



**Craddockstown Junction Improvement Scheme**

**Appropriate Assessment Screening Report**

**Kildare County Council**

**P00008786**

**February 2022**

**Client:** Kildare County Council  
**Address:** Áras Chill Dara, Devoy Park, Naas, Co. Kildare

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## Revision and Amendment Register

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## 1.0 Introduction

APEM Ltd was commissioned by Kilgallen and Partners Consulting Engineers, on behalf of Kildare County Council, on 8 February 2022 to prepare a report to inform screening for appropriate assessment for upgrade works at Craddockstown Junction, Naas, Co. Kildare.

### 1.1 General Description of the Site

The proposed works site (“the Site”) is located at the junction of Craddockstown Road and Ballycane Road in Naas, Co. Kildare. The Site is located to the south - east of Naas town and is surrounded by residential houses with some amenity grassland (Figure 1).

The closest watercourse is approximately 420 m south - west which flows northwards to Naas General Hospital. Castlesize watercourse<sup>1</sup> is located 430 m east of the Site which flow northwards joining the River Liffey (approximately 5km distant).

### 1.2 Brief Project Description

The project description below was provided by Kilgallen and Partners Consulting Engineers.

It is proposed that the existing road junction at Craddockstown is upgraded to include shared surfaces for cyclists and pedestrians, ramps for cycleways, replace existing crossings with toucan crossings, creating a signalised junction and create grassed verges (the “Scheme”).

The Scheme will realign the Craddockstown Road along its full length between Ballycane Road Junction and Naas Community National School. The Scheme will also include improvement works to the Ballycane Road junction.

Surface water run-off will discharge to the existing surface water drainage system, with localised improvements to surface water sewers where required. The Scheme will be largely at-grade and so significant excavation / deposition is not required.

The Scheme requires acquisition of lands from the front gardens of houses to the south of Craddockstown Road and the removal of landscaping along the road-side boundaries of these gardens.

The main elements of work include:

- Create signalised junction at the existing junction.
- Replacing existing crossing with toucan crossings.
- Improve cycle and pedestrian access to the carriageway.
- Improved shared surfaces for pedestrians and cyclists.

The proposed total length of the Scheme is approximately 405 m and proposed maximum width of the works area is approximately 20m.

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<sup>1</sup> As named on EPA Maps <https://gis.epa.ie/EPAMaps/default> (Accessed February 2022)

### 1.3 Aim of the Report

This report has been prepared to provide supporting information to allow the competent authority, in this case Kildare County Council, to carry out screening for appropriate assessment for the proposed works at Craddockstown Junction, Naas, Co. Kildare.

### 1.4 Objectives of the Appropriate Assessment Process

The Appropriate Assessment<sup>2</sup> process promotes a hierarchy of avoidance, mitigation and compensatory measures as follows:

- Firstly, a project should aim to avoid any negative impacts on Natura 2000 sites by identifying possible impacts early and designing the project 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.
- Thirdly a project may have to undergo an assessment of alternative solutions. Under this stage of the assessment, compensatory measures are required for any remaining adverse effects, but they are permitted only if (a) there are no alternative solutions and (b) the project is required for imperative reasons of overriding public interest (the 'IROPI test'). European case law highlights that consideration must be given to alternatives outside the project boundary area in carrying out the IROPI test.

### 1.5 Evidence of Technical Competence and Experience

Maeve Riley MSc, BSc, MCIEEM prepared this report, and it was technically reviewed by Elaine Dromey BSc MSc MCIEEM.

**Elaine Dromey** has worked in ecological consultancy since 2000 in both the UK and Ireland. She holds a BSc in Earth Science from University College Cork and an MSc in Vegetation Survey and Assessment from the University of Reading, UK. She is a full member of the Chartered Institute of Ecology and Environmental Management. Elaine has worked as a senior ecologist and the project lead on many projects requiring the preparation of ecological reports and reports to support the appropriate assessment process.

