Feale CDS SL194 Sluice Replacement Works

Appropriate Assessment Screening Report and Natura Impact Statement

Office of Public Works

P00008867

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1. Introduction

APEM Ltd was commissioned by the Office of Public Works, to prepare a report to inform screening for appropriate assessment and to prepare a Natura Impact Statement (NIS) for the replacement of the existing embankment sluice headwall and pipe at SL194 on the Feale Catchment Drainage Scheme (CDS).

1.1. Site Description

The proposed works site (hereinafter referred to as "the Site") is located at Cashen Estuary[1], approximately 2.5km northeast of Ballyduff village, Co. Kerry (Figure 1). The Site is centred at approximate Irish Transverse Mercator (ITM) coordinates 488897 636765, within the Feale catchment. The Site consists of an existing embankment sluice headwall and pipe within the Feale CDS.

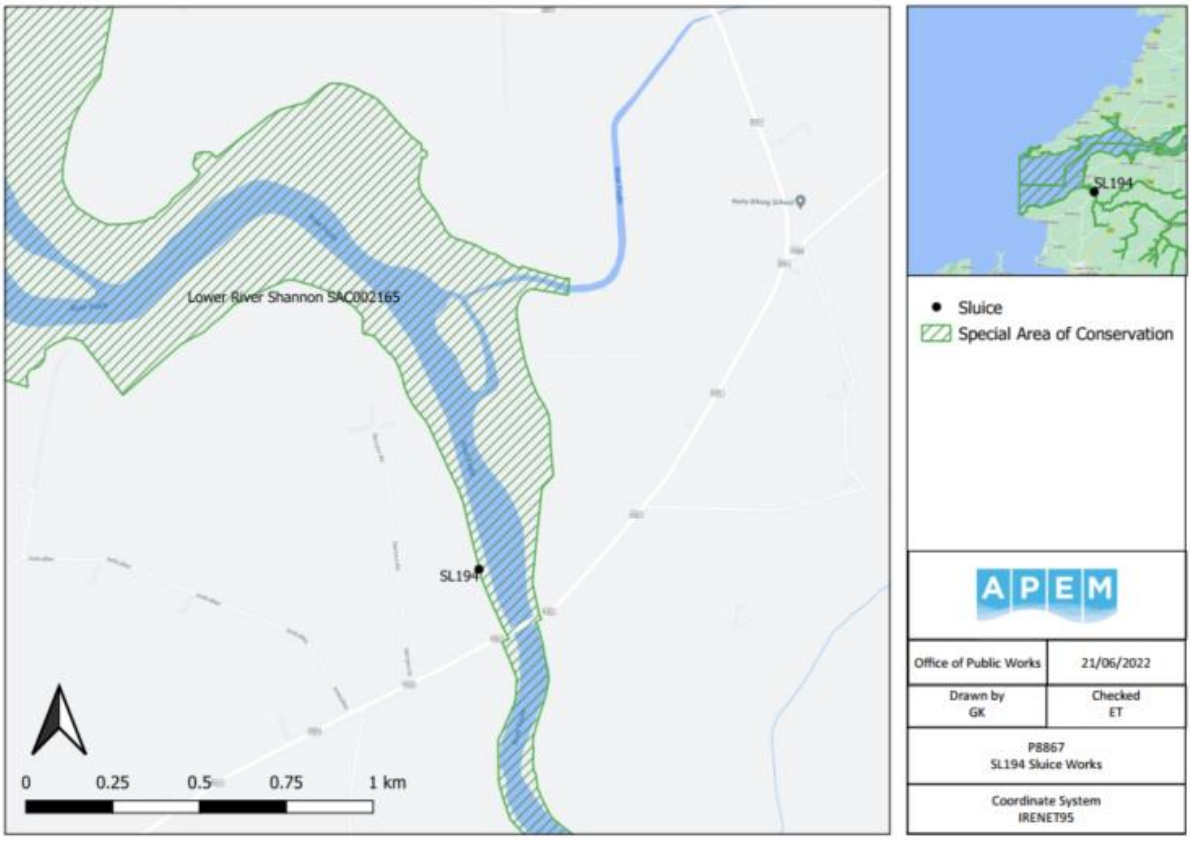

Figure 1: SL194 and Natura 2000 sites

1.2. Brief Description of the Proposed Development

The project description was provided by The Office of Public Works as follows:

> *The proposed work includes the replacement of existing embankment sluice headwall and pipe.*

[1] As noted on EPA maps. https://gis.epa.ie/EPAMaps/Water

Refurbishment work will involve damming of back drain with steel plate to prevent water ingress from land side. Lowering of embankment and removal of existing headwall during low tide.

Preparing foundation and pouring concrete during low tide.

Installing new pre-cast headwall on footprint of existing.

Installing first length of 6m pipe and back filling/reinstating immediately behind headwall.

Note, once headwalls and 1x length of pipe have been placed all remaining works will take place on land side of flood defence embankment with connection to estuary sealed until works are completed

Remaining pipes will be excavated and removed and new pipes placed on same footprint.

Rear, land side headwall to be removed and replaced with pre-cast concrete headwall on same footprint.

There is open access to the subject and no requirement to alter any approach routes.

Works on site will typically be carried out during standard OPW hours re: 08:00 – 16:30.

It is intended to carry out works in summer months.

Please Note: This method statement should be read in parallel with the completed OPW Project Risk Assessment Form and all relevant project drawings, specifications, schedule of commitments, construction & environmental management plan etc.

TBT Covid-19 Site Safety Induction Shall also be carried out before work commences.

An illustration of sluice refurbishment, provided by the OPW, is included in Appendix 2.

1.3. Aim of the Report

This combined AA Screening Report and NIS has been prepared to provide supporting information to allow the competent authority, in this case the Office of Public Works, to carry out screening for likely significant effects on European sites for the proposed development.

1.4. Objectives of the Appropriate Assessment Process

The process promotes a hierarchy of avoidance, mitigation and compensatory measures to be addressed in the AA process[2] as follows:

- Firstly, a plan / project should aim to avoid any negative impacts on Natura 2000 sites by identifying possible impacts early and designing the project / plan to avoid such impacts.
- Secondly, mitigation measures should be applied during the AA process (after Stage 1 screening) to the point where no adverse impacts on the site(s) remain.

1.5. Relevant Legislation and Policy

The main pieces of relevant legislation are as follows:

- The Habitats Directive 92/43/EEC.

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

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

The relevant sections of the legislation are summarised in Appendix 1 of this report. The project will be carried out by the OPW under the Arterial Drainage Act (1945 and 1995).

1.6. Evidence of Technical Competence and Experience

Gráinne Keogh, BSc (Hons), MSc, carried out the field survey and prepared this report. It was Technically reviewed by Dr Eliot Taylor, Divisional Director.

Gráinne Keogh BSc (Hons) MSc - Gráinne is an aquatic ecologist with APEM and holds a BSc(Hons) in Biological, Earth & Environmental Sciences from UCC and MSc in Marine Biology from UCC. She previously worked with Inland Fisheries Ireland on a project examining climate change in river catchments across Ireland. She has also spent time at sea on research vessels conducting fisheries surveys with the Marine Institute and spent time working on marine mammal monitoring projects with the Sea Watch Foundation. She has experience in project design as well as ecological survey and data collection, analyses, interpretation, and report writing. Since joining APEM she has been involved in writing a number of AA screening reports, Natura Impact Statements, and Ecological Impact Assessments.

Bridget Keehan BSc Hons ACIEEM - Bridget Keehan is Senior Ecologist and Botany Lead at Woodrow Sustainable Solutions Ltd. She is an accomplished field botanist with over 30 years of experience in plant identification, including bryophytes, and fifteen years of experience working as a professional ecologist. With Woodrow, Bridget has worked on habitat surveys, monitoring and reporting for a wide range of developments including numerous wind farm and quarry sites. She has excellent habitat classification skills at Phase 1, Fossitt and NVC levels and regularly undertakes specialist surveys for Annex I habitats as well as protected plant, mammal and bird surveys. She is proficient in the analysis and interpretation of data, developing strategies and producing detailed reports. Bridget maintains a thorough knowledge of both European and national environmental legislation, and has experience producing a wide range of reports as required by planning legislation, including Ecological Impact Assessments, Natura Impact Statements, Habitat Management Plans and Compliance Reports. Bridget is also experienced in preparing digital habitat maps using ArcGIS.

