



**Cootes Lane to Ring Road Active Travel Scheme**

**Appropriate Assessment Screening Report**

**Kilgallen and Partners Consulting Engineers Ltd.**

**P00008077**

**January 2023**

**Client:** Kilgallen and Partners Consulting Engineers Ltd.

**Address:** 3 Danville Business Park, Kilkenny

**Project reference:** P00008077

**Date of issue:** January 2023

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**Project Director:** Eliot Taylor

**Project Manager:** Maeve Riley

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APEM Ltd

NSC-Campus

Mahon

Cork

T12 XY2N

Tel: 021 2339580

Registered in Ireland No. 493496

## Revision and Amendment Register

Version Number	Date	Section(s)	Page(s)	Summary of Changes	Approved by
V 1	24/02/2022	ALL	ALL	n/a	MR
V 2	08/08/2022	S3 and S4		Incorporate Client Comments	MR
V3	17/01/2023	Project Description	5	Final to Client	MR

## Table of Contents

<b>1.0</b>	<b>INTRODUCTION</b>	<b>1</b>
1.1.	General Description of the Site	1
1.2.	Brief Description of the Proposed Development	1
1.3.	Aim of the Report	1
1.4.	Objectives of the Appropriate Assessment Process	1
1.5.	Evidence of Technical Competence and Experience	2
1.6.	Relevant Legislation	2
<b>2.0</b>	<b>METHODS</b>	<b>3</b>
2.1.	Desk Study	3
2.2.	Zone of Influence	3
2.3.	Screening Report	3
2.4.	Cumulative Effects	4
<b>3.0</b>	<b>DETAILED PROJECT DESCRIPTION</b>	<b>5</b>
<b>4.0</b>	<b>APPROPRIATE ASSESSMENT SCREENING</b>	<b>8</b>
4.1.	Identification of Natura 2000 sites	8
4.2.	Description of Natura 2000 Sites	8
4.3.	Qualifying Interests and Conservation Objectives	9
4.4.	Identification of potential Impacts on Natura 2000 sites	12
4.5.	Likelihood of Significant Effects on Natura 2000 Sites	13
<b>5.0</b>	<b>CONSIDERATION OF FINDINGS</b>	<b>14</b>
<b>6.0</b>	<b>REFERENCES</b>	<b>15</b>

## 1.0 Introduction

APEM Ltd was commissioned by Kilgallen and Partners Consulting Engineers Ltd., on behalf of Kilkenny County Council, on 01 February 2022 to prepare a report to inform screening for appropriate assessment for a proposed active travel scheme from Cootes Lane to the Ring Road in Kilkenny city.

### 1.1. General Description of the Site

The Cootes Lane to the Ring Road working area (“the Site”) is centred at approximate Irish Transverse Mercator (ITM) coordinates 650000 654798 (Figure 1) ca 1.75 km south-east of Kilkenny City. The Breagh River flows in a northerly direction through the Site. Typically, the Breagh is shallow and slow flowing where it flows through the Site for the majority of the time, remaining shallower than 0.4m<sup>1</sup> and having low naturalised monthly flow rates of 0.765 m<sup>3</sup>/s<sup>2</sup>. At this crossing point stones have been set into the bed of the river, considered to be remnants of a historical ford. Immediately downstream of the ford a wall crosses the Breagh; this wall has three arched openings to direct the flow in the Breagh.

The lands within and surrounding the Site are dominated by urban areas and improved agricultural grassland fields bordered by managed hedgerows and treelines lie to the west of the Site.

### 1.2. Brief Description of the Proposed Development

Kilkenny County Council proposes the construction of a link to serve pedestrians and cyclists between Cootes Lane and the N77 Ring Road. The following aspects of the proposed scheme are to be considered at preliminary design stage:

- Preliminary geotechnical ground investigation works
- Construction of new raised shared surface and bridge
- Soft and hard landscaping
- Potential bases for bollards/public lighting

### 1.3. Aim of the Report

This report has been prepared to provide supporting information to allow the competent authority, in this case Kilkenny County Council, to carry out screening for appropriate assessment for the proposed active travel scheme from Cootes Lane to the Ring Road in Kilkenny city.

