or proposed as candidate Special Areas of Conservation (SACs). It is the responsibility of each member state to designate SPAs and SACs, both of which will form part of Natura 2000, a network of protected areas throughout the European Community. Article 6, paragraphs 3 and 4 of the EC 'Habitats' Directive (1992) state that:

6(3) '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.'

6(4) 'If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted. Where the site concerned hosts a priority natural habitat type and / or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission to other imperative reasons of overriding public interest.'

In addition, the European Court of Justice in Case C-127/02 (the "Waddenzee Ruling") has made a relevant ruling in relation to Appropriate Assessment and this is reflected in the current assessment:

'Any plan or project not directly connected with or necessary to the management of the site is to be subject to an appropriate assessment of its implications for the site in view of the site's conservation objectives if it cannot be excluded, on the basis of objective information, that it will have a significant effect on that site, either individually or in combination with other plans or projects" and that the plan or project may only be authorised "where no reasonable scientific doubt remains as to the absence of such effects.'

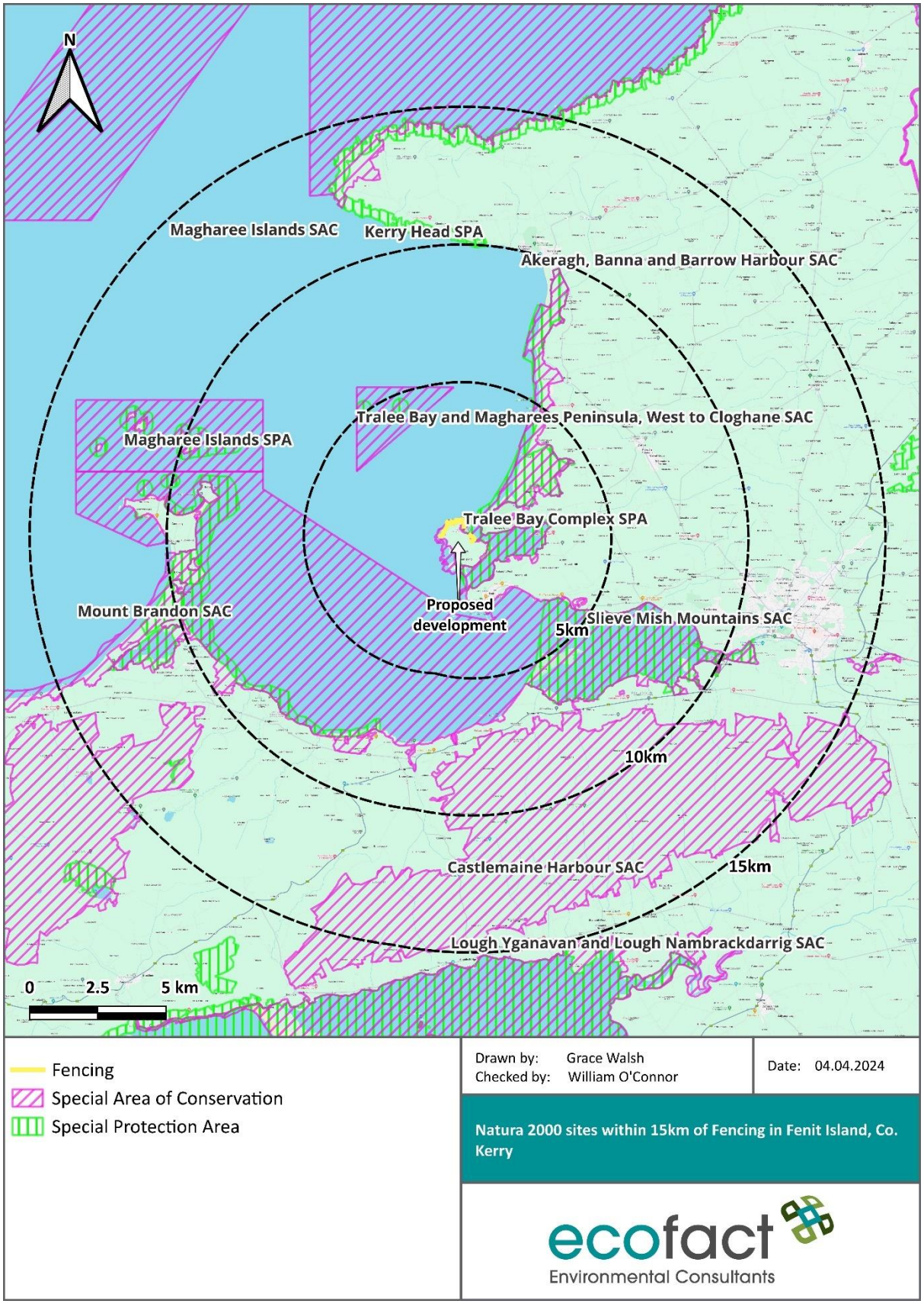

Figure 1 Natura 2000 Sites within 15km of Fencing on Fenit Island, Co. Kerry.

2. METHODOLOGY

2.1 Desk study

A desktop study was undertaken to identify the extent and scope of the potentially affected designated Natura 2000 sites within the current study area in relation to the development site. The desktop study identified the qualifying interests (species and habitats) relevant to the designated sites within the area.

Information sources reviewed as part of the current assessment included NPWS site synopses, as well as protected species data held on the NPWS/NBDC online databases. NPWS data on protected habitats was accessed on the Environmental Sensitivity Mapping Tool. Scientific data on water quality and waterbodies relevant to the subject site was obtained from the websites of the EPA and catchments.ie. The conservation objectives documents as well as the conservation objectives supporting documents for Natura 2000 sites were reviewed on the NPWS website. A specific desk study was also completed on the general potential impacts of agricultural fencing. This included a review to consider any Irish or relevant international literature available. A full bibliography of information sources reviewed is given in the reference section.

Online aerial imagery was also accessed to characterise the nature of development locations near the Natura 2000 network.

2.2 Field Survey

Fenit Island and locations of the fencing were visited on the 25th of March 2022. The length of fencing was walked and environs were inspected for evidence of ecological features of high conservation concern, such as those flora and fauna that occur in the closest Natura 2000 sites.

A repeat visit and walkover survey was conducted on the 27th of April 2024. The same survey was completed and the fencing on the Island was inspected in detail.

2.3 Consultation

The following statutory bodies provided information via publicly available sources for this report:

- National Parks and Wildlife Service (NPWS).
- Environmental Protection Agency (EPA).
- National Biodiversity Data Centre (NBDC).

2.4 Appropriate Assessment Methodology

The preparation of this NIS for Appropriate Assessment follows the guidance published by DoEHLG (2010) '*Appropriate Assessment of Plans and Projects in Ireland. Guidance for Planning Authorities*'. According to these guidelines, assessing the impacts of a project or plan on a Natura 2000 site is a four staged approach, as described below:

- ***Stage One: Screening / Test of Significance*** - The process which identifies the likely impacts upon a Natura 2000 site of a project or plan, either alone or in combination with other projects or plans and considers whether these impacts are likely to be significant.
- ***Stage Two: Appropriate Assessment*** - The consideration of the impact of the project or plan on the integrity of the Natura 2000 site, either alone or in combination with other projects or

plans, with respect to the site's structure and function and its conservation objectives. Additionally, where there are adverse impacts, an assessment of the potential mitigation of those impacts.

- ***Stage Three: Assessment of Alternative Solutions*** - The process which examines alternative ways of achieving the objectives of the project or plan that avoid adverse impacts on the integrity of the Natura 2000 site; and
- ***Stage Four: Assessment Where Adverse Impacts Remain*** - An assessment of compensatory measures where, in the light of an assessment of Imperative Reasons of Overriding Public Interest (IROPI), it is deemed that the project or plan should proceed.

The safeguards set out in Article 6(3) and (4) of the Habitats Directive are triggered not by certainty but by the possibility of significant effects. Thus, in line with the precautionary principle, it is unacceptable to fail to undertake an appropriate assessment on the basis that it is not certain that there are significant effects.

A Natura Impact Statement (NIS) considers whether the plan or project, alone or in combination with other projects or plans, will have adverse effects on the integrity of a Natura 2000 site, and includes any mitigation measures necessary to avoid, reduce or offset negative effects. The current report is set out in the format of a NIS and comprises a scientific examination of the plan / project and the relevant Natura 2000 sites; to identify and characterize any possible implications for the site in view of the site's conservation objectives, structure and function, taking account of in combination effects. The requirements for Appropriate Assessment derive directly from Article 6(3) of the EU Habitats Directive (1992).

Direct and indirect impacts in isolation or in combination with other plans and projects on the identified Natura 2000 sites in view of the sites' conservation objectives have been examined. Case law of the European Court of Justice (ECJ) has established that Appropriate Assessment must be based on the best scientific knowledge in the field. These are the qualifying interests i.e., Annex I habitats, Annex I bird species (EU Birds Directive, incorporated into the EU Habitats Directive) and Annex II species hosted by a site and for which that site has been selected. The conservation objectives for Natura sites (SACs and SPAs) are determined under Article 4 of the Habitats Directive and are intended to ensure that the relevant qualifying interests i.e., Annex I habitats, Annex I bird species and Annex II species present within the designated sites are maintained in a favourable condition. The current assessment of the proposed development provides a description of the project and the receiving environment. The conservation objectives of the Natura 2000 site potentially affected by the proposal are listed and potential impacts outlined with respect to the integrity of the Natura 2000 site. Mitigation measures have been proposed for the protection of the conservation interests and the avoidance of impacts to Natura 2000 Sites occurring within the study area.