**Maeve Riley** is a Senior Ecologist with APEM and holds a MSc in Environmental Consultancy from Newcastle University. She has ten years ecological consultancy experience and is a full member of the Chartered Institute of Ecology and Environmental Management. She coordinates teams of multi-disciplinary experts for a range of projects and outputs including Appropriate Assessments, Ecological Impact Assessments (EclIA) and ecology reporting in support of planning applications for large commercial and residential facilities.

### 1.6 Relevant Legislation

The main pieces of relevant legislation are as follows:

- The Habitats Directive 92/43/EEC.

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<sup>2</sup> 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.

## 2.0 Methods

### 2.1 Desk Study

A desk study was carried out to collate information available on Natura 2000 sites within the potential zone of influence of the proposed works. The Site and the surrounding area was viewed using satellite imagery<sup>3</sup>. Kildare planning portal<sup>4</sup> 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<sup>5</sup> was accessed for information on Natura 2000 sites. Environmental Protection Agency (EPA) Maps<sup>6</sup> was accessed for other environmental information, such as location of watercourses, 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) states, for the zone of influence of plans, that *"A distance of 15 km is currently recommended in the case of plans derives from UK guidance (Scott Wilson et al, 2006)"*. The guidance goes on to state that *"for projects, the distance could be much less than 15 km, and in some cases less than 100 m, but this must be evaluated on a case-by-case basis with reference to the nature, size and location of the project, the sensitivities of the ecological receptors, and the potential for in-combination effects."*

The zone of influence for the proposed works was identified through a review of the nature of the works, the type of impacts and effects that could arise as a result, the distance between the works and Natura 2000 sites, and the qualifying interests of the Natura 2000 sites. The zone of influence of the proposed works is discussed in further detail later in this report.

### 2.3 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 proposed works.
- 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 proposed works based on information such as the vulnerabilities of the Natura 2000 site, proximity to the Site and the nature and scale of the proposed works.

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<sup>3</sup> <https://www.google.ie/maps> & <http://www.bing.com/maps/> (accessed 23 February 2022)

<sup>4</sup> <http://webgeo.kildarecoco.ie/planningenquiry> (accessed 23 February 2022)

<sup>5</sup> <https://www.npws.ie/protected-sites> (accessed 23 February 2022)

<sup>6</sup> <http://gis.epa.ie/> (accessed 23 February 2022)



- 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 proposed works in-combination with other plans and projects.
- Identify the likelihood of significant effects on Natura 2000 sites occurring because of the proposed works.

### 3.0 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.

#### 3.1 Identification of Natura 2000 sites

The first step in identification of Natura 2000 sites that could be affected by the project 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<sup>7</sup> and Landscape<sup>8</sup> connectivity.

The closest Natura 2000 site to the Site is Red Bog Kildare Special Area of Conservation (SAC) 000397 approximately 8 km south - east. The next closest Natura 2000 sites are Poulaphouca Reservoir Special Protection Area (SPA) 004063 approximately 9 km south - east and Mouds Bog SAC 002331 approximately 9.3 km west of the Site (Figure 2).

There is no landscape or ecological connectivity to any other Natura 2000 site. Therefore, the zone of influence of the proposed works is limited to the three closest Natura 2000 Sites; Red Bog Kildare SAC, Poulaphouca Reservoir SPA and Mouds Bog SAC.

#### 3.2 Description of Natura 2000 Sites

The summarised description of Natura 2000 sites within the zone of influence of the proposed works has been prepared using the supporting information available on the NPWS website<sup>9</sup>.

##### 3.2.1 Red Bog Kildare SAC 000397

*“Red Bog, Kildare is a site of particular conservation significance, supporting a good example of transition mire, a habitat that is listed on Annex I of the E.U. Habitats Directive.*

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<sup>7</sup> 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).