### 1.4. Objectives of the Appropriate Assessment Process

The Appropriate Assessment<sup>3</sup> process promotes a hierarchy of avoidance, mitigation and compensatory measures as follows:

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<sup>1</sup> [Realtime waterlevel](#)

<sup>2</sup> [EPA Maps](#)

<sup>3</sup> The objectives as outlined are based on those set out in Scott Wilson and Levett-Therivel, (2006).

- 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.
- Thirdly a plan / project may have to undergo an assessment of alternative solutions. Under this stage of the assessment, compensatory measures are required for any remaining adverse effects, but they are permitted only if (a) there are no alternative solutions and (b) the plan / project is required for imperative reasons of overriding public interest (the 'IROPI test'). European case law highlights that consideration must be given to alternatives outside the plan / project boundary area in carrying out the IROPI test.

### 1.5. Evidence of Technical Competence and Experience

Adon McFarlane BSc, PhD prepared this report, and it was technically reviewed by Maeve Riley BSc, MSc, MCIEEM.

**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 (EclA) and ecology reporting in support of planning applications for large commercial and residential facilities.

**Adon McFarlane** is a freshwater biology PhD graduate, specialising in white-clawed crayfish, currently working as a Freshwater Ecologist for APEM Ireland. He has built up skills in the collection of data both in the field and laboratory, analysis of data using statistical software programs such as R, BORIS, RAVEN and Minitab, creation of distribution maps using GIS. Adon has very strong technical skills in both freshwater and marine laboratory and fieldwork instrumentation and equipment usage.

### 1.6. Relevant Legislation

The main pieces of relevant legislation are as follows:

- The Habitats Directive 92/43/EEC.
- 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 development. The Site and the surrounding area were viewed using satellite imagery<sup>4</sup>, Kilkenny County Council planning portal<sup>5</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>6</sup> was accessed for information on Natura 2000 sites. Environmental Protection Agency (EPA) Maps<sup>7</sup> 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)<sup>8</sup> 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 this project was identified through a review of the nature of the project, the duration, the type of impacts and effects that could arise as a result, the distance between the project and Natura 2000 sites, and the qualifying interests of the Natura 2000 sites. The zone of influence of the project 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 and can be 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.

<sup>4</sup> <https://www.google.ie/maps> & <http://www.bing.com/maps/> (last accessed 17 February 2022)

<sup>5</sup> [Planning Lists - Kilkenny County Council \(kilkennycoco.ie\)](https://www.kilkennycoco.ie) (last accessed 17 February 2022)

<sup>6</sup> <https://www.npws.ie/protected-sites> (last accessed 17 February 2022)

<sup>7</sup> <http://gis.epa.ie/> (last accessed 17 February 2022)

<sup>8</sup> *Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities*

- 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.

## 2.4. 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; and
- 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).

### 3.0 Detailed Project Description

Kilkenny County Council proposes the construction of a link to serve pedestrians and cyclists between Cootes Lane and the N77 Ring Road. A description of proposed activities extracted from the feasibility study, provided by Kilgallen and Partners Consulting Engineers Ltd, are outlined below and illustrated in Drawing Reference 21079-C-DR-101 (See Figures) as prepared by Kilgallen and Partners Consulting Engineers.

There are no instream works proposed for the project. Works will take place at least 2m from the edge of the River Breagagh. Standard practices, developed with reference to recognised good guidance (CIRIA 2001, CIRIA 2015), in relation to sediment and pollution control will be implemented during the construction phase of the project.