2. Methods

2.1. Desk Study

A desk study was carried out to collate information available on European sites within the potential zone of influence of the proposed development. The Site and the surrounding area were viewed using satellite imagery[3]. Kerry County Council planning portal[4] was accessed for information on other permitted and proposed development within the zone of influence of the project. The National Parks and Wildlife Service (NPWS) website[5] was accessed for information on Natura 2000 sites. Environmental Protection Agency (EPA) Maps[6] was accessed for other environmental information relevant to preparation of this report.

2.2. Zone of Influence

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

Irish guidance (DoEHLG, 2010)[7]states, for the zone of influence of plans, that "*A distance of 15 km is currently recommended in the case of plans, as a potential zone of influence, and this distance is derived from UK guidance (Scott Wilson et al, 2006)*". The guidance goes on to state that "*for projects, the distance could be much less than 15 km, and in some cases less than 100 m, but this must be evaluated on a case-by-case basis with reference to the nature, size and location of the project, the sensitivities of the ecological receptors, and the potential for in-combination effects.*"

Guidance from the Office of the Planning Regulator (OPR)[8] states that "*The zone of influence of a proposed development is the geographical area over which it could affect the receiving environment in a way that could have significant effects on the Qualifying Interests of a European site. This should be established on a case-by-case basis using the Source-Pathway-Receptor framework and not by arbitrary distances (such as 15 km)".*

The zone of influence for this project was identified through a review of the nature of the project, the type of impacts and effects that could arise as a result, the distance between the project and European sites, and the qualifying interests of the European sites. The zone of influence of the project is discussed in further detail later in this report. The proposal is required to be undertaken in line with the OPW Environmental Guidance: Drainage Maintenance and Construction document[9], which incorporates appropriate working methods expected in all OPW projects and states that sediment can extend up to 1 km downstream from proposed works. Therefore, the zone of influence for this report is 2 km around the site boundary due to the localised nature and small scale of the proposed works.

2.3. Field Survey

The Site was walked on 24 May 2022 by APEM ecologist Gráinne Keogh. Weather conditions were mostly cloudy, 6/8 oktas, and dry with sunny spells, good visibility and a gentle breeze[10]. The temperature was ca 13°C. The objective of the site visit was to identify if any of the qualifying interests

3 www.google.ie/maps (last accessed 19 May 2022)
4 https://www.kerrycoco.ie/planning/online-planning-enquiry/ / (last accessed 19 May 2022)
5 www.npws.ie/protected-sites (last accessed 19 May 2022)
6 gis.epa.ie/(last accessed 19 May 2022)
7 Appropriate Assessment of Plans and Projects in Ireland -Guidance for Planning Authorities
8 9729-Office-of-the-Planning-Regulator-Appropriate-Assessment-Screening-booklet-15.pdf
9 https://s3-eu-west-1.amazonaws.com/docs.floodinfo.opw/environment/Environmental+Guidance+-+Drainage+Maintenance+and+Construction+2019+WEB.pdf (last accessed 19 May 2022)
10 Force 3 on the Beaufort Scale. https://www.met.ie/forecasts/marine-inland-lakes/beaufort-scale (last accessed 27 May 2022)

listed in Table 1 were present within the Site and to note sightings or evidence of species and evaluate the importance of the ecological features.

The approach to the field surveys is based on accepted standard practice and methods. Habitats within the study area were classified after '*A Guide to Habitats in Ireland*' (Fossitt, 2000). The dominant plant species present in each habitat type were recorded during the field surveys and this is considered sufficient to allow accurate classification of the habitats present.

Incidental sightings or evidence of birds, mammals or amphibians were also noted during the Site survey and the habitats within the study area were evaluated for their potential to support protected species. The study area was searched for evidence of use of the area by mammals, features such as scat / latrines, feeding remains and hair, were noted where they occur within the study area.

The field survey was carried out during suitable weather conditions and the Site was easily accessible.

2.4. Screening Report

The approach taken in preparing the screening report is based on standard methods and best practice guidance, as listed in the references section of this report. The approach to preparing the AA screening report is summarised as follows:

- Identify Natura 2000 sites within the potential zone of influence of the project.
- Identify the features of interest of the Natura 2000 sites and review their conservation objectives.
- Review whether there is potential for the features of interest to be affected by the project based on information such as the vulnerabilities of the Natura 2000 site, proximity to the Site and the nature and scale of the works associated with the project.
- Consider the likelihood of the identified potential impacts occurring based on the information collated and professional judgement.
- Consider the likelihood of cumulative effects arising from the project in-combination with other plans and projects.
- Identify the likelihood of significant effects on Natura 2000 sites occurring because of the project.

2.5. Natura Impact Statement

- The approach to preparing the Natura Impact Statement (NIS) is summarised as follows:
- Describe the elements of the project that are likely to give rise to significant effects on the Natura 2000 Sites.
- Set out the conservation objectives of the Natura 2000 sites.
- Describe how the project will affect the key species and key habitats of the Natura 2000 sites.
- Describe how the integrity of Natura 2000 sites is likely to be affected by the project.
- Describe what measures are to be introduced to avoid, reduce or remedy the adverse effects on the integrity of the Natura 2000 site.
- Consider findings and determine if potential for adverse effects on Natura 2000 sites remains after such measures have been implemented.

2.6. Cumulative Effects

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

Other plans and projects to be considered would include the following types of future development within the same Zone of Influence:

- Proposals for which consent has been applied which are awaiting determination in any regulatory process (not necessarily limited to planning permission).
- Projects which have been granted consent (not limited to planning permissions) but which have not yet been started or which have been started but are not yet completed (i.e., under construction).
- Proposals which have been refused permission, but which are subject to appeal, and the appeal is undetermined.
- To the extent that their details are in the public domain, proposed projects that will be implemented by a public body but for which no consent is needed from a competent authority. (CIEEM 2018).

3. Site Survey

The site visit found that three Qualifying Interests of the Lower River Shannon SAC were recorded within close proximity to the proposed works area. These include [1130] Estuaries, [1140] Mudflats and sandflats not covered by seawater at low tide, and [1330] Atlantic salt meadows. Several species of bird were recorded during the site visit, these include little egret (*Egretta garzetta*) and jackdaw (*Corvus monedula*).

Access to the area of the proposed works is through an existing agricultural track in an area of improved and arable land (Fossitt habitats GA1, BC1 and BC3) which is flanked by a vegetated embankment, separating it from the tidal stretch of the river. The earth embankment was 3-4m high and dominated by grasses with frequent areas of scrub.

The vegetation along the track and upon the embankment is largely composed of tall, rank grassland largely dominated by cock's-foot (*Dactylis glomerata*) with species such as Yorkshire-fog (*Holcus lanatus*), creeping bent (*Agrostis stolonifera*), rough meadow-grass (*Poa trivialis*), white clover (*Trifolium repens*), red clover (*Trifolium pratense*), daisy (*Bellis perennis*), creeping buttercup (*Ranunculus repens*), narrow-leaved vetch (*Vicia angustifolia*) and dandelion (*Taraxacum* sp.). This grassland corresponds most closely to the Fossitt habitat GS1 Dry Meadows and grassy verges. There are occasional patches of creeping thistle (*Cirsium arvense*), common nettle (*Urtica dioica*) and broadleaved dock (*Rumex obtusifolius*), suggesting a degree of nutrient enrichment. Some stretches support scattered scrub (Fossit habitat WS1), composed mainly of European gorse (*Ulex europaeus*) and bramble (*Rubus fruticosus* agg.).

Some stretches of common reed (*Phragmites australis*) extend along the coastal side of the embankment, in the zone where the grassland habitats become transitional to the Fossitt habitat upper saltmarsh CM2. In this zone, leaves resembling those of summer snowflake (*Leucojum aestivum*) were noted. This species, which is rare in Ireland, is found in reed beds, marshes and damp meadows, and though it is sometimes recorded as an escape from cultivation, it is thought to be native along the River Shannon.

The Fossit habitat CM1 Lower saltmarsh occurs on the fairly level ground alongside the river**,** and is considered to align to the Annex I habitat 1330: Atlantic salt meadow**.** In general, the saltmarsh vegetation is dominated by red fescue (*Festuca rubra*) and common saltmarsh grass (*Puccinellia maritima*), with sea plantain (*Plantago maritima*), common scurvy-grass (*Cochlearia officinalis*), thrift (*Armenia* maritima) and a variety of other characteristic saltmarsh species.