<sup>8</sup> 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)

<sup>9</sup> <https://www.npws.ie/protected-sites> (Accessed 22 February 2022)

*Red Bog is of ornithological significance and breeding birds recorded from the site include Mute Swan, Mallard, Tufted Duck, Coot, Moorhen, Snipe and Black-headed Gull (estimated <20 pairs)."*

### 3.2.2 Poulaphouca Reservoir SPA 004063

*"The reservoir covers an area of approximately 20 square kilometres and is the largest inland water body in the mid-east and south-east regions. The reservoir receives water from two main sources, the River Liffey at the northern end, and the Kings River at the southern end. The exit is into the River Liffey gorge at the western end. Underlying the reservoir are sands and gravels deposited during the last glaciation. The shores of the lake are mostly sandy.*

*Wet grassland areas occur in sheltered bays around the lake but especially in the northern part. Reed Canary-grass (*Phalaris arundinacea*) is the main grass species present, but other plant species characteristic of wet grasslands occur, including Creeping Bent (*Agrostis stolonifera*), Meadowsweet (*Filipendula ulmaria*), Yellow Iris (*Iris pseudacorus*) and Water Mint (*Mentha aquatica*). Sedges (*Carex* spp.) are locally common, while Rusty Willow (*Salix cinerea* subsp. *oleifolia*) scrub is often found associated with the wet grassland.*

*Poulaphouca Reservoir is of national importance for its Greylag Goose population, which is one of the largest in the country. The site provides the main roost for the birds, with feeding occurring mostly on improved grassland outside of the site. A mean peak of 701 individuals occurred during the five seasons 1995/96 to 1999/2000. Other waterfowl species occur in relatively low numbers, including Whooper Swan (22), Wigeon (180), Teal (107), Mallard (186), Goldeneye (22), Cormorant (11), Great Crested Grebe (8), Curlew (86) and Mute Swan (11). The site is also used by Grey Heron (6)*

*The principal interest of the site is the Greylag Goose population, which is of national importance. A range of other wildfowl species also occurs, including Whooper Swan, a species that is listed on Annex I of the E.U. Birds Directive. The site is also notable as a winter roost for gulls, especially Lesser Black-backed Gull. Part of Poulaphouca Reservoir SPA is a Wildfowl Sanctuary."*

### 3.2.3 Mouds Bog SAC 002331

*"The site is a Special Area of Conservation (SAC) selected for the following habitats and/or species listed on Annex I / II of the E.U. Habitats Directive (\* = priority; numbers in brackets are Natura 2000 codes): Raised Bog (Active)\* [7110] Degraded Raised Bog [7120] Rhynchosporion Vegetation [7150]*

*Mouds Bog is significant in terms of its high bog area and geographical location as it is at the eastern extreme of the range of raised bogs in Ireland. It is a site of considerable conservation significance comprising a large raised bog, a rare habitat in the E.U. and one that is becoming increasingly scarce and under threat in Ireland. This site supports a good diversity of raised bog microhabitats including hummock/hollow complexes, pools and flushes, and cutover, all of which add to the diversity and scientific value of the site. Active raised bog is listed as a priority habitat on Annex I of the E.U. Habitats Directive. Priority status is given to habitats and species that are threatened throughout the E.U. Ireland has a high proportion of the total E.U. resource of this habitat type (over 60%) and so has a special responsibility for its conservation at an international level.<sup>2</sup>*

*Red Grouse, a Red Listed species and one that is becoming increasingly rare in Ireland, has been recorded on this site. Other birds noted on the site include Skylark, Meadow Pipit, Curlew and Kestrel.”*

### 3.3 Qualifying Interests and Conservation Objectives

The qualifying interests and conservation objectives for Natura 2000 sites within the zone of influence of the proposed works are listed in Table 1. This information was also obtained from the resources available on the NPWS website<sup>9</sup>.