#### Cross-section

Cootes Lane currently provides a shared surface for pedestrians and cyclists; it is 770m in length and typically approximately 3.5m wide. The pathway between Cootes Lane and the Breagagh is of similar width. Cootes Lane is 770m long; the proposed link is 100m long, 45m of which is made up of the pathway to the east of the Breagagh. The cross-section of the link is therefore dictated by the existing cross-section of Cootes Lane. Accordingly, the link will provide a 3.5m wide shared surface for pedestrians and cyclists.

#### Crossing of River Breagagh

In order to provide the link between Cootes Lane and the Ring Road, a bridge over the River Breagagh will be required. The bridge must be long enough to clear the obstacle to be crossed and high enough not to interfere with whatever passes beneath the bridge. In this case, the minimum elevation of the soffit is determined by the existing stone arches immediately downstream. The maximum elevation of the bridge deck is dictated by the need to tie into the existing pathway east of the Breagagh in such a way that it is accessible for pedestrians, cyclists and wheelchair users. The span required to cross the Breagagh is 16m.

#### Ring Road to River Breagagh

The finished level of the bridge deck will be above the existing ground level west of the Breagagh. A boardwalk structure will be constructed to raise the shared surface to the elevation required to meet the bridge deck. The shared surface will slope downwards from the bridge to existing ground level at a gradient that is acceptable for wheelchair users. The shared surface will have a slip-resistant, durable decking on the boardwalk and a bituminous macadam finish where it is at existing ground level. The shared surface will meet the Ring Road at a 90-degree angle; this gives rise to the risk of cyclists approaching the Ring Road failing to stop and colliding with cyclists, pedestrians, or vehicles on the Ring Road. To protect against this, a gateway is proposed immediately east of the tie-in to the Ring Road which will force bicycles to slow to an appropriate speed.

#### Breagagh to Cootes Lane

The finished level of the bridge deck will also be above the existing ground level east of the Breagagh; however, because the ground level rises towards Cootes Lane, the finished level of the shared surface meets the existing ground level much sooner than is the case west of the Breagagh. As before, a boardwalk structure will be constructed to raise the shared surface to the elevation required to meet the bridge deck and the surface finish will have a slip-resistant, durable decking on the boardwalk and a bituminous macadam finish where it is at existing ground level. Cootes Lane falls relatively steeply towards the Breagagh. This gives rise to the risk of excessive bicycle speed approaching

the bridge. A gateway is proposed to the east of the bridge to force bicycles to slow to an appropriate speed.

### Lighting

Route lighting will be installed over the full length of the link.

### Existing Services and Utilities

Utility providers were consulted to establish if there are any underground or overground infrastructure within the Site. Based on this consultation, other than an ESB pole located immediately upstream of the proposed bridge which will have to be relocated, no services were identified which would require diversion in order to construct the Scheme.

### Bridge over River Breagagh

There are 2 bridge options being considered for this project, the Glulam Timber Bridge or Steel Beam Bridge.

The use of Glulam (Glued Laminated) Timber was considered as this structural timber can easily be engineered to form curved shapes with considerably lower weights to that of concrete. This high strength efficiency enables glulam bridges to achieve large spans between supports while its lower weight requires less craneage and simpler installation methods.

Generally steel beam bridges are considered in the span range of 10m up to a maximum of 30m. For a pedestrian footbridge with light loading the depth of beam can be approximated to be about 1/30 of the span. The bridge would consist of three primary beams which would be supported by secondary steel members. Cross-members carry the floor loading to the main beams.

### Constructability

Site access and craneage are the primary constraints in terms of the constructability of the new bridge. Access to the west bank will be required from the N76 Ring Road. It is envisaged that this work would be carried out during the summer months when the ground is at its driest to minimise the damage to the existing ground. It is likely that the bridge will be constructed in one or two individual prefabricated sections and transported to site for lifting into position possibly using an 80T mobile crane at road level. Craneage from the road will require traffic management in the form of lane restrictions or a possible road closure. Access to the east bank will be provided from the existing Cootes Lane for lighter plant such as dumpers, mini excavators to construct the shared space. It is estimated that one mobile crane will be required during the installation process in order to manoeuvre the structure from the Ring Road to its proposed permanent location.