Within the saltmarsh area there are some occasional stands of common reed (*Phragmites australis*) and common cord-grass (*Spartina anglica*). While *Spartina* swards (1320) are listed in Annex I of the Habitats Directive, *S. anglica* is non-native in Ireland and therefore Irish *Spartina* swards are not considered to qualify as Annex I habitat[11]. Common cord-grass (*Spartina anglica*) is listed on the Third Schedule: Part 1 Plants as a non-native species subject to restrictions under Regulations 49 and 50 of the European Communities (Birds and Natural Habitats) Regulations 2011 (SI 477/2011).

The tide was out at the time of survey so the sluice could be viewed in whole. The sluice is located along the edge of the saltmarsh habitat, approximately 12m from the grassy embankment. The top of the sluice walls are at the same height as the saltmarsh habitat and extend downwards for approximately 2m. The walls extend approximately 4m outwards into the estuary. It is bordered by wooden post fencing on either side.

[11] McCorry, M, Curtis, T.G.F. and Otte, M.L. (2003). *Spartina in Ireland*. In: Otte, M.L. (ed.) Wetlands of Ireland - Distribution, Ecology, Uses and Economic Value. UCD Press. pp. 44-50.

4. Appropriate Assessment Screening

This section of the report identifies the potential zone of influence of the proposed development, provides information on the Natura 2000 sites within the identified zone of influence and sets out the potential impacts and effects and the likelihood of significant effects.

4.1. Identification of Natura 2000 Sites

The first step in identification of Natura 2000 sites is to determine the potential zone of influence of the proposed works. When the zone of influence of the proposed works has been determined Natura 2000 sites within this area can be identified. The potential for these sites to be affected can be evaluated by considering:

- Scale and type of the proposed works.
- Proximity to the proposed works.
- Qualifying interests.
- Ecological[12] and Landscape[13] connectivity.

The closest Natura 2000 site to the Site is the Lower River Shannon Special Area of Conservation (SAC). The Site lies within this Natura 2000 site.

All other Natura 2000 sites can be excluded as there is no landscape or ecological connectivity to any Natura 2000 sites beyond the Lower River Shannon SAC. There are no other Natura 2000 sites that have the potential to be impacted by the project through other means. Therefore, the zone of influence for the project is limited to the closest Nature 2000 site. The zone of influence for the proposed works is 2km due to the localised nature and small scale of the proposed works.

4.2. Description of Natura 2000 Sites

The summarised description of the Lower River Shannon SAC has been prepared using the supporting information available on the NPWS website[5].

Lower River Shannon SAC - 002165

"*This very large site stretches along the Shannon valley from Killaloe in Co. Clare to Loop Head/ Kerry Head, a distance of some 120 km. The site thus encompasses the Shannon, Feale, Mulkear and Fergus estuaries, the freshwater lower reaches of the River Shannon (between Killaloe and Limerick), the freshwater stretches of much of the Feale and Mulkear catchments and the marine area between Loop Head and Kerry Head.*

Freshwater rivers have been included in the site, most notably the Feale and Mulkear catchments. The Feale and Mulkear catchments exhibit all the aspects of a river from source to mouth. Semi-natural habitats, such as wet grassland, wet woodland and marsh occur by the rivers, but improved grassland is the most common habitat type.

Five species of fish listed on Annex II of the E.U. Habitats Directive are found within the site. These are Sea Lamprey (Petromyzon marinus), Brook Lamprey (Lampetra planeri), River Lamprey (Lampetra fluviatilis), Twaite Shad (Allosa fallax fallax) and Salmon (Salmo salar). The three lampreys and Salmon

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

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

have all been observed spawning in the lower Shannon or its tributaries. The Fergus is important in its lower reaches for spring salmon, while the Mulkear catchment excels as a grilse fishery, though spring fish are caught on the actual Mulkear River. The Feale is important for both types. The River Feale is a designated Salmonid Water under the E.U. Freshwater Fish Directive."

4.3. Qualifying Interests and Conservation Objectives

The qualifying interests and conservation objectives for the Lower River Shannon SAC are listed in Table 1 below. This information was obtained from the resources available on the NPWS website[5].

Table 1. Natura 2000 Sites within Zone of Influence

Natura 2000 site	Distance from Site[14]	Qualifying Interests	Conservation Objectives
Lower River Shannon SAC - 002165	Within Site	• Sandbanks which are slightly covered by sea water all the time [1110] • Estuaries [1130] • Mudflats and sandflats not covered by seawater at low tide [1140] • Coastal lagoons [1150] • Large shallow inlets and bays [1160] • Reefs [1170] • Perennial vegetation of stony banks [1220] • Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] • Salicornia and other annuals colonising mud and sand [1310] • Atlantic salt meadows (*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] • 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]	To restore or maintain the favourable conservation condition of habitats and species designated within the Lower River Shannon SAC, which is defined by a list of specific attributes and targets. Full details of the conservation objectives can be found at: https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002165.pdf

[14] Measured in a straight line between the Site and closest point of Natura 2000 site boundary

		• *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]	

4.4. Identification of Potential Impacts on Natura 2000 Sites

The potential impacts of the project on the habitats and species listed as qualifying interests for the Lower River Shannon SAC are discussed in this section.

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

A significant effect is defined in paragraph 49 of the Waddenzee Case C-127/02[15] as follows "…..*pursuant to the first sentence of Article 6(3) of the Habitats Directive, where a plan or project not directly connected with or necessary to the management of a site is likely to undermine the site's conservation objectives, it must be considered likely to have a significant effect on that site. The assessment of that risk must be made in the light inter alia of the characteristics and specific environmental conditions of the site concerned by such a plan or project.*"

The likelihood of impacts occurring as a result of application established in light of the type and scale of the development, the location of the development with respect to Natura 2000 sites within the zone of influence and the qualifying interests and conservation objectives of those Natura 2000 sites.

4.4.1. Potential Impacts and Effects

The Site is within the Lower River Shannon SAC. The site visit found that three qualifying interests were recorded within close proximity to the proposed works area. These include [1130] Estuaries, [1140] Mudflats and sandflats not covered by seawater at low tide, [1330] Atlantic salt meadows. Based on the results of the site visit and the potential for habitats and species associated with the SAC to be found within the zone of influence the following qualifying interests have potential to be impacted by the proposed works:

- Atlantic salt meadow [1330]
- Estuaries [1130]
- Mudflats and sandflats not covered by seawater at low tide [1140]
- *Petromyzon marinus* (Sea Lamprey) [1095]
- *Lampetra planeri* (Brook Lamprey) [1096]
- *Lampetra fluviatilis* (River Lamprey) [1099]
- *Salmo salar* (Salmon) [1106]
- *Lutra lutra* (Otter) [1355]

It is considered that the potential impacts and effects of the project on the qualifying interests of the Lower River Shannon SAC will be limited to the following:

- Deterioration of water quality.
- Disturbance / displacement.
- Deterioration of habitats.

[15] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62002CJ0127 (Last assessed 30 March 2022)

The identified potential impacts and effects are discussed further in the sub-sections below.

Deterioration of Water Quality

There is potential for accidental release of sediment and/or contaminated water via surface water runoff to the Lower River Shannon SAC during the project. There is also a potential for impact of pollutants, such diesel and oil from the plant necessary for the works. This risk is greater where works will be carried out within the River Feale estuary, as is occurring during the works for this project. The accidental release of sediment and / or contaminated water during demolition and construction could result in the deterioration of water quality.

Disturbance / displacement

The project will result in an increase in noise and the presence of personnel and machinery onsite during the demolition and construction phases of the project. The increase in noise and presence of personnel and machinery, albeit temporary, has the potential to result in disturbance of the species listed as qualifying interests of Lower River Shannon SAC. Disturbance caused by increased noise levels could result in displacement of these species either temporarily or permanently.

The species potentially affected by increased noise levels is otter. Although no signs of otter, such as holts or feeding remains, were observed during the Site visit, their absence at the time does not indicate a complete absence from the site. Otter have been recorded previously within the 2km grid square Q83Y[16]. This species is known to tolerate and habituate to noise associated with human activities (Chanin 2003) and it is common to see signs of otters within urban watercourses. Otters tend to be completely nocturnal with activity peaks at dusk and dawn during low light conditions, therefore avoiding the working hours associated with the project. The ability of otter to tolerate noise generated by human activities and the nocturnal nature of otters means that noise associated with the project is not likely to affect otter using the Feale catchment in the Lower River Shannon SAC.

Deterioration and / or loss of habitats

The project will result in an increase in personnel and machinery in the area during the demolition and construction phases of the project. The presence of machinery and personnel, albeit temporary, has the potential to result in deterioration of habitats listed as qualifying interests of the Lower River Shannon SAC. Deterioration caused by increased activity in the area could result in the damage or removal of the habitats present either temporarily or permanently.