3. PROJECT DESCRIPTION

The current project is an application for Substitute Consent for Fencing at Fenit Island, Co Kerry. The fencing located along several ownership boundaries on the western, northern and eastern side of Fenit Island. It is understood that the fencing is historical and due to storm damage, was reinstated and repaired. The fencing includes various styles of fence, but is mostly post and rail electric fencing. However, small sections also include fence up to 2 metres high, including chain link fencing. The areas with higher fencing are located in areas of cliffs faces, where danger to livestock would be expected. In most areas, fencing covers natural boundaries of grassland and pastures for agriculture. In some areas, the fencing continues further to rocky outcrops.

The location of the subject fencing is shown in Figure 2.

Figure 2 Location of the Fencing on Fenit Island, Co. Kerry.

4. NATURA 2000 SITES AFFECTED

4.1 Introduction

The location of the development in the context of the Natura 2000 network is indicated in Figure 1 above. The Natura 2000 network is a network of nature protection areas across the European Union, comprising of Special Areas of Conservation (SAC's) and Special Protection Areas (SPA's). SACs are sites of international importance because of the presence of habitats or species that are of European importance, listed on the EU Habitats Directive (1992). SPAs are important for birds and these sites are designated based on the presence of internationally significant populations of bird species, listed in Annex I of the EU Birds Directive (2009). The SACs and SPAs within 15km of the development are considered in the current screening and are listed in Table 1.

The closest Natura 2000 Sites are the Akeragh, Banna and Barrow Harbour SAC and the Tralee Bay Complex SPA. The fencing is located within these designated sites. The Akeragh, Banna and Barrow Harbour SAC was legally designated in 2022 (S.I. No. 160 of 2022). The Tralee Bay Complex SPA was legally designated in 2019 (S.I. No. 175/2019).

A total of 9 other Natura 2000 sites are located within 15km of the subject project area. These are listed as follows:-

- Tralee Bay and Magharees Peninsula, West to Cloghane SAC (002070)
- Magharee Islands SAC (002261)
- Magharee Islands SPA (004125)
- Slieve Mish Mountains SAC (002185)
- Dingle Peninsula SPA (004153)
- Kerry Head SPA (004189)
- Mount Brandon SAC (000375)
- Lower River Shannon SAC (002165)
- Ballyseedy Wood SAC (002112)

These sites were all screened out by Ecofact (2022) and the current NIS only considers the Akeragh, Banna and Barrow Harbour SAC and the Tralee Bay Complex SPA. It is considered that due to the relatively small scale of the fencing development that that these sites are all protected by distance and there is no pathway for significant adverse effects. The location of all the Natura 2000 sites within 15km of the subject fencing is shown in Figure 1, and all the Natura sites within 15km of the project area along with their associated Qualifying Interests are given in Table 1. However, these 9 other sites will not be considered further in this NIS.

Table 1 Designated Natura 2000 Sites and associated Qualifying Interests within 15km of the development.

Natura 2000 Site	Qualifying Interests	Distance (km)
Akeragh, Banna and Barrow Harbour SAC (000332)	Annual vegetation of drift lines [1210]	0m (fencing within boundary)
	Salicornia and other annuals colonising mud and sand [1310]	
	Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) [1330]	
	Mediterranean salt meadows (*Juncetalia maritimi*) [1410]	
	Embryonic shifting dunes [2110]	
	Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes) [2120]	

Natura 2000 Site	Qualifying Interests	Distance (km)
	Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]	
	Humid dune slacks [2190]	
	European dry heaths [4030]	
Tralee Bay Complex SPA (004188)	Whooper Swan (*Cygnus cygnus*) [A038]	0m (fencing within boundary)
	Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]	
	Shelduck (*Tadorna tadorna*) [A048]	
	Wigeon (*Anas penelope*) [A050]	
	Teal (*Anas crecca*) [A052]	
	Mallard (*Anas platyrhynchos*) [A053]	
	Pintail (*Anas acuta*) [A054]	
	Scaup (*Aythya marila*) [A062]	
	Oystercatcher (*Haematopus ostralegus*) [A130]	
	Ringed Plover (*Charadrius hiaticula*) [A137]	
	Golden Plover (*Pluvialis apricaria*) [A140]	
	Grey Plover (*Pluvialis squatarola*) [A141]	
	Lapwing (*Vanellus vanellus*) [A142]	
	Sanderling (*Calidris alba*) [A144]	
	Dunlin (*Calidris alpina*) [A149]	
	Black-tailed Godwit (*Limosa limosa*) [A156]	
	Bar-tailed Godwit (*Limosa lapponica*) [A157]	
	Curlew (*Numenius arquata*) [A160]	
	Redshank (*Tringa totanus*) [A162]	
	Turnstone (*Arenaria interpres*) [A169]	
	Black-headed Gull (*Chroicocephalus ridibundus*) [A179]	
	Common Gull (*Larus canus*) [A182]	
	Wetland and Waterbirds [A999]	
Tralee Bay and Magharees Peninsula, West to Cloghane SAC (002070)	Estuaries [1130]	2.1km South-west
	Mudflats and sandflats not covered by seawater at low tide [1140]	
	Coastal lagoons [1150]	
	Large shallow inlets and bays [1160]	
	Reefs [1170]	
	Annual vegetation of drift lines [1210]	
	Perennial vegetation of stony banks [1220]	
	Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]	
	Salicornia and other annuals colonising mud and sand [1310]	
	Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) [1330]	
	Mediterranean salt meadows (*Juncetalia maritimi*) [1410]	
	Embryonic shifting dunes [2110]	
	Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes) [2120]	
	Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]	
	Dunes with *Salix repens* ssp. argentea (*Salicion arenariae*) [2170]	
	Humid dune slacks [2190]	
	Molinia meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*) [6410]	
	Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae, Salicion albae*) [91E0]	
	Lutra (Otter) [1355]	
	Petalophyllum ralfsii (Petalwort) [1395]	
Magharee Islands SAC (002261)	Reefs [1170]	3.6km North

Natura 2000 Site	Qualifying Interests	Distance (km)
Magharee Islands SPA (004125)	Storm Petrel (*Hydrobates pelagicus*) [A014]	4.2km North
	Shag (*Phalacrocorax aristotelis*) [A018]	
	Barnacle Goose (*Branta leucopsis*) [A045]	
	Common Gull (*Larus canus*) [A182]	
	Common Tern (*Sterna hirundo*) [A193]	
	Arctic Tern (*Sterna paradisaea*) [A194]	
	Little Tern (*Sterna albifrons*) [A195]	
Slieve Mish Mountains SAC (002185)	Northern Atlantic wet heaths with Erica tetralix [4010]	7km South
	European dry heaths [4030]	
	Alpine and Boreal heaths [4060]	
	Blanket bogs (* if active bog) [7130]	
	Siliceous scree of the montane to snow levels (*Androsacetalia alpinae* and *Galeopsietalia ladani*) [8110]	
	Calcareous rocky slopes with chasmophytic vegetation [8210]	
	Siliceous rocky slopes with chasmophytic vegetation [8220]	
	Trichomanes speciosum (Killarney Fern) [1421]	
Dingle Peninsula SPA (004153)	Fulmar (*Fulmarus glacialis*) [A009]	8.6km West
	Peregrine (*Falco peregrinus*) [A103]	
	Chough (*Pyrrhocorax pyrrhocorax*) [A346]	
Kerry Head SPA (004189)	Fulmar (*Fulmarus glacialis*) [A009]	9.9km North
	Chough (*Pyrrhocorax pyrrhocorax*) [A346]	
Mount Brandon SAC (000375)	Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]	10.6km South-west
	Oligotrophic waters containing very few minerals of sandy plains (*Littorelletalia uniflorae*) [3110]	
	Oligotrophic to mesotrophic standing waters with vegetation of the *Littorelletea uniflorae* and/or *Isoeto-Nanojuncetea* [3130]	
	Northern Atlantic wet heaths with Erica tetralix [4010]	
	European dry heaths [4030]	
	Alpine and Boreal heaths [4060]	
	Species-rich *Nardus* grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]	
	Blanket bogs (* if active bog) [7130]	
	Siliceous scree of the montane to snow levels (*Androsacetalia alpinae* and *Galeopsietalia ladani*) [8110]	
	Calcareous rocky slopes with chasmophytic vegetation [8210]	
	Siliceous rocky slopes with chasmophytic vegetation [8220]	
	Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]	
	Trichomanes speciosum (Killarney Fern) [1421]	
Lower River Shannon SAC (002165)	Sandbanks which are slightly covered by sea water all the time [1110]	12.7km North
	Estuaries [1130]	
	Mudflats and sandflats not covered by seawater at low tide [1140]	
	Coastal lagoons [1150]	
	Large shallow inlets and bays [1160]	
	Reefs [1170]	
	Perennial vegetation of stony banks [1220]	
	Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]	
	Salicornia and other annuals colonising mud and sand [1310]	
	Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) [1330]	
	Mediterranean salt meadows (*Juncetalia maritimi*) [1410]	
	Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitricho-Batrachion* vegetation [3260]	

Natura 2000 Site	Qualifying Interests	Distance (km)
	Molinia meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae)* [6410]	
	Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion, Alnion incanae, Salicion albae*) [91E0]	
	Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]	
	Petromyzon marinus (Sea Lamprey) [1095]	
	Lampetra planeri (Brook Lamprey) [1096]	
	Lampetra fluviatilis (River Lamprey) [1099]	
	Salmo salar (Salmon) [1106]	
	Tursiops truncatus (Common Bottlenose Dolphin) [1349]	
	Lutra lutra (Otter) [1355]	
Ballyseedy Wood SAC (002112)	Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion, Alnion incanae, Salicion albae)* [91E0]	14.3km South-east

4.2 Akeragh, Banna and Barrow Harbour SAC

4.2.1 Introduction

Akeragh, Banna and Barrow Harbour SAC encompasses a substantial coastal area spanning a 10 km stretch of Co. Kerry's coastline, boasting a diverse array of habitats. The underlying geological composition primarily consists of limestone, predominantly present in the southern section, notably evident in the striking columns and hillsides north of Fenit. Other areas feature shell sand, occasionally transitioning into peat development.