Table 1. Natura 2000 Sites within the Zone of Influence

Natura 2000 site and code	Distance from Site <sup>10</sup>	Qualifying Interests and Natura 2000 Code	Conservation Objectives
Red Bog Kildare SAC - 000397	8 km	<ul style="list-style-type: none"> <li>Transition mires and quaking bogs (7140)</li> </ul>	<p>To maintain the favourable conservation condition of the of the qualifying interests of the SAC using a list of specific attributes and targets</p> <p>Full details of the conservation objectives for the SAC can be found at:</p> <p><a href="https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000397.pdf">https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000397.pdf</a></p>
Poulaphouca Reservoir SPA - 004063	9 km	<ul style="list-style-type: none"> <li>Greylag goose (<i>Anser anser</i>) (A043)</li> <li>Lesser black-backed gull (<i>Larus fuscus</i>) (A183)</li> </ul>	<p>To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA</p> <p>Full details of the conservation objectives for the SPA can be found at:</p> <p><a href="https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004063.pdf">https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004063.pdf</a></p>
Mouds Bog SAC - 002331	9.3 km	<ul style="list-style-type: none"> <li>Active raised bogs (7110)</li> <li>Degraded raised bogs still capable of natural regeneration (7120)</li> <li>Depressions on peat substrates of the Rhynchosporion (7150)</li> </ul>	<p>To restore the favourable conservation condition of the qualifying interests of the SAC using a list of specific attributes and targets.</p> <p>Full details of conservation objectives for the SAC can be found at:</p> <p><a href="https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002331.pdf">https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002331.pdf</a></p>

<sup>10</sup> Measured in a straight line between the Site and closest point of Natura 2000 site boundary

### 3.4 Identification of potential impacts on Natura 2000 sites

The potential impacts of the proposed development on the habitats and species listed as qualifying interests for the Poulaphouca Reservoir SPA and Mouds Bog 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 if the screening process becomes overly complicated, then the process must proceed to Stage 2 (AA). Screening should be undertaken without the inclusion of mitigation, unless potential impacts clearly can be avoided through the modification or redesign of the plan or project, in which case the screening process is repeated on the altered plan. The greatest level of evidence and justification will be needed in circumstances when the process ends at screening stage on grounds of no impact.”* This approach is adopted in this report to considering the likely significant effects of the proposed development.

A significant effect is defined in paragraph 49 of the Waddenzee Case C-127/02<sup>11</sup> as follows *“.....pursuant to the first sentence of Article 6(3) of the Habitats Directive, where a plan or project not directly connected with or necessary to the management of a site is likely to undermine the site's conservation objectives, it must be considered likely to have a significant effect on that site. The assessment of that risk must be made in the light inter alia of the characteristics and specific environmental conditions of the site concerned by such a plan or project.”*

The likelihood of impacts occurring as a result of the proposed development was 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.

### 3.5 Potential Impacts and Effects

The works will be confined to the extents of the area shown on Drawing Number 15088-C-DR-P8/1-02 (See Figures) prepared by Kilgallen and Partners Consulting Engineers.

The proposed works are approximately 8 km from the boundary of the closest Natura 2000 site with the boundary of the next closest Natura 2000 site approximately 9 km distant (Figure 2). The proposed works will not directly impact any Natura 2000 sites and there is no risk of habitat damage, loss or fragmentation as there will be no land take or works within any Natura 2000 site.

The proposed works are within an urban environment where existing noise levels associated with human activities will not increase during construction or operation phases. Therefore, there is no risk of disturbance of species listed as qualifying interests of the Poulaphouca Reservoir SPA because of noise levels associated with the proposed works.

The proposed works will not result in any effects on qualifying interests arising from emissions to air, such as dust, as the works are sufficiently distant from Red Bog Kildare SAC, Poulaphouca Reservoir SPA and Mouds Bog SAC that any dust generated would not affect these Natura 2000 sites.

There is no ecological or landscape connectivity between the works area and any Natura 2000 sites. There are no streams or drainage ditches within the works area and therefore no pathway to convey pollutants via surface water to Natura 2000 sites. The proposed works include upgrade of the existing

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<sup>11</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62002CJ0127> (accessed 22 February 2022)

surface water management system and surface water run-off from these areas on completion of works will continue to discharge to the existing surface water drainage network.

There is no risk of any effects on Red Bog Kildare SAC, Poulaphouca Reservoir SPA and Mouds Bog SAC as a result of the proposed works due to the small scale and nature of the works, upgrades of existing road infrastructure, and the lack of any ecological or landscape connectivity.

### 3.6 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).

There are no effects on Natura 2000 sites predicted to occur as a result of the Proposed Works and therefore there are no pathways for the works to act in-combination with other plans or projects.