### Bridge Deck

The bridge deck must be slip-resistant, durable, aesthetically acceptable and resistant to vandalism insofar as possible. The bridge deck must also allow rainwater to pass directly through without the requirement for positive collection and disposal. The final decision on the material to be used for the bridge deck will be made at detailed design stage, however, it is likely to be either recycled plastic deck or hardwood timber decking board with resin strips.

## Parapet

Parapets are required to provide protection to the sides of a footbridge. The minimum parapet height for a footbridge is 1.15m. This is not considered suitable for cyclists so the minimum parapet height for this bridge will be 1.4m.

## 4.0 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. 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 project. When the zone of influence of the project has been determined Natura 2000 sites within this area can be identified and the potential for these sites to be affected by the project can be evaluated by considering:

- Scale and type of the project.
- Proximity to the project.
- Qualifying interests.
- Ecological<sup>9</sup> and Landscape<sup>10</sup> connectivity.

### 4.1. Identification of Natura 2000 sites

The closest Natura 2000 sites to the Site are River Barrow and River Nore Special Area of Conservation (SAC) 002162 and River Nore Special Protection Area (SPA) 004233. These sites are located ca. 3 km downstream of the Site and ca. 1.5km north-east of the site if measured in a straight line (Figure 1).

River Barrow and River Nore SAC and River Nore SPA are hydrologically connected to the Site via the Breaghagh River that flows under the Site. River Barrow and River Nore SAC and River Nore SPA are, therefore, within the zone of influence of the project. These Natura 2000 sites are considered further in this report by virtue of their connectivity with the project via the Breaghagh River and proximity (1.5 km distant).

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 River Barrow and River Nore SAC and River Nore SPA.

### 4.2. Description of Natura 2000 Sites

The following Natura 2000 site descriptions of River Barrow and River Nore SAC and River Nore SPA have been prepared using the supporting information available on the NPWS website<sup>11</sup>.

#### *River Barrow and River Nore SAC 002162*

<sup>9</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>10</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>11</sup> <https://www.npws.ie/protected-sites> (last accessed 20 January 2022)

*“River Barrow and River Nore SAC consists of most of the freshwater stretches of the Barrow/Nore River catchments. Both rivers rise in the old red sandstone of the Slieve Bloom Mountains. They traverse limestone bedrock for a good proportion of their routes. A wide range of habitats associated with the rivers are included within the site, including substantial areas of woodland (deciduous, mixed), dry heath, wet grassland, swamp and marsh vegetation, salt marshes, a small dune system, biogenic reefs and intertidal sand and mud flats. Areas of improved grassland, arable land and coniferous plantations are included in the site for water quality reasons. The site supports many annexed habitats including the priority habitats of alluvial woodland and petrifying springs. Quality of habitat is generally good. The site also supports a number of Annex II animal species - *Salmo salar*, *Margaritifera margaritifera*, *M.m. durrovensis*, *Alosa fallax fallax*, *Austropotamobius pallipes*, *Petromyzon marinus*, *Lutra lutra*, *Lampetra fluviatilis* and *L. planeri*. Annex I Bird species include *Anser albifrons flavirostris*, *Falco peregrinus*, *Cygnus cygnus*, *Cygnus columbianus bewickii*, *Limosa lapponica*, *Pluvialis apricaria* and *Alcedo atthis*. A range of rare plants and invertebrates are found in the woods along these rivers and rare plants are also associated with the saltmarsh.”*

#### *River Nore SPA 004233*

*“The River Nore SPA is a long linear site that includes the many sections of the River Nore. following river sections: The site includes the river channel and marginal vegetation. The River Nore support nationally important numbers of *Alcedo atthis*. Other species which occur within the site include *Cygnus olor*, *Anas platyrhynchos*, *Phalacrocorax carbo*, *Ardea cinerea*, *Gallinula chloropus*, *Gallinago gallinago* and *Riparia riparia*.”*