The site is a Special Area of Conservation (SAC) selected for the following habitats listed on Annex I of the E.U. Habitats Directive (* = priority; numbers in brackets are Natura 2000 codes):

- [1210] Annual Vegetation of Drift Lines
- [1310] Salicornia Mud
- [1330] Atlantic Salt Meadows
- [1410] Mediterranean Salt Meadows
- [2110] Embryonic Shifting Dunes
- [2120] Marram Dunes (White Dunes)
- [2130] Fixed Dunes (Grey Dunes)*
- [2190] Humid Dune Slacks
- [4030] Dry Heath

Sand dunes are prominent, particularly noteworthy south of the Akeragh outflow, showcasing a remarkable diversity in physiography and vegetation. Predominantly consisting of fixed dune grassland, the vegetation comprises a mosaic of Marram tussocks interspersed with patches of Red Fescue-Lady's Bedstraw community. Other notable species include Smooth Meadow-grass, Daisy, Ribwort Plantain, and Bulbous Buttercup. Moss species are sparsely distributed, mainly in areas near rabbit burrows, often associated with Germander Speedwell, Squinancywort, and Dog Lichen. Several species typical of Mesobromion grasslands are also found, such as Pyramidal Orchid, Thyme-leaved Sandwort, and Hairy Rock-cress. Dodder, a parasitic plant, thrives on the fixed dune slopes at Carrahane.

Mobile Marram dunes form a narrow band along the seaward side of the coastal strip, with increasing mobility towards Carrahane. Main ridges dominated by Marram reach heights exceeding 20 meters,

accompanied by companion species like Sea Spurge, Colt's-foot, Sea-holly, and Sand Sedge. Embryonic dunes host species such as Sand Couch and Sea Rocket. Dune slack areas, particularly well-developed near Carrahane dunes, harbour species like Common Bent, Red Clover, Glaucous Sedge, Water Mint, Creeping Willow, and the rare Marsh Helleborine.

A significant ecological feature is the transition from fixed dune and dune slack to saltmarsh at Carrahane, with well-developed saltmarsh also present at Barrow Harbour. Common saltmarsh species include Thrift, Red Fescue, Sea Plantain, Saltmarsh Rush, and Sea Rush, with scarce species like Hard-grass, Saltmarsh Flat-sedge, Strawberry Clover, and sea-lavender. Glassworts extend onto intertidal muds and edges of the saltmarsh.

The harbour's surroundings feature low limestone hills supporting an intriguing grassland community. Coastal heath occurs sporadically on limestone rocky areas in the southern part, often alongside dry grassland, hosting species like Gorse, Burnet Rose, Blackthorn, Biting Stonecrop, Black Medick, Common Whitlowgrass, Kidney Vetch, and Wild Madder.

Akeragh Lough hosts extensive areas of brackish vegetation, formerly richer in birdlife until modifications like sluice control and afforestation altered the landscape. Nonetheless, the site supports significant wintering waterfowl populations, notably Brent Goose, Ringed Plover, Grey Plover, Lapwing, Sanderling, and Bar-tailed Godwit, among others, some of which are listed on Annex I of the E.U. Birds Directive.

This expansive site holds considerable ecological significance due to its diverse range of floristically rich coastal habitats, including nine listed on Annex I of the E.U. Habitats Directive, and its role as a wintering site for substantial waterfowl populations, including two Annex I species.

4.2.2 Conservation Objective Mapping

The Annual Vegetation of Drift Lines habitat is mapped in Map 4 of the conservation objectives (NPWS, 2017). This map shows this habitat c. 2.1km north-east of the fencing development.

The Salicornia Mud habitat is noted in the conservation objectives to have an unknown extent within this SAC (NPWS, 2017). The conservation objectives supporting document includes the Saltmarsh Monitoring Project (2009). This monitoring project included the Akeragh, Banna and Barrow Harbour SAC and a site in Ballyheige bay c. 3.7km from the development site, but this did not include the Salicornia mud habitat. Habitat is noted to occur in the SAC but no locations are provided.

The Atlantic salt meadows habitat is mapped in Map 3 of the conservation objectives (NPWS, 2017). This map shows this habitat on the southern side of Fenit Island and therefore is located c. 1.3km south of the fencing development. Mediterranean salt meadows is mapped in Map 3 of the conservation objectives (NPWS, 2017). This map shows this habitat c. 2.6km north-east of the fencing development. The Embyronic shifting dunes habitat is mapped in Map 4 of the conservation objectives (NPWS, 2017). This map shows this habitat c. 2.1km north-east of the fencing development.

The Marram dunes (white dunes) habitat is mapped in Map 4 of the conservation objectives (NPWS, 2017). This map shows this habitat c. 2.1km north-east of the fencing development. The Fixed dunes (grey dunes)* habitat is mapped in Map 4 of the conservation objectives (NPWS, 2017). This map shows this habitat c. 2.1km north-east of the fencing development. The Humid dune slacks habitat is mapped in Map 4 of the conservation objectives (NPWS, 2017). This map shows this habitat c. 3.8km north-east of the fencing development.

The Dry heath habitat is not mapped in the conservation objectives document for the SAC; therefore the total area is unknown. It is noted in the conservation objectives to occur scattered on limestone areas in the southern part of the SAC and occurs in association with dry grassland. Using the ESM webtool, this shows Dry Heath habitat mapped from NPWS around the boundary of Fenit Island. This is described to be the Annex I European Dry Heath habitat [4030], and is shown to be located in areas of the fencing development. The conservation objectives also note that Dry Heath is found on limestone areas in the southern part of the SAC (NPWS, 2017).

No Annex I habitats are present in the area of the fencing. It was thought that there was one patch of degraded and fragmented Dry Heath habitat not meeting the criteria for an Annex I habitat present when the site was visited in March 2022 (Ecofact, 2022). However, this survey was completed too early in the growing season and the April 2024 field surveys ruled out the presence of this habitat.

4.3 Tralee Bay Complex SPA

4.3.1 Introduction

The Tralee Bay Complex SPA spans the coastal area of north Co. Kerry, from Ballyheige in the north to Tralee in the east and Stradbally in the west. Encompassing the inner part of Tralee Bay, Derrymore Island, Barrow Harbour, Carrahane Strand, Akeragh Lough, Lough Gill, and a significant portion of intertidal habitat, it offers diverse ecological features.

The Qualifying Interests of this SPA are as follows:-

- Whooper Swan (Cygnus cygnus) [A038]
- Light-bellied Brent Goose (Branta bernicla hrota) [A046]
- Shelduck (Tadorna tadorna) [A048]
- Wigeon (Anas penelope) [A050]
- Teal (Anas crecca) [A052]
- Mallard (Anas platyrhynchos) [A053]
- Pintail (Anas acuta) [A054]
- Scaup (Aythya marila) [A062]
- Oystercatcher (Haematopus ostralegus) [A130]
- Ringed Plover (Charadrius hiaticula) [A137]
- Golden Plover (Pluvialis apricaria) [A140]
- Grey Plover (Pluvialis squatarola) [A141]
- Lapwing (Vanellus vanellus) [A142]
- Sanderling (Calidris alba) [A144]
- Dunlin (Calidris alpina) [A149]
- Black-tailed Godwit (Limosa limosa) [A156]
- Bar-tailed Godwit (Limosa lapponica) [A157]
- Curlew (Numenius arquata) [A160]
- Redshank (Tringa totanus) [A162]
- Turnstone (Arenaria interpres) [A169]
- Black-headed Gull (Chroicocephalus ridibundus) [A179]
- Common Gull (Larus canus) [A182]
- Wetland and Waterbirds [A999]

Inner Tralee Bay benefits from sheltering by the Derrymore Island peninsula, with intertidal sediments ranging from muddy sands to firm rippled sands, hosting a diverse macro-invertebrate fauna and extensive beds of Eelgrass.

Designated as a Special Protection Area (SPA) under the E.U. Birds Directive, it holds significance for various bird species, including Whooper Swan, Light-bellied Brent Goose, and a range of others, totaling over 20,000 wintering waterbirds. Notably, Tralee Bay Complex SPA supports internationally important populations of Light bellied Brent Goose and other species of national importance.

Recognized as an internationally important wetland, Tralee Bay Complex SPA is of high ornithological importance, with several species listed on Annex I of the E.U. Birds Directive. It is also a Ramsar Convention site, with parts designated as Nature Reserves and Lough Gill designated as a Wildfowl Sanctuary.

4.3.2 Conservation Objective Mapping

The only habitat for which this SPA is designated is the Wetland and Waterbirds habitat that the bird species utilise in the SPA. This habitat shares a similar boundary with that of the SPA, in that bird species may utilise all these areas.

The bird species in the Tralee Bay Complex SPA are protected using the ecological characteristics and distributions informed by the supporting documents for the SPA. These supporting documents examine waterbird distributions recorded during the 2009/10 waterbird survey programme (NPWS, 2014b).

Whooper Swan (*Cygnus cygnus*) are shown in the dot density diagrams for the 2009/10 waterbird surveys to both forage and roost c. 10km west of the fencing at Fenit Island (NPWS, 2014b). Light-bellied Brent Goose (*Branta bernicla hrota*) are shown in the dot density diagrams for the 2009/10 waterbird surveys to roost c. 1.2km south of the fencing at Fenit Island (NPWS, 2014b). Shelduck (*Tadorna tadorna*) are shown in the dot density diagrams for the 2009/10 waterbird surveys to roost in very small numbers c. 1.2km south of the fencing at Fenit Island (NPWS, 2014b).