The habitat potentially affected by increased machinery and personnel in the area is Atlantic salt meadows. Modification of coastline, estuary and coastal conditions for development, use and protection of residential, commercial, industrial and recreational infrastructure and areas (including sea defence or coast protection works and infrastructures) is listed as a medium pressure and threat to this habitat[17].

4.5. Likelihood of Significant Effects on Natura 2000 Sites

There is potential for effects on the Lower River Shannon SAC as a result of the project. Therefore, in line with the recommendations of guidance and case law it is considered that the project should progress to the next stage of the process to determine if it will adversely affect the integrity of the Lower River Shannon SAC.

[16] National Biodiversity Data Centre records

[17] https://www.npws.ie/sites/default/files/publications/pdf/NPWS_2019_Vol2_Habitats_Article17.pdf

5. Natura Impact Statement

The competent authority, in this case the Office of Public Works, will be required to carry out an appropriate assessment to determine whether the proposed development would adversely affect the integrity of Lower River Shannon SAC. The '*integrity of the site*' can be 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*"[18]

The headings within the appropriate assessment report template provided in the European Commission (2001) guidance document '*Assessment of plans and projects significantly affecting Natura 2000 sites*' have been used in this report to provide a framework to examine the potential impacts of the proposed project on the Lower River Shannon SAC.

5.1. Assessment of the effects of the project or plan on the integrity of Natura 20000 Sites

This section of the report sets out the potential implications of the project (either alone or in combination with other projects or plans) on the integrity of the Lower River Shannon SAC with respect to the conservation objectives of this site and to its structure and function. The focus is on demonstrating, with supporting evidence, that there will be no adverse effects on the integrity of the Lower River Shannon SAC should the proposed development proceed as planned and with appropriate mitigation.

5.1.1. Elements of the project or plan (alone or in combination with other projects or plans) likely to give rise to significant effects on the environment.

The project involves the removal and replacement of the existing embankment sluice headwall and pipe at SL194 on the Feale Catchment Drainage Scheme. The proposed work will be carried out within the Lower River Shannon SAC.

The elements of the proposed development identified as having potential to affect the Lower River Shannon SAC are the release of sediment and / or pollutant laden surface water into the watercourse during construction, the disturbance of otter and the deterioration of Annex I habitat.

5.1.2. In-Combination Effects

There is potential for the proposed works to act in combination with existing embankment replacement works being carried out by the OPW downstream at E5 on the Feale CDS. The elements of the proposed development at E5 on the Feale CDS which may act in combination with the proposed works are similar to those already listed above for the proposed works at SL194.

The OPW is statutorily obligated to maintain arterial drainage channels under the 1945 Arterial Drainage Act, and since their completion, maintenance of these Arterial Drainage Schemes has been ongoing, with the majority of channels maintained every five years. However, larger channels tend to be only maintained every ten years, on average and the average channel requires maintenance every four to six years. Arterial Drainage Schemes will have been maintained at least once over a period of five years. If the procedures, avoidance and mitigation measures recommended in the OPW Environmental Procedures Document (OPW 2018) are followed, specifically the Annual Program Environmental Procedure EP, the Environmental Risk Assessment Procedure EP, Appropriate Assessment Procedure EP, Structures Construction Procedure EP, Environmental Management Procedure EP and those EPs as further recommended within the management Eps, the normal drainage maintenance operations in the Feale Arterial Drainage Scheme will not have a significant adverse impact on the integrity of the Lower River Shannon SAC. A SEA and AA have been carried out for the National Arterial Drainage Maintenance

[18] https://op.europa.eu/en/publication-detail/-/publication/2c9f4a14-8f97-43ac-a274-4946c142b541/ (last accessed 05 April 2022)

programme. The integration of the SEA process, the screening of AA, and the preparation of the Plan ensures that:

- Environment, social and economics were considered at all stages of the process
- Environmental constraints were identified at the early stages in the process and screened out a number of flood risk management measures and options
- The preferred measures have been selected based on a number of assessments
- Public consultation and stakeholder consultation was undertaken throughout the preparation of this Plan.

Having visit the Kerry County Council planning portal, it is considered that the proposed work will not act in combination with any further plans or projects than those already listed to undermine the conservation objectives of the Lower River Shannon SAC.

5.1.3. Conservation objectives of the site

The conservation objectives for the Lower River Shannon SAC, and the list of specific attributes and the targets defining the conservation objectives for each qualifying interest (likely to be affected), are listed within the supporting information available on the NPWS website[4]. These conservation objectives were considered when preparing this report.

The conservation objectives for the Lower River Shannon SAC can be broadly summarised as:

- To maintain or restore the favourable condition of the habitats and species for which the SAC has been designated.

5.1.4. How the project or plan will affect key species and key habitats

The key qualifying interests, habitats and species, likely to be affected as a result of the proposed development are as follows:

Lower River Shannon SAC

- Atlantic salt meadow [1330]
- Estuaries [1130]
- Mudflats and sandflats not covered by seawater at low tide [1140]
- *Petromyzon marinus* (Sea Lamprey) [1095]
- *Lampetra planeri* (Brook Lamprey) [1096]
- *Lampetra fluviatilis* (River Lamprey) [1099]
- *Salmo salar* (Salmon) [1106]
- *Lutra lutra* (Otter) [1355]

The other qualifying interests (Table 1), such as terrestrial habitats, are sufficiently distant, not sensitive to the potential impacts and effects of the project and / or have no connectivity with the project and are thus not likely to be affected.

Demolition and Construction

Demolition and construction work in close proximity to and within the channel during the refurbishment of the SL194 sluice on the Feale CDS may have the potential to result in the release of small quantities of sediment and

/ or pollutants, resulting from diesel or oil leaks from machinery and other plant used in the works, that could negatively affect the habitats and species in the immediate area of the works and downstream of them.

The proposed development has the potential to release small quantities of sediment laden surface water during the construction phase, this is more likely to occur if the works take place during wet weather. The release of sediment laden surface water is most likely to arise during the construction phase as a result of excavations and works to replace the existing sluice. Sediment may enter the Cashen Estuary on the Feale CDS via surface water and in stream works and has the potential to cause negative effects on some of the species and habitats associated with the SAC through deterioration of water quality, increases in siltation or suspended solids, changes in water chemistry, reduction in habitat and changes in food and prey availability.

The construction works, through the presence of machinery and plant, as well as construction workers, have the potential to disturb or displace the mobile species, including otter and fish species.

Displacement / disturbance of mobile species can occur through indirect loss of habitat should disturbance from proposed works cause mobile species to avoid the typically frequented habitats within the Site and immediate area. Displacement can also include barrier effects in which mobile species are deterred from using their normal routes to feeding, breeding and resting grounds.

The construction works, through the presence of machinery and plant, as well as construction workers, have the potential to cause deterioration or loss of habitats such as Atlantic salt meadow.

5.1.5. How is the integrity of the Natura 2000 site is likely to be affected by the project or plan

Deterioration in Water Quality

Deterioration in water quality within Cashen Estuary as a result of the proposed developments could affect the natural processes of the estuary which support the qualifying interests of the Lower River Shannon SAC.

A deterioration in water quality at the Site as a result of the construction and operation phases would reduce the habitat suitability for lamprey species, salmon and otter.

Otter

A deterioration in water quality within the Cashen Estuary in the Feale CDS as result of the project would reduce the habitat suitability for the prey species of otter. While otter predates on a variety of species, fish typically comprise the majority of prey (Chanin, 2003). Fish species are more sensitive to deterioration of water quality.

Spills of coolant, hydraulic fluids and fuels, lubricating and cutting oils, paints and cements are potential sources of pollution that can contain polychlorinated biphenyl compounds (PBCs) that have been noted as having an adverse effect on otter (Mason 1997). Polluted water that may accidentally enter a watercourse during construction activities could directly affect otter if it contained PBCs.

A reduction in prey availability, due to deterioration of water quality, or an increase in pollution associated with construction activities would affect the integrity of the Lower River Shannon SAC in its ability to support otter as a qualifying species.

Lamprey

Sea lamprey, river lamprey and brook lamprey are vulnerable to water pollution and are sensitive to increased sedimentation and pollution. River lampreys are thought to feed mainly in estuaries, while sea lampreys will travel further out to sea and brook lampreys tend to stay in freshwater. The release of suspended solids has the potential to give rise to both acute and chronic impacts as a result of gill irritation (impacting adult River Lamprey residing in the estuary, on adults of all species migrating upstream to spawn, and on metamorphosed juveniles of all species migrating downstream). Additional sedimentation and pollution affecting water quality may reduce habitat suitability and food availability for lamprey species as they migrate through the estuary to upstream spawning grounds. This could lead to reduced prey availability for the population of otter within the SAC. A reduction in prey availability, due to deterioration of water quality, or an influx of pollutants associated with

construction activities would affect the integrity of the Lower River Shannon SAC in its ability to support otter as qualifying species.