### 3.7 Likely Significant Effects

The proposed upgrade works at Craddockstown Junction, Naas, Co. Kildare will not result in effects on Red Bog Kildare SAC 000397, Poulaphouca Reservoir SPA 004063 and Mouds Bog SAC 002331 and there is no risk of undermining the conservation objectives of these sites. There are no likely significant effects on any Natura 2000 sites because of proposed upgrade works at Craddockstown Junction, Naas, Co. Kildare junction.

## 4.0 Consideration of Findings

This screening report, based on the available scientific information and project details, demonstrates that the Proposed Development does not pose a risk of likely significant effects on Red Bog Kildare SAC 000397, Poulaphouca Reservoir SPA 004063 and Mouds Bog SAC 002331.

We therefore submit that the competent authority, in this case Kildare County Council, can determine that appropriate assessment is not required, as the proposed works, individually or in combination with other plans or projects, will not have a significant effect Red Bog Kildare SAC 000397, Poulaphouca Reservoir SPA 004063 and Mouds Bog SAC 002331 or on any other Natura 2000 site.

## 5.0 References

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

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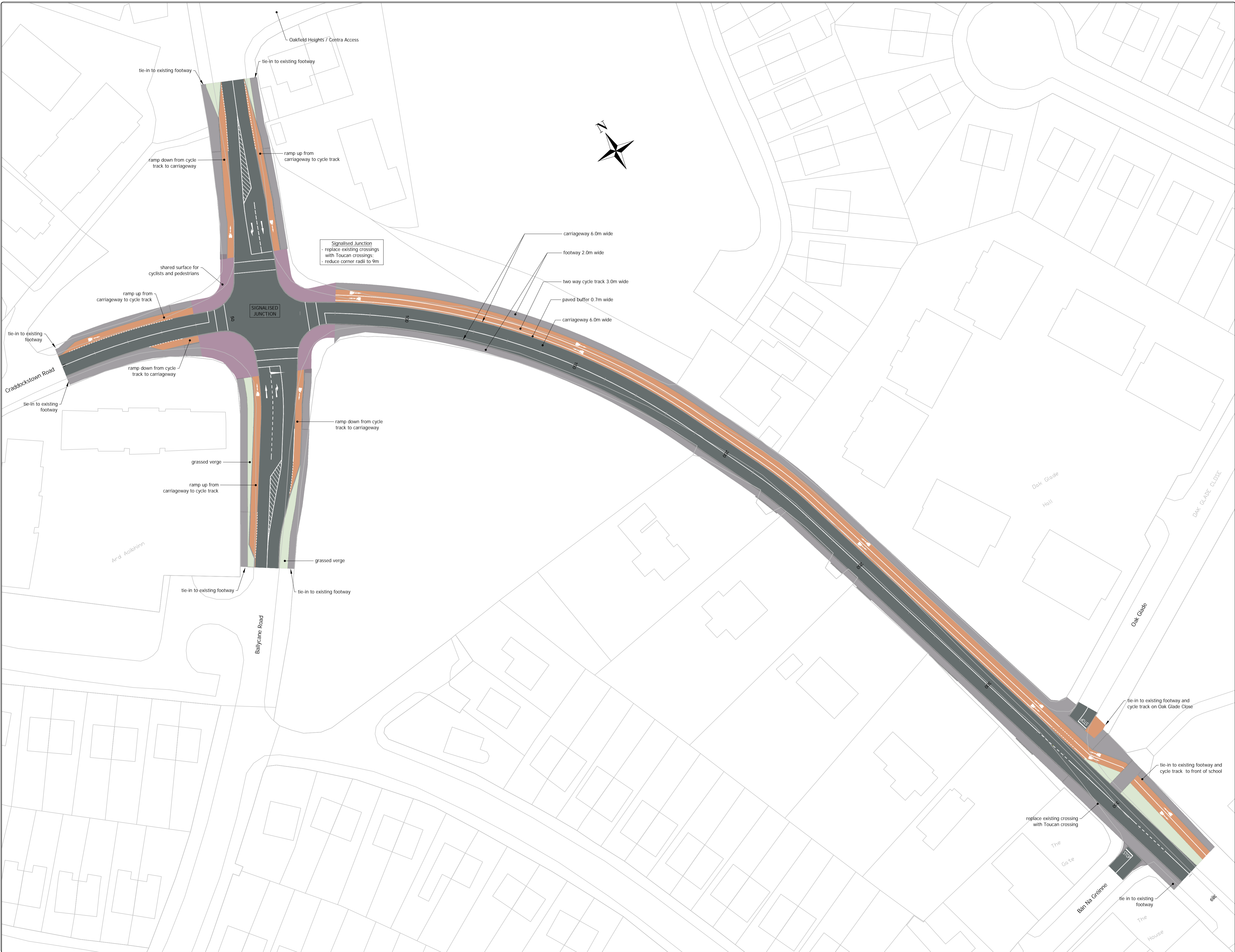