Wigeon (*Anas penelope*) are shown in the dot density diagrams for the 2009/10 waterbird surveys to both forage and roost in small numbers c. 600m south-west of the fencing at Fenit Island (NPWS, 2014b). Teal (*Anas crecca*) are shown in the dot density diagrams for the 2009/10 waterbird surveys to both forage and roost c. 600m south-west of the fencing at Fenit Island (NPWS, 2014b). Mallard (*Anas platyrhynchos*) are shown in the dot density diagrams for the 2009/10 waterbird surveys to forage c. 600m south-west of the fencing at Fenit Island (NPWS, 2014b). Pintail (*Anas acuta*) are shown in the dot density diagrams for the 2009/10 waterbird surveys to both forage and roost c. 7km south-west of the fencing at Fenit Island (NPWS, 2014b).

Scaup (*Aythya marila*) are shown in the dot density diagrams for the 2009/10 waterbird surveys to both forage and roost c. 7km south-west of the fencing at Fenit Island (NPWS, 2014b). Oystercatcher (*Haematopus ostralegus*) are shown in the dot density diagrams for the 2009/10 waterbird surveys to forage and roost c. 1.2km south of the fencing at Fenit Island (NPWS, 2014b).

Ringed Plover (*Charadrius hiaticula*) are shown in the dot density diagrams for the 2009/10 waterbird surveys to both forage and roost in small numbers c. 1.2km south of the fencing at Fenit Island (NPWS, 2014b). Golden Plover (*Pluvialis apricaria*) are shown in the dot density diagrams for the 2009/10 waterbird surveys to roost c. 1.2km south of the fencing at Fenit Island (NPWS, 2014b). Grey Plover

(*Pluvialis squatarola*) are shown in the dot density diagrams for the 2009/10 waterbird surveys to both forage and roost c. 1.2km south of the fencing at Fenit Island (NPWS, 2014b).

Lapwing (*Vanellus vanellus*) are shown in the dot density diagrams for the 2009/10 waterbird surveys to both forage and roost c. 7km south-west of the fencing at Fenit Island (NPWS, 2014b).

Sanderling (*Calidris alba*) are shown in the dot density diagrams for the 2009/10 waterbird surveys to both forage and roost c. 1.2km south of the fencing at Fenit Island (NPWS, 2014b). Dunlin (*Calidris alpina*) are shown in the dot density diagrams for the 2009/10 waterbird surveys to forage c. 1.2km south of the fencing at Fenit Island (NPWS, 2014b).

Black-tailed Godwit (*Limosa limosa*) are shown in the dot density diagrams for the 2009/10 waterbird surveys to both forage and roost c. 7km south-west of the fencing at Fenit Island (NPWS, 2014b). Bar-tailed Godwit (*Limosa lapponica*) are shown in the dot density diagrams for the 2009/10 waterbird surveys to forage c. 1.2km south of the fencing at Fenit Island (NPWS, 2014b).

Curlew (*Numenius arquata*) are shown in the dot density diagrams for the 2009/10 waterbird surveys to forage c. 1.2km south of the fencing at Fenit Island (NPWS, 2014b). Redshank (*Tringa totanus*) are shown in the dot density diagrams for the 2009/10 waterbird surveys to forage c. 1.2km south of the fencing at Fenit Island (NPWS, 2014b).

Turnstone (*Arenaria interpres*) are shown in the dot density diagrams for the 2009/10 waterbird surveys to forage c. 1.2km south of the fencing at Fenit Island (NPWS, 2014b).

Black-headed Gull (*Chroicocephalus ridibundus*) are shown in the dot density diagrams for the 2009/10 waterbird surveys to both forage and roost c. 1.2km south of the fencing at Fenit Island (NPWS, 2014b). Common Gull (*Larus canus*) are shown in the dot density diagrams for the 2009/10 waterbird surveys to both forage and roost c. 1.2km south of the fencing at Fenit Island (NPWS, 2014b).

4.3.3 Site surveys (2022-24)

Fenit Island and locations of the fencing were visited on the 25th of March 2022. The length of fencing was walked and environs were inspected for evidence of ecological features of high conservation concern, such as those flora and fauna that occur in the closest Natura 2000 sites. A repeat visit and walkover survey was conducted on the 27th of April 2024. The same survey was completed and the fencing on the Island was inspected in detail.

The current project relates to existing fencing located along several ownership boundaries on the western, northern and eastern side of Fenit Island. It is understood that the fencing is historical and due to storm damage, was reinstated and repaired. The fencing includes various styles of fence, but is mostly post and rail electric fencing. However, small sections also include fence up to 2 metres high, including chain link fencing. The areas with higher fencing are located in areas of cliffs faces, where danger to livestock would be expected. In most areas, fencing covers natural boundaries of grassland and pastures for agriculture. In some areas, the fencing continues further to rocky outcrops. The fencing had deteriorated in condition between the 2022 and 2024 surveys and was indistinguishable from the other fencing on the island. There is a lot of fencing on the island and there are also flood walls, stone walls, roads, gates, cattle feeding troughs, farm buildings, dwellings, and Fenit castle. It's a highly modified site – and most of the ecological degradation is obviously very historical. It would have been difficult to identify the subject fencing without the use of GIS mapping.

During the site visits, it was noted that the north-western areas of fencing are located on dry grassland at the edge of field boundaries, behind some flood wall defenses in parts. Continuing north, the fencing is located on some sections of shingle and stone rubble that was once a dry-stone wall, that had collapsed in years passed during storm events on the island. In the north, the elevation increases and there are areas of rocky outcrop. The fencing stops here and there is a wide-open space. The field boundary in this area is set back from the rocks. Further east, the fencing starts again near an isolated beach, where elevation is also high in parts. The fencing up until this point is an electric post and rail fence and is just over 1 metre high. Continuing east, the nest areas of fencing are higher, and comprise the chain link fence sections. It is expected these areas will be higher and more robust as there is a sharp drop passed this point and is expected to protect livestock from the cliffs. Further east, the fencing then comprises electric post and rail again. The habitats in this area are also dry grassland. No Annex I habitats are present in the area of the fencing. It was thought that there was one patch of degraded and fragmented Dry Heath habitat not meeting the criteria for an Annex I habitat present when the site was visited in March 2022 (Ecofact, 2022). However, this survey was completed too early in the growing season and the April 2024 field surveys ruled out the presence of this habitat.

Bird species recorded on the site near fencing and include Chough *Pyrrhocorax pyrrhocorax*. This species is listed under Annex I of the EU Birds Directive and was recorded on both visits. This species is thought to be breeding on the Island but the nest site was not found. Choughs were not recorded on Fenit castle – where Ravens *Corvus corax* are nesting. A pair of Choughs gathering nest material were recorded in March 2022, and at least two individuals were recorded during the April 2024 walkover survey.

Significant numbers (200+) of passage Whimbrel *Numenius phaeopus* were on the Island, including in the vicinity of the fencing, during the April 2024 visit. There were also a significant number of Bar-tailed Godwit *Limosa lapponica* present (50+) near the fencing during the 2024 visit. This species is a Qualifying Interest of the SPA. The Godwits were present in fields near the fencing on the west side of the Island, and also on the beach near Fenit castle. Wheatears *Oenanthe Oenanthe* were also regularly encountered during the April 2024 walkover survey. The Bar-tailed Godwits were in fields and on the adjoining rocky shore near the fencing on the west side of the island.

Linnet *Linaria cannabina*, Skylark *Alauda arvensis,* Meadow pipit *Anthus pratensis*, Rock Pipit *Anthus petrosus*, Blue tit *Cyanistes caeruleus*, Stonechat *Saxicola torquate,* Wren *Troglodytes troglodytes,* and Rock Dove *Columba livia* were also common species recorded during both the 2022 and 2024 surveys.

Other bird species recorded in adjacent marine areas included: Great Northern Diver *Gavia immer*, Light-bellied Brent Geese *Branta bernicla hrota*, Cormorant *Phalacrocorax carbo*, Shag *Phalacrocorax aristotelis*, Lesser Black-backed Gull *Larus fuscus*, Common Gull *Larus canus*, Black-headed Gull *Larus ridibundus*, Herring Gull *Larus argentatus,* Grey Heron *Ardea cinerea,* and Oystercatcher *Haematopus ostralegus*.

Numerous Rabbits *Oryctolagus cuniculus* were present areas near the fencing, with many dwellings present. There was evidence of Badger *Meles meles* activity recorded also, but no dwellings were identified.

No non-native invasive plant species were recorded during the surveys completed in March 2022 and April 2024.

5. IMPACT ASSESSMENT

5.1 Introduction

At Stage 2 Appropriate Assessment (i.e. NIS stage), the impact of the proposed project / plan on the integrity of a Natura 2000 site is considered with respect to the Conservation Objectives. Integrity is defined as: '*the coherence of the site's ecological structure and function, across its whole area, or the habitats, complex of habitats and/or populations of species for which the site is or will be classified*'. Therefore, the integrity of a site is principally related to the structure and function of the site with regard to its Annex I habitats and Annex II species listed as Qualifying Interests. The conservation status of these qualifying interests comprises the primary conservation objectives for all designated Natura 2000 sites. Mitigation to offset potential negative impacts can also be provided at this stage.

The current Natura Impact Statement considers the impacts on the Akeragh, Banna and Barrow Harbour SAC and the Tralee Bay Complex SPA. This Natura Impact Statement presents the data and information on the project and provides an analysis of the potential adverse effects on the aforementioned EU designated sites. Potential adverse effects are assessed in view of best scientific knowledge, on the basis of objective information in relation to the Proposed Development. Avoidance, reduction and preventive measures are then provided. This NIS provides a review of the site-specific pressures and threats as well as the potential impacts pathways for each of the affected EU Designated Sites. Mitigation measures for the avoidance of impact are then provided in Section 6, followed by an assessment of potential effect, post implementation of the mitigation measures in Section 7.