Salmon

Salmon are vulnerable to water pollution and are sensitive to increased sedimentation and pollution. The release of suspended solids has the potential to give rise to both acute and chronic impacts as a result of gill irritation (impacting on adults migrating upstream to spawn, and on smolts migrating downstream). Additional sedimentation and pollution affecting water quality may reduce habitat suitability and food availability for salmon as they migrate through the estuary to upstream spawning grounds. This could lead to reduced prey availability for the population of otter within the SAC. A reduction in prey availability, due to deterioration of water quality, or an influx of pollutants associated with construction activities would affect the integrity of the Lower River Shannon SAC in its ability to support otter as qualifying species.

Estuaries

Estuaries are a qualifying interest of the Lower River Shannon SAC. A high-level importance pressure and threat for estuary habitats is pollution to surface waters. This habitat has the potential to be affected through accidental emissions of suspended solids and pollutants from the proposed development during construction.

Mudflats and sandflats not covered by seawater at low tide

Mudflats and sandflats not covered by seawater at low tide are listed as a qualifying interest of the Lower River Shannon SAC. Pollution to surface waters and silting are listed as high level and medium level pressures and threats to this habitat respectively. This habitat has the potential to be affected through accidental emissions of suspended solids and pollutants from the proposed development during construction.

Deterioration and / or loss of habitats

Atlantic salt meadows are listed as a qualifying interest of the Lower River Shannon SAC. Modification of coastline, estuary and coastal conditions for development, use and protection of residential, commercial, industrial and recreational infrastructure and areas (including sea defence or coast protection works and infrastructures) is listed as a medium pressure and threat to this habitat. This habitat occurs adjacent to the Site and has the potential to be affected by the access of machinery and personnel to the Site during construction.

5.1.6. What mitigation measures are to be introduced to avoid, reduce or remedy the adverse effects on the integrity of the site

Deterioration in water quality has the potential to adversely affect the qualifying interests of the Lower River Shannon SAC. The mitigation measures proposed focus on the protection of the water quality during construction.

Roles and Responsibilities

A suitably experienced Ecological Clerk of Works (ECoW) will be appointed by the client for the duration of the project. The ECoW will oversee the implementation of all protection measures required to ensure that mitigation measures are implemented to avoid adverse effects on the integrity of the Lower River Shannon SAC.

The main contractor will be required to designate a member of staff, or engage a specific person, with demonstrable experience of environmental management and monitoring on construction sites. The appointed individual will assume responsibility for overseeing the implementation of all environmental protective measures which are not encompassed by the ECoW role.

The appointed contractor will be responsible for ensuring all mitigation measures set out in this document and any site-specific method statements are fully and correctly implemented. The appointed contractor will be responsible for employing good working practice during all phases of the project. The appointed contractor will be responsible for providing a briefing on environmental protection measures and ecological sensitivities of the Site to all site personnel in advance of commencement of works.

The names and contact details of the individuals with responsibility for implementation and supervision of mitigation measures during all phases of the development will be clearly identified and displayed on notice boards at the site compounds as well as set out in documents such as the site- specific method statements as appropriate.

Good Working Practice

Good working practices such as those set out in, but not limited to, *OPW Environmental Guidance: Drainage Maintenance & Construction* (OPW, 2019), *Guidelines on Protection of Fisheries During Construction Works In and Adjacent to Waters* (IFI,2016), and *Environmental Good Practice on Site Guide* (CIRIA, 2015) will be followed at all times.

Environmental Protection Measures

Fuelling of machines will be carried out in accordance with OPW Protocols, machines will be kept away from the channel, not less than 50m and fuelled at a safe location with all machines provided with spill kits. The jeep delivering fuel will be certified in accordance with regulations and double bunded. No fuels to be stored on site only in approved vented fuel store with spill trays incorporated.

All equipment and machinery will be checked for leaks and other potential sources of contaminants before arriving on Site and on a daily basis. Any equipment or machinery likely to introduce contaminants will not be brought on Site or will be removed from Site immediately after any leak is discovered. Spill kits will be available to machine operators, and they will be trained in their use.

Precautions will be taken to avoid the introduction and / or spread of invasive species to protect the integrity of the Lower River Shannon SAC. OPW precautions are specified in detail within the OPW Environmental Guidance document and include, but are not limited to, washing down all machinery and equipment to avoid the spread of invasive species, ensuring all organic material is removed from personal equipment including clothing and footwear, and ensuring all water retaining compartments of machinery and equipment are drained before leaving site. These precautions must be strictly adhered to, to prevent the introduction of invasive species to the area and to also avoid the further spread of the common cordgrass present on Site. There are also further biosecurity protocols relating to Japanese knotweed, *Fallopia japonica*, Himalayan Balsam, *Impatiens glandulifera* and giant hogweed, *Heracleum mantegazzianum* specified in detail within the OPW Environmental Guidance document that will be adhered to.

Any other measures which are deemed necessary by the OPW Environmental Section will be carried out in a timely manner as is reasonably practicable.

The construction methodology for the management of surface water run-off will be undertaken in accordance with standard best practice international practices such as CIRIA 2001: Control of Water Pollution from Construction Sites, Guidance for Consultants and Contractors, CIRIA C650 Environmental Good Practice on Site, CIRIA 697 SUDS Manual and various CIRIA published guidance.

Disturbance

Construction methodology will be such that disturbance along the water side of the bank will be kept to a minimum hence access point on right bank. Only 20m sections of embankment are to be disturbed at a time to mitigate runoff from disturbed earthen embankment. Lowering of embankment, removal of existing headwall and foundation preparations will occur during low tide. The sluice refurbishment work will involve damming of back drain with steel plate to prevent water ingress from land slide, the new headwall will be pre-cast and installed on the footprint of the existing headwall, similarly the pipes will be laid on the same footprint as the previous pipes. Once the headwalls and one 6m length of pipe is placed all remaining works will take place on land side of flood defence embankment with the connection to the estuary sealed until the works are completed. Where these back drains carry water, over pumping to land will take place to allow for filtration back to ground water.

Where possible marginal vegetation will be left undisturbed along the riverbank and will act as a buffer strip between the access road and the channel.

Deterioration and / or loss of habitats

Construction methodology will be such that disturbance along the water side of the embankment will be kept to a minimum. While it is likely machinery will have to pass through the area of Atlantic salt meadow it should be kept to a minimum. One track through this habitat should be marked out and used by all machinery and personnel accessing the area. By marking out a track to be used by all machinery and personnel damage to the habitat will be limited to this track. While there may be a temporary loss of Atlantic salt meadow habitat in the area of the track, the larger surrounding area of Atlantic salt meadow will be protected from the works. This is a relatively small area of Atlantic salt meadow habitat in relation to the overall SAC and temporary loss of vegetation in the marked trackway will not significantly affect the overall Atlantic salt meadow qualifying interest of the Lower River Shannon SAC.

Efficiency of Environmental Protection Measures

The environmental measures set out above are proven to work and provide certainty that the integrity of the Lower River Shannon SAC will not be affected by the construction and operation of the project.