### **4.3. Qualifying Interests and Conservation Objectives**

The qualifying interests and conservation objectives for River Barrow and River Nore SAC and River Nore SPA are listed in Table 1. This information was obtained from the resources available on the NPWS website<sup>11</sup>

Table 1. Natura 2000 Sites within the Zone of Influence

Natura 2000 site	Distance from Site <sup>12</sup>	Qualifying Interests	Conservation Objectives
<b>River Barrow and River Nore SAC 002162</b>	Within	<ul style="list-style-type: none"> <li>• Estuaries [1130]</li> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>• Reefs [1170]</li> <li>• Salicornia and other annuals colonising mud and sand [1310]</li> <li>• Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</li> <li>• Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</li> <li>• Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation [3260]</li> <li>• European dry heaths [4030]</li> <li>• Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]</li> <li>• Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]</li> <li>• Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</li> <li>• Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</li> <li>• <i>Vertigo moulinsiana</i> (Desmoulin's Whorl Snail) [1016]</li> <li>• <i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</li> <li>• <i>Austropotamobius pallipes</i> (White-clawed Crayfish) [1092]</li> <li>• <i>Petromyzon marinus</i> (Sea Lamprey) [1095]</li> <li>• <i>Lampetra planeri</i> (Brook Lamprey) [1096]</li> <li>• <i>Lampetra fluviatilis</i> (River Lamprey) [1099]</li> <li>• <i>Alosa fallax fallax</i> (Twaite Shad) [1103]</li> <li>• <i>Salmo salar</i> (Salmon) [1106]</li> </ul>	<p>The conservation objectives of this site are set out in full here:</p> <p><a href="https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002162.pdf">https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002162.pdf</a></p> <p>In summary, the conservation objective for the SAC is to maintain or restore the favourable conservation condition of the habitat(s) and species for which the SAC has been selected. The conservation condition of each qualifying interest is defined by a list of specific attributes and targets.</p>

<sup>12</sup> Measured in a straight line between the Site and closest point of Natura 2000 site boundary

Natura 2000 site	Distance from Site <sup>12</sup>	Qualifying Interests	Conservation Objectives
		<ul style="list-style-type: none"> <li>• <i>Lutra lutra</i> (Otter) [1355]</li> <li>• <i>Trichomanes speciosum</i> (Killarney Fern) [1421]</li> <li>• <i>Margaritifera durrovensis</i> (Nore Pearl Mussel) [1990]</li> </ul>	
<b>River Nore SPA 004233</b>	Within	<ul style="list-style-type: none"> <li>• Kingfisher (<i>Alcedo atthis</i>) [A229]</li> </ul>	<p>The conservation objectives of this site are set out in full here:</p> <p><a href="https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004233.pdf">https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004233.pdf</a></p> <p>In summary, the conservation objective for the SPA is to maintain the favourable conservation condition of the species and wetland habitat for which the SPA has been selected. The conservation condition of each qualifying interest is defined by a list of specific attributes and targets.</p>

#### 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 River Barrow and River Nore SAC and River Nore SPA 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 consider the likely significant effects of the proposed development.

A significant effect is defined in paragraph 49 of the [Waddenzee Case C-127/02](#)<sup>13</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 project is 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 connected to the River Barrow and River Nore SAC and River Nore SPA via the River Breagh (See Figure 1). The proposed scheme is ca. 3km upstream and ca. 1.5 km measured in a straight line from the Natura 2000 sites at the closest point.

There is no risk of habitat damage, loss or fragmentation within either the River Barrow and River Nore SAC or River Nore SPA as the proposed scheme does not require any land take or works within these Natura 2000 sites. The proposed scheme will not result in any impacts, such as emissions to air or noise during construction, that could extend beyond the immediate area of the works and affect the qualifying interests of the River Barrow and River Nore SAC or River Nore SPA.