Potential cumulative impacts or effects are also fully examined in Section 4.2.3 for the Akeragh, Banna and Barrow Harbour SAC, and in Section 5.3.3 for the Tralee Bay Complex SPA. Cumulative impacts are changes in the environment that result from numerous human-induced, small-scale alterations. Cumulative impacts can be thought of as occurring through two main pathways: first, through persistent additions or losses of the same materials or resource, and second, through the compounding effects as a result of the coming together of two or more effects (Bowers-Marriott, 1997).

Ecofact (2022) report concluded that a Natura Impact Statement was not required for the fencing development at Fenit Island, Co. Kerry. This decision was based on several factors, including the preexistence of fencing, its replacement of previous fencing, its localization, small scale, and its alignment with the extensive historic fencing present all over the island.

The current NIS was prepared at the request of the landowners and now includes proposed maintenance of the fencing. Additionally, the NIS allows for the recommendation of other general biodiversity and best practice measures. However, these measures are not deemed necessary to protect the integrity of any Natura 2000 site.

5.5.1 General potential impacts of agricultural fencing

A specific desk study was also completed on the general potential impacts of agricultural fencing. No specific Irish studies were found, and indeed the topic has received relatively little research interest Internationally. Two recent international reviews have been completed by McInturff *et al*, (2020) and Jakes *et al* (2018). However, despite the paucity of specific studies it is clear that the ecological impacts of introducing agricultural fencing at the interface between marine foreshore habitats and grazing areas are well-established within the field of ecology and environmental science. These conclusions are drawn from widely recognized principles in ecology, supported by numerous studies and scientific literature on habitat fragmentation, grazing management, coastal ecology, and wildlife conservation.

The desk study concluded that introducing agricultural fencing at the interface between marine foreshore habitats and grazing areas for cattle could potentially have several negative ecological impacts. These include the following:-

- **Habitat Fragmentation:** Fencing can fragment habitats, disrupting the movement of wildlife between different areas and leading to isolation of populations, reducing genetic diversity, and increasing the vulnerability of species to extinction.
- **Alteration of Grazing Patterns:** Fencing may alter the grazing patterns of cattle, potentially leading to overgrazing in certain areas and underutilization of others. This can impact the diversity and composition of plant communities, affecting species dependent on those plants for food and shelter.
- **Barrier to Wildlife:** Fencing can act as a barrier to the movement of wildlife, particularly species that rely on both terrestrial and marine habitats. It could impede access to feeding grounds or disrupt migratory routes, affecting the distribution and abundance of species.
- **Water Flow Changes:** Depending on the design and placement of the fencing, it could alter water flow patterns along the foreshore, potentially leading to erosion or sedimentation issues. Changes in water flow can impact the distribution of aquatic species and the overall health of marine ecosystems.
- **Soil Erosion and Stability:** The installation of fencing could destabilize soils, particularly in coastal areas, leading to erosion of coastal soils. This erosion can have cascading effects on shoreline stability, habitat integrity, and water quality, impacting marine ecosystems.
- **Introduction of Invasive Species:** Fencing construction and maintenance activities could introduce or spread invasive plant species, particularly if machinery or materials are transported from other areas, affecting native plant communities and ecosystem function.
- **Water Quality Impacts:** Improperly managed fencing materials, such as plastics or treated wood, can leach harmful chemicals into the environment, impacting water quality and potentially harming aquatic organisms. Additionally, changes in land use patterns associated with fencing can lead to increased nutrient runoff and sedimentation, further degrading water quality., altering the aesthetic appeal of the area for both residents and visitors.

To mitigate these potential impacts it is widely appreciated that careful planning and management practices should be employed. This could include strategic placement of fencing to minimize habitat fragmentation, incorporating wildlife-friendly designs that allow for the movement of animals, and implementing measures to prevent erosion and pollution. Additionally, ongoing monitoring and adaptive management are essential to assess the effectiveness of mitigation efforts and address any unforeseen ecological consequences.

It is also noted that fences are also widely used as a tool for ecological restoration, and there are also some widely known positive effects of fencing. Throughout the world, land managers and restoration ecologists have successfully employed fences to protect and rehabilitate fragile habitats, especially from the impacts of livestock and invasive species (e.g. Spooner *et al.* 2002, Denmead *et al.* 2015).

McInturff *et al*, (2020) stated that "*fences therefore have the ability to both benefit and harm the ecosystems in which they occur, making the absence of systematic studies of their ecological effects all the more glaring*".

5.2 Akeragh, Banna and Barrow Harbour SAC

5.2.1 Potential direct impacts

5.2.1.1 Construction Phase

The fencing development at Fenit island is already there but it is not considered to have resulted in any significant effects that could have affected the qualifying interests of the Akeragh, Banna and Barrow Harbour SAC. Eight of the nine qualifying habitats in this SAC are located more than 1.2km from the fencing development footprint. A full distribution map for Dry Heath habitat is not provided in the Conservation Objectives for the SAC. However, the Conservation Objectives note that this habitat occurs on limestone areas to the south of the SAC. The fencing development is at the most northern extent of the SAC. The ESM online mapping tool does show Dry Heath habitat along the boundary of Fenit Island. However, no intact Dry Heath habitat corresponding to the Annex I habitat criteria is present.

No Annex I habitats are present in the area of the fencing. It was thought that there was one patch of degraded and fragmented Dry Heath habitat not meeting the criteria for an Annex I habitat present when the site was visited in March 2022 (Ecofact, 2022). However, this survey was completed too early in the growing season and the April 2024 field surveys ruled out the presence of this habitat.

During the site visit, it was found that most of the habitats where the fencing is located are dry grassland habitats, merging into rocky outcrops. There are some small areas of shingle and rubble from fallen stone walls, blown over in previous storms.

The fencing present is known to be historic on the island. It is understood that the fencing was damaged in a storm a few years ago and was repaired. The majority of the fencing is electric post and rail fencing, with some areas near elevated cliffs comprising 2-metre-high chain link fences also. The majority of this is considered to be small scale in comparison with other fencing on the Island. Due to the habitats found during the survey, and the minimal footprint of fencing and its historic nature, there is rally no potential for direct significant effects. No pathways for significant impacts have been identified. At most, the repairs of the fencing may result in a *de minimis* effect as it is in the SAC/SPA. The effect of subject fencing would be considered to be below the threshold of a significant effect on the qualifying interests of the Akeragh, Banna and Barrow Harbour SAC.

5.2.1.2 Operational Phase

As described above, the fencing at Fenit island has been there for >10 years. Eight of the nine qualifying habitats in this SAC are located more than 1.2km from the fencing development footprint. The remainder of these habitats – Dry Heath – does not have a full distribution map in the conservation objectives for the SAC. No Annex I habitats are present in the area of the fencing. It was thought that there was one patch of degraded and fragmented Dry Heath habitat not meeting the criteria for an Annex I habitat present when the site was visited in March 2022 (Ecofact, 2022). However, this survey was completed too early in the growing season and the April 2024 field surveys ruled out the presence of this habitat.

The operational phase of the fencing at most comprises some maintenance into the future. Due to the size of the fencing present, the fact the majority is electric post and rail fencing, no significant direct impacts are considered likely to arise. There are no potential pathways for significant effects on the qualifying habitats of this SAC, most of which are at a distance from the site. No potential pathways for

significant effects from the operational phase of the fencing on the qualifying interests of the SAC have been identified.

5.2.2 Potential indirect impacts

5.2.2.1 Construction Phase

The fencing development does not have any pathway for significant indirect effects on the qualifying habitats of this SAC. For the construction phase of the fencing, the only activity outside of the direct footprint would be the access into the areas where fencing has been erected. There is a well-known access route into the island used by residents and landowners. This comprises the upper zone of the beach where it is known as 'Island Road', where vehicles drive to gain access to the island. This then merges with a road built by Kerry County Council on top of rock armouring. After this, the access through the island ranges from small access roads and gates through private land, or routes used by agricultural machinery through fields. There is no access which would be expected to come into contact with qualifying habitats of this SAC. Eight of the nine qualifying habitats are located c. 1.2km from the fencing development and there are no pathways identified between the location of the fencing and these protected habitats. At most, this would be considered a *de minimis* effect relating to disturbance on degraded potential habitat, and the construction of the fencing would be considered to be below the threshold of a significant effect on the qualifying interests of the Akeragh, Banna and Barrow Harbour SAC. It is further noted that no invasive species were recorded along the fencing development during the current survey. Thus, there is no evidence to suggest that invasive species were introduced during the construction phase of the development.

5.2.2.2 Operational Phase

As previously noted, the operational phase of the fencing development would at most comprise maintenance of the fencing into the future. This activity would be expected to be carried out via the existing access route into the island to the locations of the fencing. There are no activities that would result in a significant indirect impact on the qualifying interests of this SAC. Again, eight of the nine qualifying habitats are located c. 1.2km from the fencing development and there are no pathways identified between the location of the fencing and these protected habitats. Many of these habitats are sand dune and saltmarsh habitats, found beyond the foreshore line. Maintenance of the fencing would not result in any significant impacts on these habitats at this distance, and taking into account the minor nature of the fencing in the context of the SAC. No potential pathways for significant effects during the operational phase have been identified.

5.2.3 Potential cumulative impacts

The standard data Natura 2000 form for the Akeragh, Banna and Barrow Harbour SAC lists the threats and pressures currently affecting this Natura 2000 site (NPWS, 2018). The following are listed as having a high impact on the site: Golf course, walking, horse-riding and non-motorised vehicles, camping and caravans. The following are listed as having a medium impact on the SAC: removal of beach materials and grazing (NPWS, 2018).