Table 2 Impact evaluation table for screened in Qualifying Interest and pathways

Qualifying Interest	Potential Source of Impact	Pathway	Unmitigated Impact	Mitigation	Mitigated impact
Lower River Shannon SAC					
Estuaries [1130] and Mudflats and sandflats not covered by seawater at low tide [1140]	Deterioration in water quality through the addition of sediment and / or pollutants	Surface Water Run Off	Pollution to surface waters and silting are listed as high level and medium level pressures and threats to this habitat respectively. This habitat has the potential to be affected through accidental emissions of suspended solids and pollutants from the proposed development during construction.	Fuelling of machines will be carried out in accordance with OPW Protocols. All equipment and machinery will be checked for leaks and other potential sources of contaminants before arriving on Site and on a daily basis. Any equipment or machinery likely to introduce contaminants will not be brought on Site or will be removed from Site immediately after any leak is discovered. Spill kits will be available to machine operators, and they will be trained in their use. The construction methodology for the management of surface water run-off will be undertaken in accordance with standard best practice international practices such as CIRIA 2001: Control of Water Pollution from Construction Sites, Guidance for Consultants and Contractors, CIRIA C650 Environmental Good Practice on Site, CIRIA 697 SUDS Manual and various CIRIA published guidance.	No significant effect
Petromyzon marinus* (Sea Lamprey) [1095]** ***Lampetra fluviatilis	Deterioration in water quality through the addition of sediment and / or pollutants	Surface Water Run Off	Additional sedimentation and pollution affecting water quality may reduce habitat suitability and food availability for lamprey species as they migrate through	Fuelling of machines will be carried out in accordance with OPW Protocols. All equipment and machinery will be checked for leaks and other potential sources of contaminants before arriving on Site and on a daily basis. Any equipment or machinery likely to introduce contaminants will not be brought on Site or will be removed from Site	No significant effect

(River Lamprey) [1099] ***Lampetra planeri* (Brook Lamprey) [1096]**			the estuary to upstream spawning grounds. The release of suspended solids has the potential to give rise to both acute and chronic impacts as a result of gill irritation (impacting adult River Lamprey residing in the estuary, on adults of both species migrating upstream to spawn, and on metamorphosed juveniles of all species migrating downstream).	immediately after any leak is discovered. Spill kits will be available to machine operators, and they will be trained in their use. The construction methodology for the management of surface water run-off will be undertaken in accordance with standard best practice international practices such as CIRIA 2001: Control of Water Pollution from Construction Sites, Guidance for Consultants and Contractors, CIRIA C650 Environmental Good Practice on Site, CIRIA 697 SUDS Manual and various CIRIA published guidance.	
***Salmo salar* (Salmon) [1106]**	Deterioration in water quality through the addition of sediment and / or pollutants	Surface Water Run Off	Additional sedimentation and pollution affecting water quality may reduce habitat suitability and food availability for salmon as they migrate through the estuary to upstream spawning grounds. the habitat suitability for the prey species of otter The release of suspended solids has the potential to give rise to both acute and chronic impacts as a result of gill irritation (impacting on adults migrating upstream to spawn, and on smolts migrating downstream).	Fuelling of machines will be carried out in accordance with OPW Protocols. All equipment and machinery will be checked for leaks and other potential sources of contaminants before arriving on Site and on a daily basis. Any equipment or machinery likely to introduce contaminants will not be brought on Site or will be removed from Site immediately after any leak is discovered. Spill kits will be available to machine operators, and they will be trained in their use. The construction methodology for the management of surface water run-off will be undertaken in accordance with standard best practice international practices such as CIRIA 2001: Control of Water Pollution from Construction Sites, Guidance for Consultants and Contractors, CIRIA C650 Environmental Good Practice on Site, CIRIA 697 SUDS Manual and various CIRIA published guidance.	No significant effect

***Lutra lutra* (Otter) [1355]**	Deterioration in water quality through the addition of sediment and / or pollutants	Surface Water Run Off	Additional sedimentation and pollution affecting water quality may reduce habitat suitability and food availability through a reduction in prey availability. Polluted water that may accidentally enter a watercourse during construction activities could directly affect otter if it contained PBCs	Fuelling of machines will be carried out in accordance with OPW Protocols. All equipment and machinery will be checked for leaks and other potential sources of contaminants before arriving on Site and on a daily basis. Any equipment or machinery likely to introduce contaminants will not be brought on Site or will be removed from Site immediately after any leak is discovered. Spill kits will be available to machine operators, and they will be trained in their use. The construction methodology for the management of surface water run-off will be undertaken in accordance with standard best practice international practices such as CIRIA 2001: Control of Water Pollution from Construction Sites, Guidance for Consultants and Contractors, CIRIA C650 Environmental Good Practice on Site, CIRIA 697 SUDS Manual and various CIRIA published guidance.	No significant effect
Atlantic salt meadow[1330]	Deterioration and / or loss of habitat through increased activity of machinery and personnel in the area.	Use of area by machinery and personnel	Loss or damage of whole habitat in the Site area by uncontrolled use of machinery and personnel for Site access	One track through this habitat should be marked out and used by all machinery and personnel accessing the area. By marking out a track to be used by all machinery and personnel damage to the habitat will be limited to this track. While there may be a temporary loss of Atlantic salt meadow habitat in the area of the track, the larger surrounding area of Atlantic salt meadow will be protected from the works. The area used for this track should be kept to a minimum.	No significant effect

5.2. Consideration of Findings

The mitigation measures outlined in this report, if fully implemented, are considered to be sufficient to prevent any effect on the qualifying interests or the integrity of the Lower River Shannon SAC 002165.

Based on the information set out in this report as well as the other document accompanying the planning application, we submit that the competent authority has sufficient information to allow them to determine, with reasonable scientific certainty, that the proposed development, individually or in combination with other plans or projects, will have no adverse effect on the integrity of any Natura 2000 sites.

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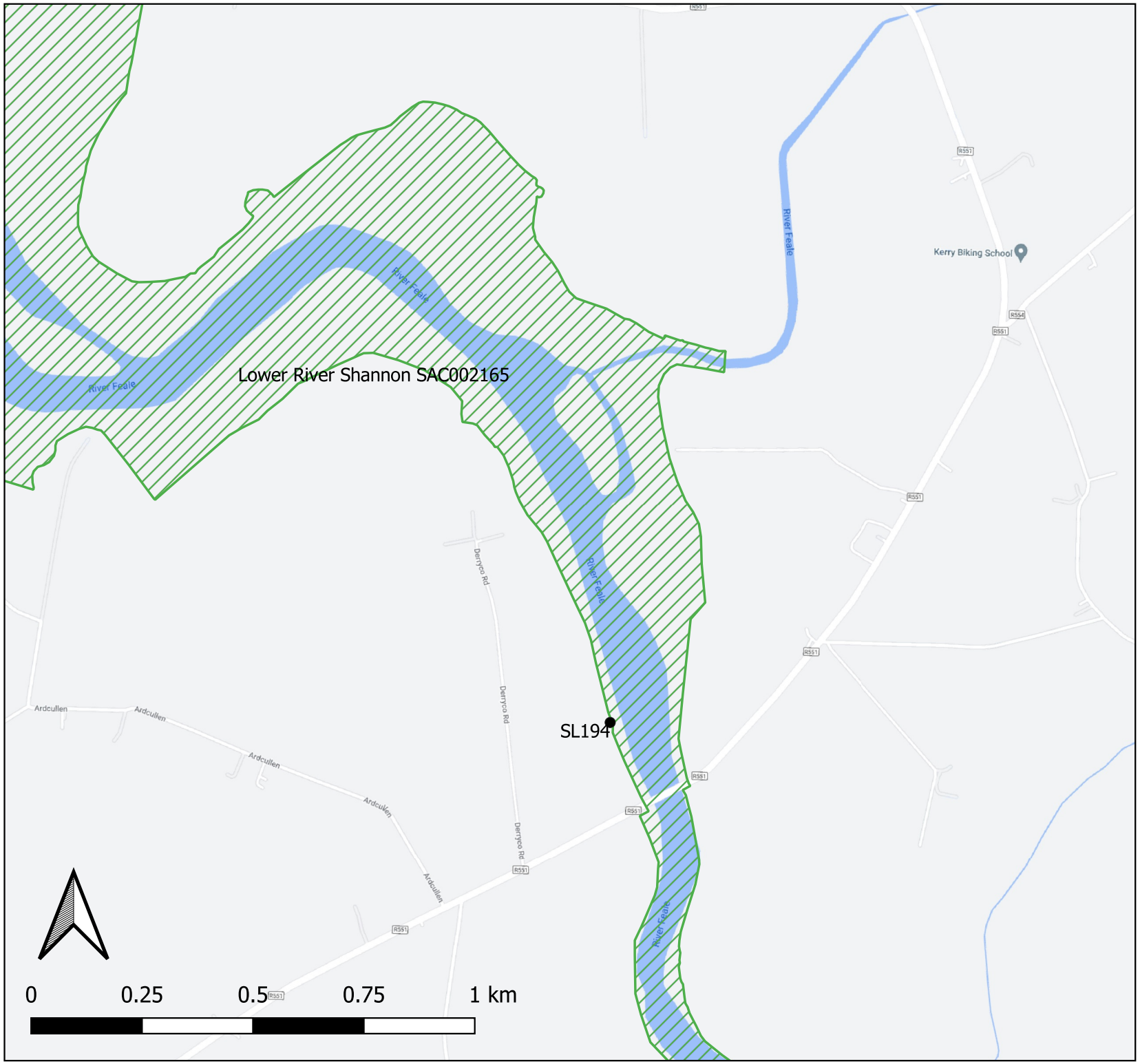
Figures