Although there are no instream works proposed for this scheme, works will be in close proximity to the River Breagh which flows to the River Barrow and River Nore SAC and River Nore SPA. In the unlikely event that sediment and or pollutants enter the River Breagh, it is considered that levels of such will be minimal given the design of the project.

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<sup>13</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62002CJ0127> (last accessed 24 February 2022)

Given the distance of the Site to the River Barrow and River Nore SAC and River Nore SPA (ca 3 km), the shallow nature of the river Breaghagh (on average shallower than 0.4m<sup>14</sup>), the low naturalised monthly flow rates 0.765 m<sup>3</sup>/s<sup>15</sup> and the requirements of the qualifying interests within the nearby Natura 2000 sites it is considered unlikely that there will be any indirect or direct effects from pollutants or sediments giving rise to disturbance or displacement of features of the SAC and SPA.

Construction work for this scheme will be carried out during the summer months (June to August inclusive) when the ground is at its driest to minimise the damage to the existing ground, this also coincides with when the River Breaghagh is at its lowest depths and flow rates, therefore, reducing the distance the sediment will flow downstream. Works will not take place during or immediately after high rainfall events.

The River Barrow and River Nore SAC and the River Nore SPA are not likely to be affected by the proposed active travel scheme from Cootes Lane to the Ring Road in Kilkenny city.

#### 4.4.2. 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 active travel scheme from Cootes Lane to the Ring Road in Kilkenny city and therefore there are no pathways for it to act in-combination with other plans or projects

#### 4.5. Likelihood of Significant Effects on Natura 2000 Sites

The proposed active travel scheme from Cootes Lane to the Ring Road in Kilkenny city is not considered likely to result in effects on River Barrow and River Nore SAC and River Nore SPA. There is, therefore, no risk of undermining the conservation objectives of either of these sites. There will be no likely significant effects on River Barrow and River Nore SAC and River Nore SPA arising from the proposed active travel scheme from Cootes Lane to the Ring Road in Kilkenny city.

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<sup>14</sup> [Realtime waterlevel](#)

<sup>15</sup> [EPA Maps](#)

## 5.0 Consideration of Findings

This screening report, based on the available scientific information and project details provided by Kilgallen and Partners Consulting Engineers Ltd, demonstrates that the proposed active travel scheme from Cootes Lane to the Ring Road in Kilkenny city does not pose a risk of likely significant effects on the River Barrow and River Nore SAC and River Nore SPA.

We therefore submit that the competent authority, in this case Kilkenny County Council, can determine that appropriate assessment is not required, as the proposed active travel scheme from Cootes Lane to the Ring Road in Kilkenny city, individually or in combination with other plans or projects, will not have a significant effect on River Barrow and River Nore SAC and River Nore SPA.