The fencing development at Fenit Island serves for the protection of livestock and securing of lands on the island as they are in private ownership. In many places the fences are located along field boundaries, but some do extend out to rocky outcrops, especially to the north of the site. The higher chain link fencing is present near dangerous outcrops with some cliffs below. Although the purpose of the fencing is primarily for agriculture, the land was historically used for livestock and field boundaries

are still present in some areas as dry-stone walls. Some of these walls are existing still and some have been damaged by storms. While grazing is listed as having a medium impact on the SAC as noted in the Natura 2000 form, grazing is expected to continue regardless of the fencing development on Fenit island. The fencing development is not expected to increase the grazing on the island or result in a change in grazing activity already present. As there will be no change expected no pathways for cumulative impacts relating to grazing are identified.

Other impacts on the SAC, such as walking, horse riding and non motorised vehicles, camping and caravans were observed during the site visit to the south of Fenit island, on the beach. Disturbance is noted to be evident here with loose dogs, walkers, horse riding and these activities are ongoing. It is understood that the fencing has been in place for some time and Fenit Island itself on the day of the site visit was noted to be quiet with little disturbance or people present, likely due to the difficulties of access due to the fencing and private lands. It must be outlined that the fencing may result in a reduction of disturbance impacts to these areas of the SAC. However, it is outlined that the designated habitats are located c. 1.2km from Fenit Island in general.

Relating to other developments in the area, there are flood defences in many parts throughout the island, present as flood walls and rock armouring. No NIS appears to have been completed for these developments. The Tralee to Fenit Greenway, for which a Screening for Appropriate Assessment was carried out by Kerry County Council in 2018, is c. 11km in length, 3-4m wide and runs close to the R558 road from Tralee to Fenit. This development is located adjacent to the Tralee Bay and Magharees Peninsula, West to Cloghane SAC and the Tralee Bay Complex SPA. The conclusion of the screening report was such that no NIS was required and no potential for significant effects was identified (Kerry County Council, 2018). The Screening, however, does identify pathways for impacts, including hydrological pathways due to stream crossings, and includes mitigation. Mitigation cannot be taken into account during a Screening for Appropriate Assessment as per case C-323/17. Fenit Wastewater Treatment plant (D0284-01) is overloaded, non-compliant with its discharge licence and discharges into Tralee Bay into the Akeragh, Banna and Barrow Harbour SAC and no NIS has been completed. In the EPA documents, the AA Screening determination originally states on the 15th of August 2014 that a Natura Impact Statement is required for the plant. However, no NIS is present in the EPA files. These developments would be argued to be on a much larger scale and capable of varied adverse effects, but no NIS has been completed for them. For context, the small-scale historical fencing on Fenit island is very minor in the context of existing and planned developments for the area.

5.3 Tralee Bay Complex SPA

5.3.1 Potential direct impacts

5.3.1.1 Construction Phase

One section of fencing, to the east, is located within the boundary of the Tralee Bay Complex SPA. These sections are c. 500m in total. This area of fencing is not located within the Wetland and Waterbirds habitat that is utilised by the bird species in the SPA and is above the foreshore.

Bar-tailed Godwit (Limosa lapponica) [A157]

The key habitats for the bird species designated in the SPA are not within the fencing development, according to the Conservation Objectives supporting document. During the April 2023 survey Bar-tailed Godwits (*Limosa lapponica*) [A157] were recorded in the vicinity of the fencing. Other notable bird species not designated within the SPA (e.g. Chough, Whimbrel, Wheatear) were also recorded in the

vicinity of – and indeed on – the fencing. The fencing is thought to actually have a neutral to positive effect on birds. The disturbance recorded south of the Island, relating to loose dogs, walking, horse-riding, and other activities, was not present on Fenit Island during the site visits. This is because access to the island is restricted by fencing. This is having a positive impact in relation to birds associated with the SPA by reducing disturbance on the island.

It is acknowledged that some disturbance of birds could have occurred when the fencing was being installed. However, this would have been very minor disturbance and would be consistent with ongoing agricultural activities on the island. Compared to the relentless disturbance in the SPA to the south would be considered to be very minor in the context of this SPA. The bird species also don't depend on any particular area therefore no significant direct construction phase impacts are considered likely.

The fencing present in the SPA is mostly electric post and rail and construction activities would have been very minor and short-term. At most, this would be considered a *de minimis* disturbance impact on any bird species passing through the area during construction. It is considered that contractors or machinery required would have been very minor and not above any existing agricultural machinery that is frequently operated on the island. No pathway for significant effects on the qualifying interests of the SPA has been identified.

5.3.1.2 Operational Phase

The operational phase of the fencing at most comprises some maintenance into the future. The maintenance of the fencing development would be very minor in nature, and would not be expected to result in any significant disturbance to birds that may be passing through the area. Maintenance activities with noise and human activity would not be expected to be more than the usual use of agricultural machinery on Fenit island. Furthermore, it would be short-term in nature due to the minor extent of the fencing. At most, this would be considered to be a *de minimis* effect on any birds in the SPA that may pass through this area of Fenit Island. No potential pathways for significant effects from the operational phase of the fencing on the qualifying interests of the SPA have been identified.

5.3.2 Potential indirect impacts

5.3.2.1 Construction Phase

The fencing is located above the foreshore and thus above the are of Wetland and Waterbirds habitat designated in the SPA. Although the fencing is located above this area, there is a pathway for *de minimis* effects at most. Run-off from the erection / repair of fencing may run-off into foreshore areas, although this is very unlikely. Due to the historical nature of this fencing, and the small scale of the post and rail fencing within the SPA boundary to the east, there is really no potential for significant effects to have arisen. No evidence of adverse impacts were noted during the site visit. It is considered that post and rail fencing in this location is very minor in the context of the SPA; no significant indirect impacts would arise. Furthermore, no invasive species were recorded during the site visit and there is no evidence to suggest invasive species were introduced as a result of the repair / erection of fencing.

Furthermore, disturbance and human activity would not be above that normally experienced on the island due to agricultural machinery. At most, disturbance impacts would be considered to be a *de minimis* effect; no significant effects would be expected.

5.3.2.2 Operational Phase

The operational phase of the fencing development would at most comprise maintenance activities. It is likely that these maintenance activities would utilise the existing access route into the island. It is not anticipated that these activities would be regular or persistent, and due to the type of fencing present, would not be extensive in nature. The majority of fencing is small scale post and rail electric fences, with some areas of higher chain link fences. The fencing development is not located on any sensitive habitats that would be utilised by these species. Maintenance would not be expected to give rise to significant disturbance and at most would be a below threshold effect on the SPA. This would not be above regular agricultural activities and machinery working on the island. There is no potential pathway for significant effects. It is noted again that disturbance along Fenit beach to the south of the island was evident during the field survey, due to loose dogs and walkers which is likely to affect the bird species in the SPA in this area. Fenit Island is a refuge for birds and there is almost disturbance due to the access restrictions.

5.3.3 Potential cumulative impacts

The standard data Natura 2000 form for the Tralee Bay Complex SAC lists the threats and pressures currently affecting this Natura 2000 site (NPWS, 2020). The following are listed as having a high impact on the site: walking, horse-riding and non-motorised vehicles, and urbanised areas and human habitation. The following are listed as having a medium impact: fertilisation, grazing and removal of beach materials (NPWS, 2020).

The potential for cumulative impacts on the Tralee Bay Complex SPA are similar to those described above in Section 5.3.1 for the Akeragh, Banna and Barrow Harbour SAC. The fencing is not considered to result in any change in existing and future fertilisation and grazing of the lands on Fenit Island. Furthermore, disturbance present south of Fenit Island from activities such as walking, horse riding, camping and caravans as well as loose dogs is not present on the island likely due to access difficulties. This may result in a minor positive impact in this area of the SPA by reducing disturbance. In relation to existing and planned developments, there are much larger developments in the vicinity with more wide-ranging potential adverse impacts that have been screened out. Therefore, the small-scale historical fencing on Fenit island is very minor in the context of existing and planned developments for the area.

It is noted in Ecofact (2022) that Kerry County Council decided that another much larger linear development in the wider area - the 11km greenway from Tralee to Fenit – did not require Appropriate Assessment (AA). If a major road and recreational development like this did not require Appropriate Assessment, it was concluded that the replacement / maintenance of a small area of localized agricultural fencing would fall well below the threshold for AA.

6. MITIGATION

6.1 Introduction

Ecofact previously prepared a Screening for Appropriate Assessment report for the subject fencing. It was concluded that the fencing was consistent with existing background agricultural activities on the island and was relatively small-scale, unlikely to have affected any of the Qualifying Interests of the adjoining Natura 2000 sites. This conclusion was based on various factors, including the known range of qualifying interests, a site visit, fencing's historical presence on the island, and its small-scale nature.

At most, potential disturbance during the construction phase or operational maintenance was considered to be minimal, falling below the threshold of significant effect and not exceeding the expected disturbance from existing agricultural activities on the island. Additionally, there is other existing fencing on the island that is not subject to planning issues, which is far more extensive and intrusive. It was observed that the entire island is covered with fencing, likely to have been present prior to the designation of the local Natura 2000 sites. It is also likely that the subject fencing is located in areas where there was already previous fencing. Compared to other developments on the island, such as flood walls, the subject fencing is modest. Furthermore, the fencing may have had positive effects by preventing cattle from accessing the shoreline and significantly reducing anthropogenic disturbance. Therefore, the Ecofact (2022) report concluded that a Natura Impact Statement was not required for the fencing development at Fenit Island, Co. Kerry. This decision was based on several factors, including the preexistence of fencing, its replacement of previous fencing, its localization, small scale, and its alignment with the extensive historic fencing present all over the island.