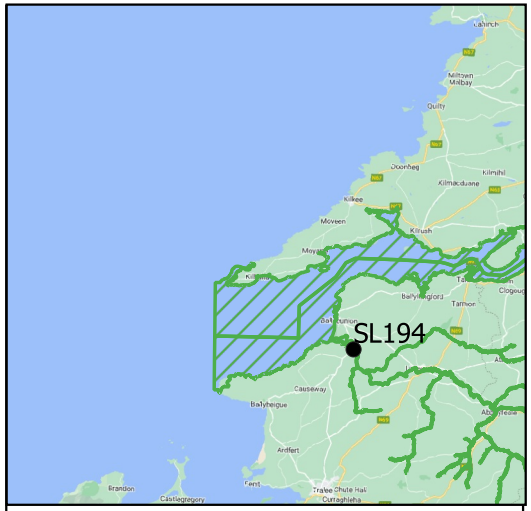
Figure 2: Access to SL194 through areas of Atlantic Salt Meadow

Figure 3: SL194

Figure 4: SL194 from embankment

Figure 5: Grassy embankment and areas of Atlantic Salt Meadow





- Sluice
- Special Area of Conservation

Office of Public Works	21/06/2022
Drawn by GK	Checked ET

P8867
SL194 Sluice Works

Coordinate System
IRENET95

Appendix 1: Relevant Legislation

European Nature Directives (Habitats and Birds)

The Habitats Directive (Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora) forms the basis for the designation of Special Areas of Conservation. Similarly, Special Protection Areas are classified under the Birds Directive (Council Directive 2009/147/EEC on the Conservation of Wild Birds). Collectively, Special Areas of Conservation (SAC) and Special Protection Areas (SPA) are referred to as the Natura 2000 network. In general terms, they are considered to be of exceptional importance for rare, endangered or vulnerable habitats and species within the European Community.

Under Article 6(3) of the Habitats Directive an appropriate assessment must be undertaken for any plan or project that is likely to have a significant effect on the conservation objectives of a Natura 2000 site. An appropriate assessment is an evaluation of the potential impacts of a plan or project on the conservation objectives of a Natura 2000 site[19], and the development, where necessary, of mitigation or avoidance measures to preclude negative effects.

Article 6, paragraph 3 of the EC Habitats Directive 92/43/EEC ("the Habitats Directive") states that:

"Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public"

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

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

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

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

Section 42(6) requires that 'the public authority shall determine that an Appropriate Assessment of a plan or project is required where the plan or project is not directly connected with or necessary to the management of the site as a European Site and if it cannot be excluded, on the basis of objective scientific information following

[19] Also referred to as European Sites in the Planning and Development Acts 2000 – 2021.

screening under this Regulation, that the plan or project, individually or in combination with other plans or projects, will have a significant effect on a European site'.

Planning and Development Acts 2000 to 2021[20] - PART XAB

The relevant sections of Part XAB of the Planning and Development Acts 2000 – 2021 are set out below.

Screening for appropriate assessment

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

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

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

(b) consent for a proposed project is given.

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

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

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

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

(i) the applicant,

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

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

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

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

[20] http://revisedacts.lawreform.ie/eli/2000/act/30/revised/en/html (Updated to 17 December 2021)

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

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

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

(a) a grant of permission,

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

(c) consent for development under Part IX,

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

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

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

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

(h) a substitute consent under Part XA.

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

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

Natura impact report and natura impact statement

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

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

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

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

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

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

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

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

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

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

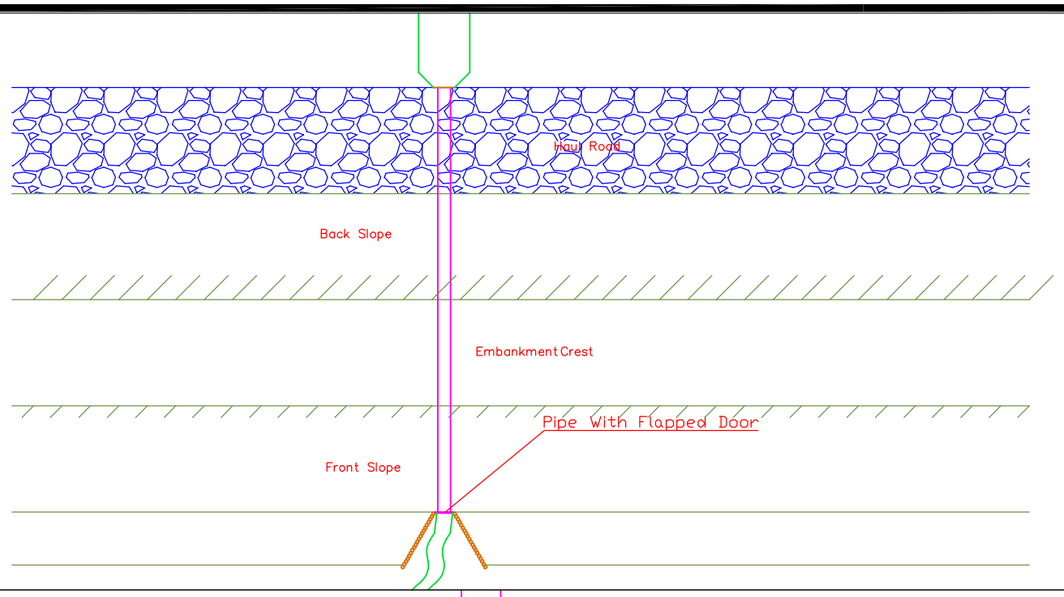
(5) At any time following an application for consent for proposed development a competent authority may give a notice in writing to the applicant concerned, directing him or her to furnish a Natura impact statement

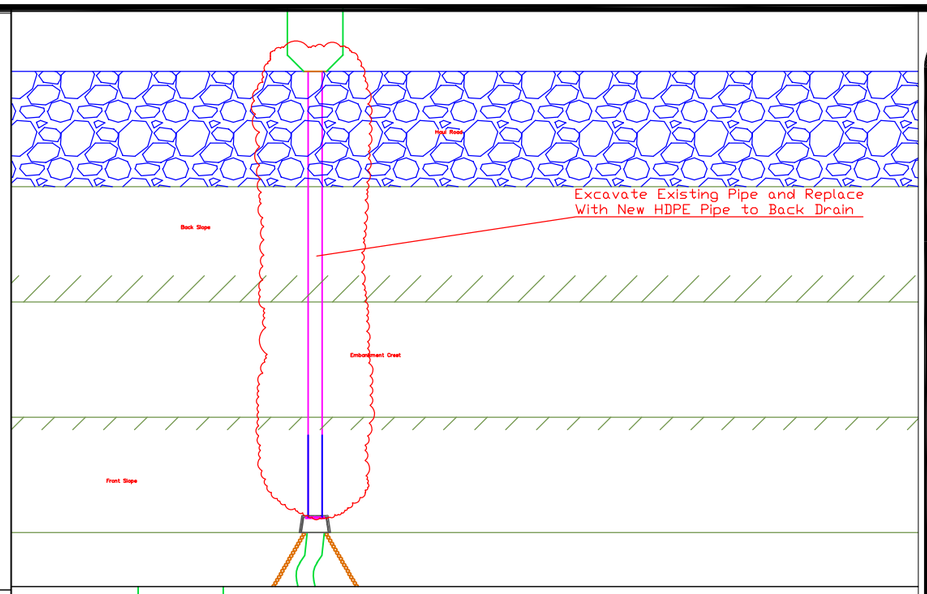
(6) Where an applicant for consent for proposed development who, having been directed in accordance with subsection (5) , fails to furnish a Natura impact statement within the period specified in the notice, or any further period as may be specified by the competent authority, the application for consent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