## 6.0 References

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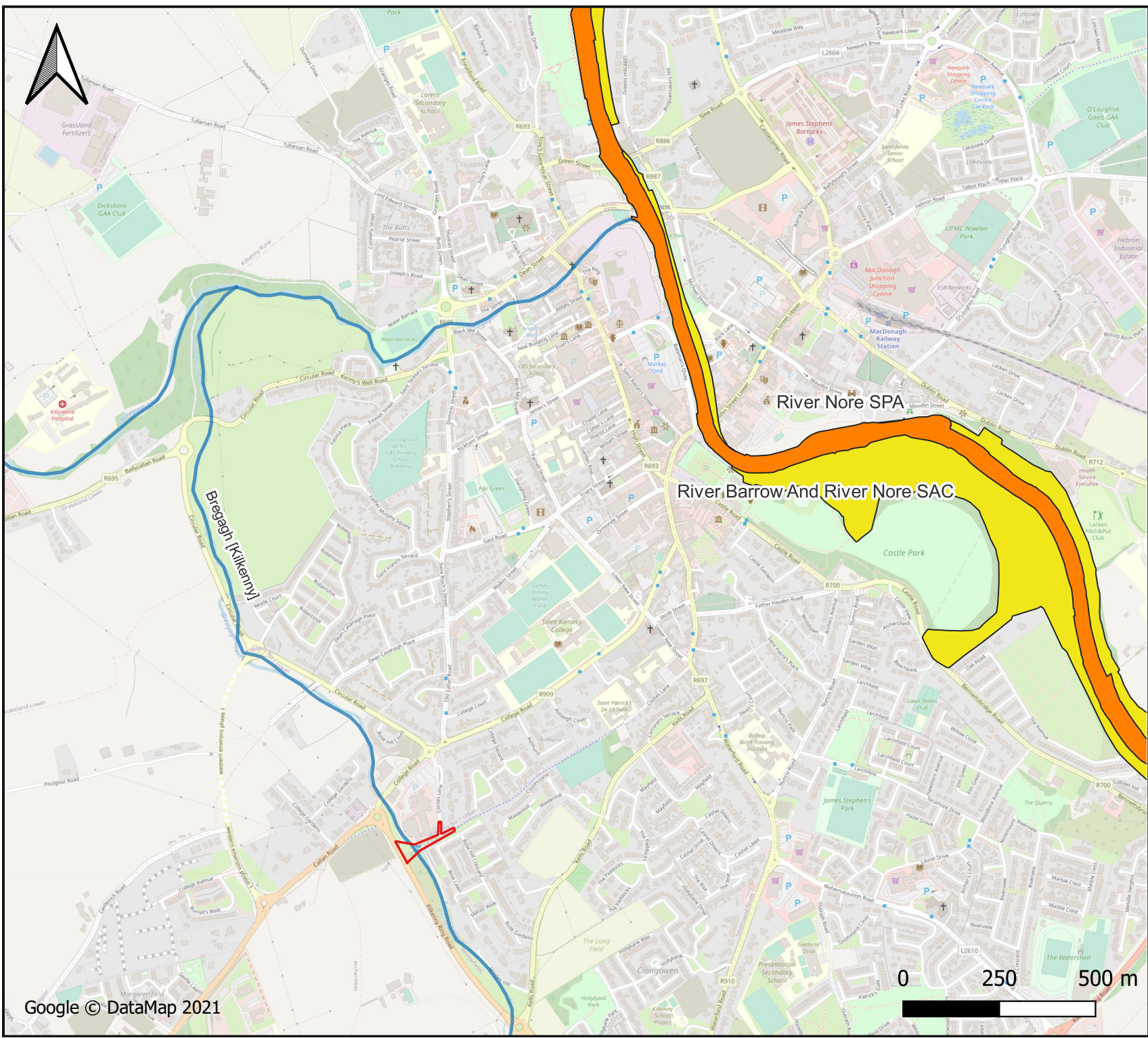
EPA Mapping <https://gis.epa.ie/EPAMaps>

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


National Biodiversity Data Centre Mapping <http://maps.biodiversityireland.ie/#/Map>

OPW Water Levels [Realtime waterlevel](#)

# Figures



- ### Legend
- Indicative Site Boundary
  - Special Protection Areas (SPA)
  - Special Areas of Conservation (SAC)
  - River Network

	<b>Project Name</b>	
	Cootes Lane to Ring Road Active Travel Scheme	
<b>Map Title</b>		
Figure 1. Natura 2000 Sites Map		
<b>Client</b>	<b>Date</b>	18/02/2022
Kilgallen and Partners Consulting Engineers Ltd	<b>Drawn</b> AMcF	<b>Checked</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>16</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.

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

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

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

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<sup>16</sup> Also referred to as European Sites in the Planning and Development Acts 2000 – 2021 and EC (Birds and Natural Habitats) Regulations 2011 to 2021.

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>17</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.

(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—

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

- (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.