## Websites

EPA Mapping <https://gis.epa.ie/EPAMaps/>

National Parks and Wildlife Services Protected Sites <https://www.npws.ie/protected-sites>

## Figures



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REV	DATE	BY	DETAILS

CLIENT  
 KILDARE COUNTY COUNCIL

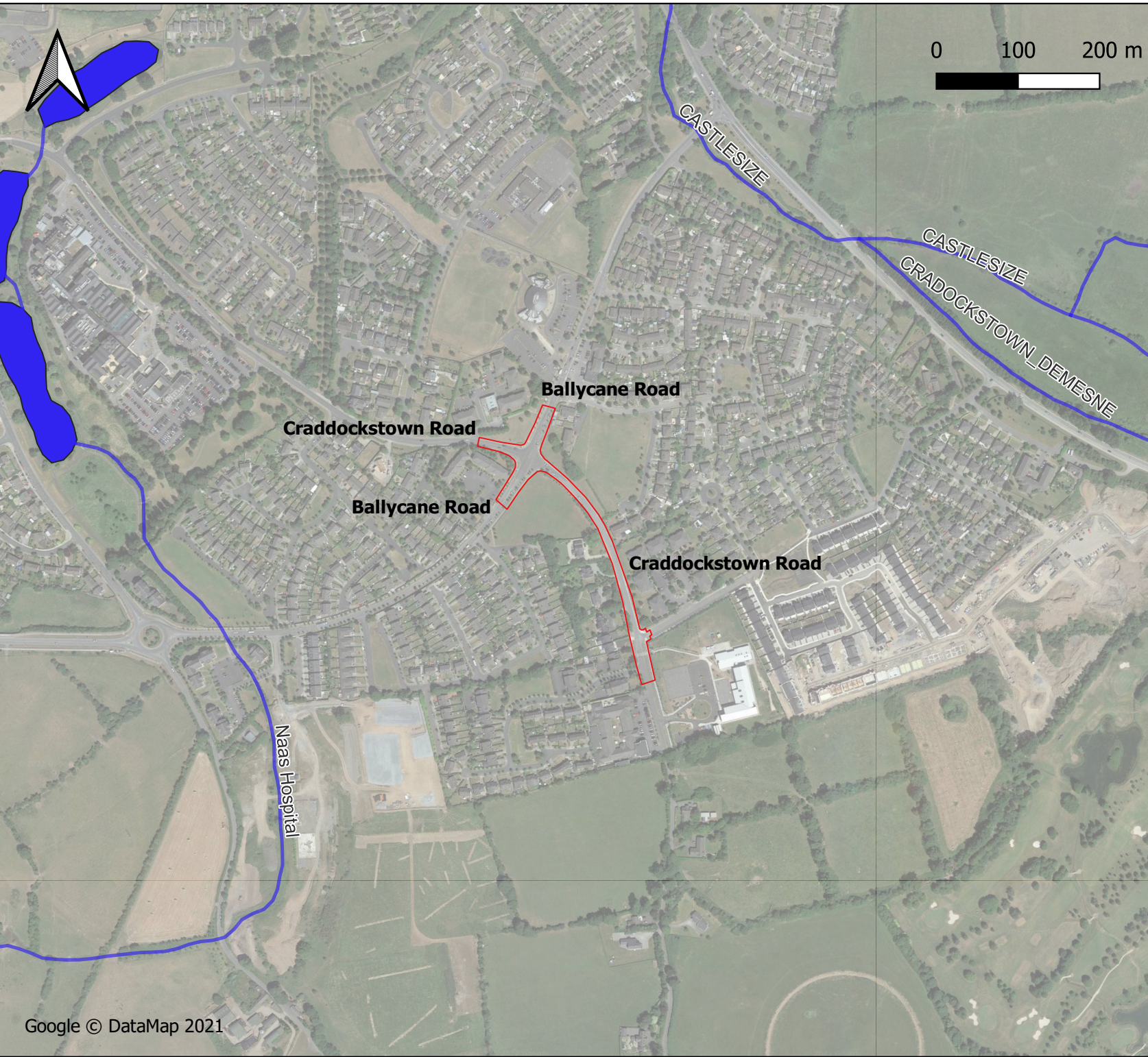
STATUS  
 PRELIMINARY. NOT TO BE USED FOR ANY OTHER PURPOSE.