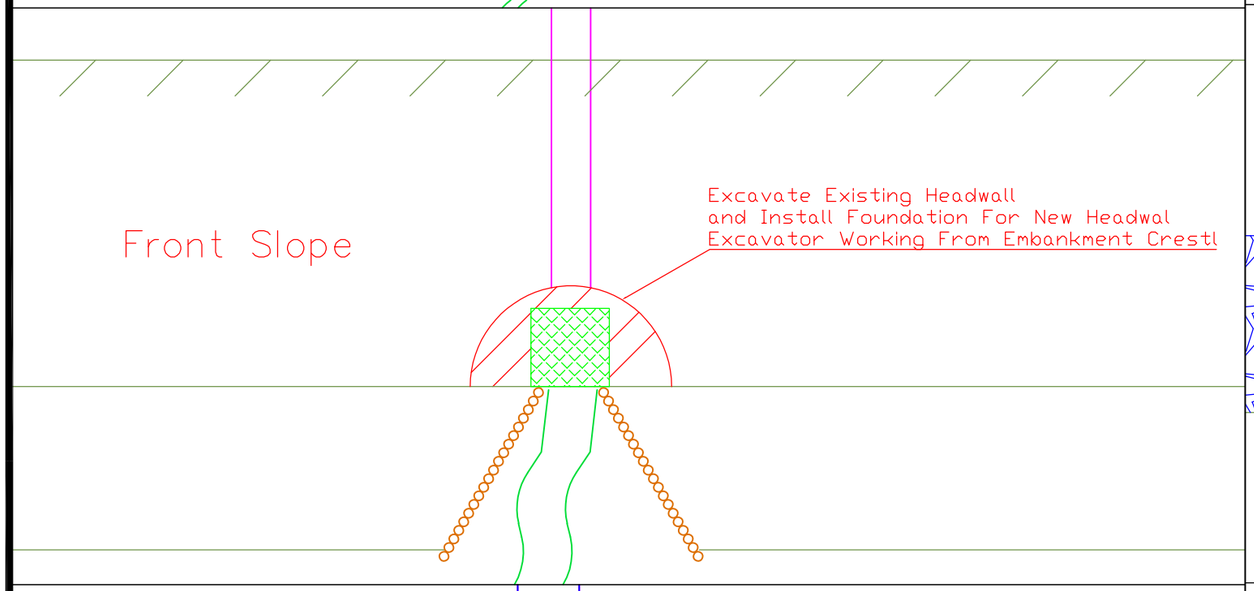
(7) (a) Without prejudice to subsection (1) a Natura impact report or a Natura impact statement shall include all information prescribed by regulations under section 177AD .

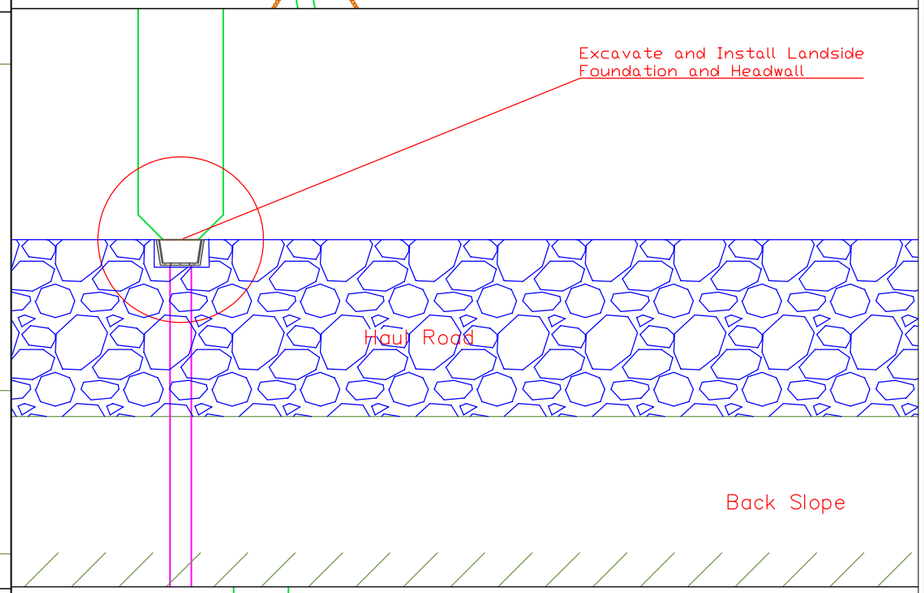
(b) Where appropriate, a Natura impact report or a Natura impact statement shall include such other information or data as the competent authority considers necessary to enable it to ascertain if the draft Land use plan or proposed development will not affect the integrity of the site.

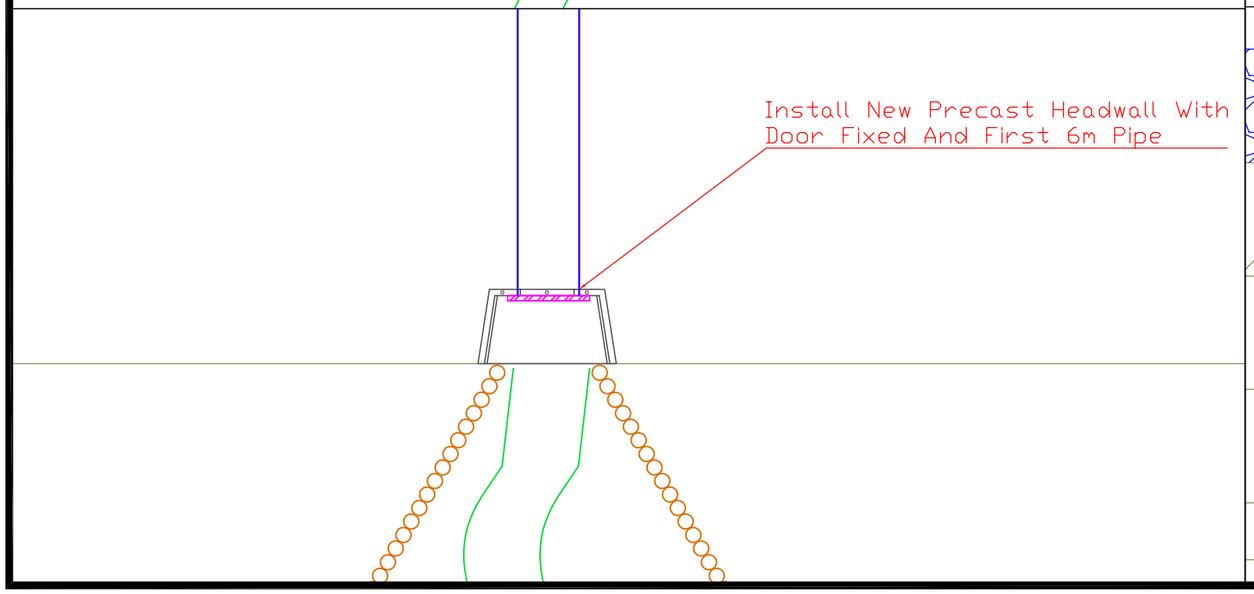
Appendix 2 – Design Drawings

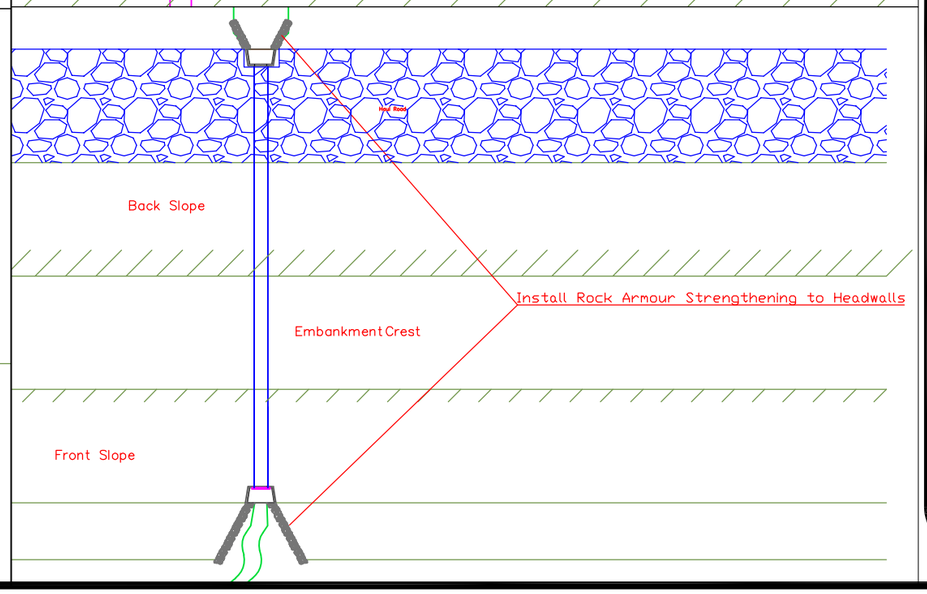












General Notes

1. All Depth/Thickness dimensions are in Meters.
2. Do not scale from this drawing.

No.		

OPW Oifigna nOibreacha Poiblí Office of Public Works

South West Drainage Maintenance & Construction

Project Name and Address

OPW South West Drainage Maintenance

Prepared

Sluice Replacement

Drawn By JB	Sheet 01
Date 04/05/22	
Scale –	