The current NIS was prepared at the request of the landowners and now includes proposed maintenance of the fencing. Additionally, the NIS allows for the recommendation of other general biodiversity and best practice measures. However, these measures are not deemed necessary to protect the integrity of any Natura 2000 site. The general potential impacts of agricultural fencing are listed in Table 2. Recommended mitigation, and residual impacts for the subject Fencing at Fenit Island, Co. Kerry are also outlined in this table.

6.2 Code of Practice

A code of practice for the maintenance of the existing agricultural fencing on Fenit Island will be drawn up and agreed with the Competent Authority. A code of practice would provide practical guidelines for carrying out fence management and maintenance activities on Fenit Island in accordance with legal requirements and environmental best practices. It would cover planning and preparation, environmental protection measures, safety protocols, method statements, monitoring and reporting procedures, and improvement measures. By following this code, landowners would be able to ensure that maintenance activities are conducted responsibly, minimizing environmental impacts and achieving the farm and property management objectives.

A code of practice for maintaining fencing in a coastal area within a designated site like Natura 2000 would include the following guidelines:

- **Planning and Consultation**: Before undertaking any maintenance works, develop a comprehensive plan and undertake relevant consultation with local landowners and regulatory agencies. This plan should outline the scope of maintenance activities, consider potential environmental impacts, and identify appropriate mitigation measures.

- **Method Statements:** Develop method statements for maintenance activities, detailing the sequence of works, equipment to be used, and measures to protect sensitive habitats and species. These method statements should be prepared in accordance with site-specific conservation objectives and regulatory requirements.
- **Access for Machinery:** Plan and coordinate access for machinery to minimize impacts on sensitive habitats and wildlife. Utilize existing access routes where possible and avoid creating new tracks or paths through environmentally sensitive areas.
- **Biosecurity Measures:** Implement biosecurity measures to prevent the introduction or spread of pests, diseases, or invasive species during maintenance activities. Clean machinery and equipment before entering and leaving the site and avoid working in areas known to be infested with invasive species.
- **Regular Inspection:** Conduct regular inspections of the fencing to assess its condition and identify any damage or deterioration that requires repair. These inspections should be carried out in accordance with established schedules and documented for future reference.
- **Habitat Protection:** Ensure that maintenance activities do not result in damage to sensitive habitats or protected species within the Natura 2000 site. Take precautions to minimize disturbance to wildlife during maintenance activities.
- **Use of Environmentally Friendly Materials:** Use fencing materials that are environmentally friendly and do not pose risks to wildlife or water quality. Avoid the use of treated wood or other materials that may leach harmful chemicals into the environment.
- **Erosion Control:** Implement erosion control measures around fencing structures to prevent soil erosion and maintain shoreline stability. Use erosion-resistant materials where necessary and revegetate disturbed areas to prevent further erosion.
- **Invasive Species Management:** Take measures to prevent the spread of invasive plant species during maintenance activities. Clean equipment thoroughly after use and avoid transporting soil or plant material from one area to another.
- **Water Quality Protection:** Minimize the risk of water pollution during maintenance activities by preventing runoff of pollutants into coastal waters. Use best management practices such as proper disposal of waste materials and avoiding the use of herbicides or pesticides near water bodies.
- **Timing for Works:** Schedule maintenance works to minimize disruption to birds and other wildlife. Avoid carrying out works during sensitive times such as breeding seasons or high-tide events that could impact coastal habitats.

By drawing up a site-specific code of practice for the maintenance of fencing, landowners can help minimize ecological impacts, protect sensitive habitats and species, and ensure compliance with conservation regulations. The code of practice will have full cognizance of the Biodiversity Management Plan (see Section 6.3). Also, the code of practice for fencing should cover the full island and fencing is not subject to the current for an application for Substitute Consent.

6.3 Biodiversity Management Plan

A Biodiversity Management Plan aims to conserve and enhance the local environments, habitats and fauna of an area. This includes identifying the ecosystems present in the area, assessing the current biodiversity on site, identifying any threats or pressures the proposed development may present to this biodiversity and setting out goals and objectives to conserve and enhance the biodiversity through measures implemented in the project design. Monitoring the progress of these measures over time, throughout the operational phase of the proposed development, is also a crucial aspect of the plan.

Here are some general recommendations for a biodiversity management plan for the areas around the fencing and the wider island:

- **Habitat Mapping and Assessment:** Conduct a high level biodiversity survey to map and assess the various habitats present on the island and around the other fencing, including terrestrial, marine, and transitional zones. Identify key habitat types, their condition, and any threats or pressures they may be facing. Some of this has already now been done as part of the current NIS and previous screening report.
- **Target species/habitats:** Prioritize habitats/species for plan actions. This may include measures to try to reestablish Dry Heath habitat around the margins of the Island, or encourage nesting Choughs by installing nest boxes.
- **Habitat Enhancement and Restoration:** Develop and implement a habitat enhancement and restoration project to improve the quality and connectivity of habitats around the fencing and across the island. This could include measures such as native vegetation planting, wetland restoration, and creation of wildlife corridors.
- **Invasive Species Control:** Develop a strategy for monitoring invasive species, including targeted removal efforts where required. This can be done by landowners as part of their normal activities.
- **Grazing Management:** Implement sustainable grazing management practices as possible to maintain biodiversity and ecosystem function in grazed areas. This may include rotational grazing schemes, adjustment of stocking densities, and provision of supplementary feeding to reduce pressure on sensitive habitats.
- **Coastal Zone Management:** Develop a high level coastal zone management plan to protect and enhance marine and foreshore habitats around the island. The existing fencing would form part of this strategy.
- **Monitoring and Evaluation:** Complete checks to assess the effectiveness of biodiversity management measures over time.
- **Collaboration:** Work with local NPWS staff and other relevant stakeholders to deliver the plan, and also align with Natura 2000 site measures being implemented.
- **Planning Integration:** Ensure that any future planning applications on the Island align with the biodiversity conservation objectives (as possible).

By implementing these recommendations as part of a site-specific biodiversity management plan, the island and its surrounding areas can support thriving ecosystems, protect important habitats and species, and contribute to the conservation of biodiversity at local and regional scales.

Table 2 General potential impacts, mitigation, and residual impacts for the subject Fencing at Fenit Island, Co. Kerry

General Impacts of fencing	Likely in this case	Relevant to NIS	Mitigation	Outcome
Habitat Fragmentation	The fencing is at the interface between agricultural fields and the foreshore habitats. The key issue is cattle grazing of all the available grassland areas. The fencing is likely to reduce this impact.	The overall issue of habitat fragmentation on the island is considered. It is noted again the subject fencing is likely to reduce this impact.	A *Biodiversity Management Plan* for the Island will be drawn up.	Positive effect on biodiversity and the Conservation Objectives of the SAC/SPA.
Alteration of Grazing Patterns	The fencing is at the edge of the grassland areas and	Grazing on the island should be managed in a way	A *Biodiversity Management Plan*	Positive effect on biodiversity and the Conservation

General Impacts of fencing	Likely in this case	Relevant to NIS	Mitigation	Outcome
	cattle graze up to the edge. The fencing as currently placed will not affect grazing patterns.	that would improve biodiversity. The fencing as currently placed will not affect grazing patterns.	for the Island will be drawn up.	Objectives of the SAC/SPA.
Barrier to Wildlife	The fence may impact on mammals such as badgers. As in most agricultural lands mammal trails observed followed the fencing.	Badgers are not a QI of any of the local SACs. However, the overall wildlife effects of the fencing will be looked at.	A *Biodiversity Management Plan* for the Island will be drawn up.	Positive effect on biodiversity and the Conservation Objectives of the SAC/SPA.
Water Flow Changes	This is not a likely effect as this is post fencing with a minimal actual footprint.	Not considered to be a significant issue for the subject fencing – however will be included in the code of practice plan for the maintenance of fencing.	A *Code of Practice Plan* for the maintenance of fencing will be drawn up.	Positive effect on biodiversity and the Conservation Objectives of the SAC/SPA.
Soil Erosion and Stability	There is some erosion at the fence lines – but this is likely to be driven more by grazing and storms, rather than the actual fence. The fence may reduce this impact by preventing cattle trampling on the grassland and foreshore boundary.	Not considered to be a significant issue for the subject fencing – however will be included in the code of practice plan for the maintenance of fencing.	A *Code of Practice Plan* for the maintenance of fencing will be drawn up.	Positive effect on biodiversity and the Conservation Objectives of the SAC/SPA.
Introduction of Invasive Species	No evidence that this has occurred to date – but could occur in the future if the fences are maintained.	Not considered to be a significant issue for the subject fencing – however will be included in the code of practice plan for the maintenance of fencing.	A *Code of Practice Plan* for the maintenance of fencing will be drawn up.	Positive effect on biodiversity and the Conservation Objectives of the SAC/SPA.
Pollution and Waste	No evidence that this has occurred to date – but could occur in the future if the fences are maintained.	Not considered to be a significant issue for the subject fencing – however will be included in the code of practice plan for the maintenance of fencing.	A *Code of Practice Plan* for the maintenance of fencing will be drawn up.	Positive effect on biodiversity and the Conservation Objectives of the SAC/SPA.
Visual Impact	The entire Island has a problem of visually intrusive fencing. The subject fencing is not the most intrusive fencing on the island.	This is not an ecological issue.	n/a	n/a

7. RESIDUAL IMPACTS

The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. Favourable conservation status is defined for Annex I habitats and Annex II species in the Habitat Directive (1992):

Article 1 (e)

> Conservation status of a natural habitat means the sum of the influences acting on a natural habitat and its typical species that may affect its long-term natural distribution, structure and functions as well as the long-term survival of its typical species within the territory referred to in Article 2.
>
> The conservative status of a natural habitat will be taken as 'favourable' when: its natural range and areas it covers within that range are stable or increasing, and the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future.