PROJECT  
 CRADDOCKSTOWN ROAD / BALLYCANE ROAD IMPROVEMENT SCHEME

TITLE  
 OPTION 6 - Two-way cycle tracks on one side of Craddockstown Road (General Layout)

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DRN: CP	DRAWING NO.: 19044-DR-202	REV.: PR1
CHKD: PB	SCALE: 1:500 @ A1	DATE: 14/09/21

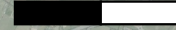


- ### Legend
- Indicative Redline Boundary
  - Watercourses
  - Lakes




		<b>Project Name</b>	
		Craddockstown Junction	
<b>Map Title</b>			
Figure 1 Site Location			
<b>Client</b>		<b>Date</b> 21/02/2022	
Kilgallen and Partners		<b>Drawn</b> MR	<b>Checked</b> ED



0 1 2 km



# Legend


-  Indicative Redline Boundary
-  SPA
-  SAC

Mouds Bog SAC

Red Bog, Kildare SAC

Poulaphouca Reservoir SPA

Poulaphouca Reservoir SPA

		<b>Project Name</b> Craddockstown Junction	
<b>Map Title</b> Figure 2 Natura 2000 Sites			
<b>Client</b> Kilgallen and Partners		<b>Date</b> 21/02/2022	<b>Checked</b> ED
		<b>Drawn</b> MR	

## 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<sup>12</sup>, 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

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<sup>12</sup> Also referred to as European Sites in the Planning and Development Acts 2000 – 2021.

42(3)(a) gives them the authority to direct a third party to provide a Natura Impact Statement and Section 42(3)(b) allows them to request any additional information that is considered necessary for the purposes of undertaking a screening assessment.

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

### Planning and Development Acts 2000 to 2021<sup>13</sup> - PART XAB

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

#### *Screening for appropriate assessment*

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

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

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

(b) consent for a proposed project is given.

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

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

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

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<sup>13</sup> <http://revisedacts.lawreform.ie/eli/2000/act/30/revised/en/html> (Updated to 17 December 2021)

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

- (i) the applicant,
- (ii) if appropriate, any person who made submissions or observations in relation to the application to the competent authority, or
- (iii) if appropriate, any party to an appeal or referral.

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

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

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

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

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

- (a) a grant of permission,
- (b) a decision of the Board to grant permission on a planning application or an appeal,
- (c) consent for development under Part IX,
- (d) approval for development that may be carried out by a local authority under Part X or Part XAB or development that may be carried out under Part XI,
- (e) approval for development on the foreshore under Part XV,
- (f) approval for development under section 43 of the Act of 2001,
- (g) approval for development under section 51 of the Roads Act 1993, or
- (h) a substitute consent under Part XA.

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

(10) In deciding upon an application under section 176A or a determination review or an application referral under section 176C, a planning authority or the Board, as the case may be, shall, where



appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.

### *Natura impact report and natura impact statement*

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

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

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

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

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

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

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

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

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

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

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

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

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

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