Article 1 (i)

> Conservation status of a species means the sum of the influences acting on the species concerned that may affect the long-term distribution and abundance of its populations within the territory referred to in Article 2.
>
> The conservation status will be taken as 'favourable' when: population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.

Favourable conservation status of a habitat is achieved when:

- its natural range, and area it covers within that range, are stable or increasing, and
- the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and
- the conservation status of its typical species is favourable.

The favourable conservation status of a species is achieved when:

- population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and
- the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and
- there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.

The Conservation Objectives of the Akeragh, Banna and Barrow Harbour SAC and the Tralee Bay Complex SPA are detailed in individual site-specific reports prepared by the National Parks and Wildlife Service (NPWS, 2014a; 2017a).

Ecofact conducted a screening regarding the fencing on Fenit Island, determining it was aligned with ongoing agricultural activities and did not significantly impact the adjoining Natura 2000 sites. This conclusion drew from multiple aspects such as the site's history, small-scale fencing already present, and a site visit. Despite the potential for minimal disturbance during construction or maintenance, it remained well below the threshold that would affect the Natura sites negatively. Notably, other more extensive fencing on the island has existed without planning issues, predating the Natura 2000

designations. The fencing's modest nature compared to other island developments and its beneficial role in minimizing cattle access to sensitive areas led to the decision that a Natura Impact Statement was unnecessary. The current NIS commissioned by landowners, incorporates proposed maintenance strategies and additional biodiversity practices, though these are not essential for protecting the Natura 2000 sites.

The implementation of the provided mitigation measures is considered to be sufficient to avoid any risk of impacts to the SAC and SPA. There are no impacts arising from the fencing which could affected the conservation status of the Annex I habitats or Annex I species listed as qualifying interests of the SAC or SPA. The proposed development will comply with the required mitigation to ensure that there will be no residual impacts arising.

8. CONCLUSIONS

The current NIS has concluded that there will be no residual impacts on the Akeragh, Banna and Barrow Harbour SAC and the Tralee Bay Complex SPA. The provisions of Article 6 of the 'Habitats' Directive 92/43/EC (2000) defines 'integrity' as the: 'coherence of the site's ecological structure and function, across its whole area, or the habitats, complex of habitats and/or population of species for which the site is or will be classified'. It has been concluded that following an examination, analysis and evaluation of the relevant information, including in particular the nature of the predicted impacts from the proposed works, and with the implementation of the mitigation measures proposed, that the proposed works do not pose a risk adversely affecting the integrity of any Natura 2000 site, either alone or in-combination with other plans or projects.

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PLATES

Plate 1 There are working farms and ongoing agricultural impacts on the Island. Agricultural activities here pre-date the designations of the local Natura 2000 site.

Plate 2 Access to Fenit island is restricted – there is extensive fencing and barriers, most of this is not part of the current Substitute Consent application.

Plate 3 The shoreline of Fenit island is highly modified in places, with flood walls.

Plate 4 Fenit island walkover survey, April 2024.

Plate 5 Marram/dune habitat – not in the area of the subject fencing.

Plate 6 Marram/dune habitat – not in the area of the subject fencing. There is other fencing in all of these areas.

Plate 7 Fenit island walkover survey, April 2024.

Plate 8 Barriers and extensive fencing to block access – this is not part of the fencing included in the current application.

Plate 9 Fenit island walkover survey, April 2024.

Plate 10 Majority of fencing is electric post and rail fencing and follows grassland boundaries. Some localised erosion recorded but this was considered to be unrelated to the fencing. Indeed the fencing may reduce erosion risk by preventing cattle accessing the foreshore area.

Plate 11 Majority of the subject fencing is electric post and rail fencing and follows grassland boundaries.

Plate 12 Subject fencing on one of the sea wall modifications.

Plate 13 Signs at the subject fencing, April 2024.

Plate 14 Subject fencing protecting the shoreline from cattle access.

Plate 15 Extensive rabbit digging is causing localized erosion. Rabbit burrows are frequent, including in the middle of fields.

Plate 16 Fenit island walkover survey, April 2024.

Plate 17 Marram grass / dray grassland boundary is the subject fence at this location. The fencing will protect the bank here.

Plate 18 Localized erosion – the fence is down in this location and cattle may have been accessing the foreshore.

Plate 19 The subject fencing and some flood protection works (historical).

Plate 20 Fencing behind existing flood wall and areas where dry stone wall has been damaged by storms. No protected habitat here.

Plate 21 Fenit island walkover survey, April 2024. The subject fencing here is again protecting the grassland / foreshore line. The actual footprint of the posts is negligible and there was no evidence of impacts.

Plate 22 Cattle grazing is widespread on the island.

Plate 23 Majority of fencing is electric post and rail fencing and follows grassland boundaries. Fence wire at this location is down.

Plate 24 Fenit island walkover survey, April 2024. Fencing along a historical flood wall.

Plate 25 This area was previously considered to have some potential to be Dry Heath. However, the previous survey was undertaken too early in the growing season and this is now ruled out.

Plate 26 Fenit island walkover survey, April 2024. No Dry Heath habitat is present at the margins.

Plate 27 A lot of the other fencing on the Island is far more intrusive than the subject fencing.

Plate 28 fencing, walls, barriers, road, gates. None of this is part of the current application.

Plate 29 Fenit island walkover survey, April 2024. A lot of the other fencing on the Island is far more intrusive than the subject fencing.

Plate 30 Fenit island walkover survey, April 2024. Neat fencing – basically being used to stop livestock falling into the sea. No Dry heath habitat was recorded.

Plate 31 Fenit island walkover survey, April 2024.

Plate 32 Fenit island walkover survey, April 2024.

Plate 33 Fenit island walkover survey, April 2024.

Plate 34 Fencing near Fenit castle follows field boundary at this point with Improved Agricultural Grassland habitat. This is different fencing from the application fencing.

Plate 35 Fenit castle, April 2024.

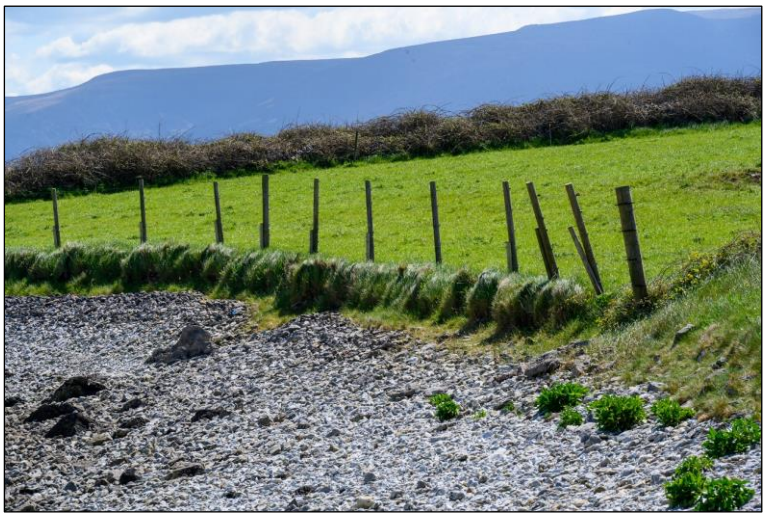

Plate 36 Subject fencing near Fenit castle follows field boundary at this point with Improved Agricultural Grassland habitat. Some erosion has occurred here – but the fencing is actually working here to prevent further cattle trampling and erosion.

Plate 37 Subject fencing near Fenit castle follows field boundary at this point with Improved Agricultural Grassland habitat.

Plate 38 Stonechat on a fence – the fencing is used by many bird species for perching.

Plate 39 Stonechat with a caterpillar on a fence – for birds the fencing has a neutral / positive effect.

Plate 40 Linnet on one of the fences on the Island – this amber listed species is common on the Island.

Plate 41 Chough on one of the fences on the Island – this species is listed under Annex I of the EU Birds Directive. This species is breeding on the Island. The fencing has a neutral / positive effect on Choughs.

Plate 42 Whimbrel foraging beside one of the fences on the Island. Significant numbers of this passage migrant species were present. The fencing has a neutral / positive effect on Whimbrel, reducing anthropogenic disturbance.

Plate 43 Wren on one of the fences on the Island.

Plate 44 Whimbrel flying over beside one of the fences on the Island. They were flushed during the walkover survey.

Plate 45 Over 200 Whimbrel were seen on the Island during April 2024 walkover. This species was benefiting from the absence of recreational disturbance – which was intense in other areas around Fenit on the day of the visit which coincided with a festival event. The island is a wildlife refuge.

Plate 46 Whimbrel on lookout duty on one of the numerous stone walls on the Island. Birds like to be able to see predators (and humans) coming. The fencing/walls block this view, but also provide lookout perches.

Plate 47 Amber-listed Skylarks were common on the Island, and breeding in many of the fields near the subject fencing.

Plate 48 Wheatear were recorded in a number of fields near the fencing are likely to be breeding on the site.

Plate 49 Chough is breeding on the Island. The fencing has a neutral / positive effect on Choughs.

Plate 50 Significant numbers of Rabbits are present on the island and near the subject fence. Evidence of badgers was also recorded but no dwellings were identified.

Plate 51 Ravens are breeding on Fenit castle. This was considered to be a likely breeding site for Choughs, but they were not recorded here.

Plate 52 Rock Dove on the shoreline near the fencing on the north of the Island.

Plate 53 Light-bellied Brent Geese flying along the shoreline of Fenit Island, April 2004.

Plate 54 Great Northern Diver in the channel near Fenit castle, April 2024.

Plate 55 Great Northern Diver (breeding plumage, with a flatfish) on the western side of the Island, April 2024.

Plate 56 Cormorant on the shoreline near the subject fencing.

Plate 57 Bar-tailed Godwits near the subject fencing. They were flushed during the walkover survey.