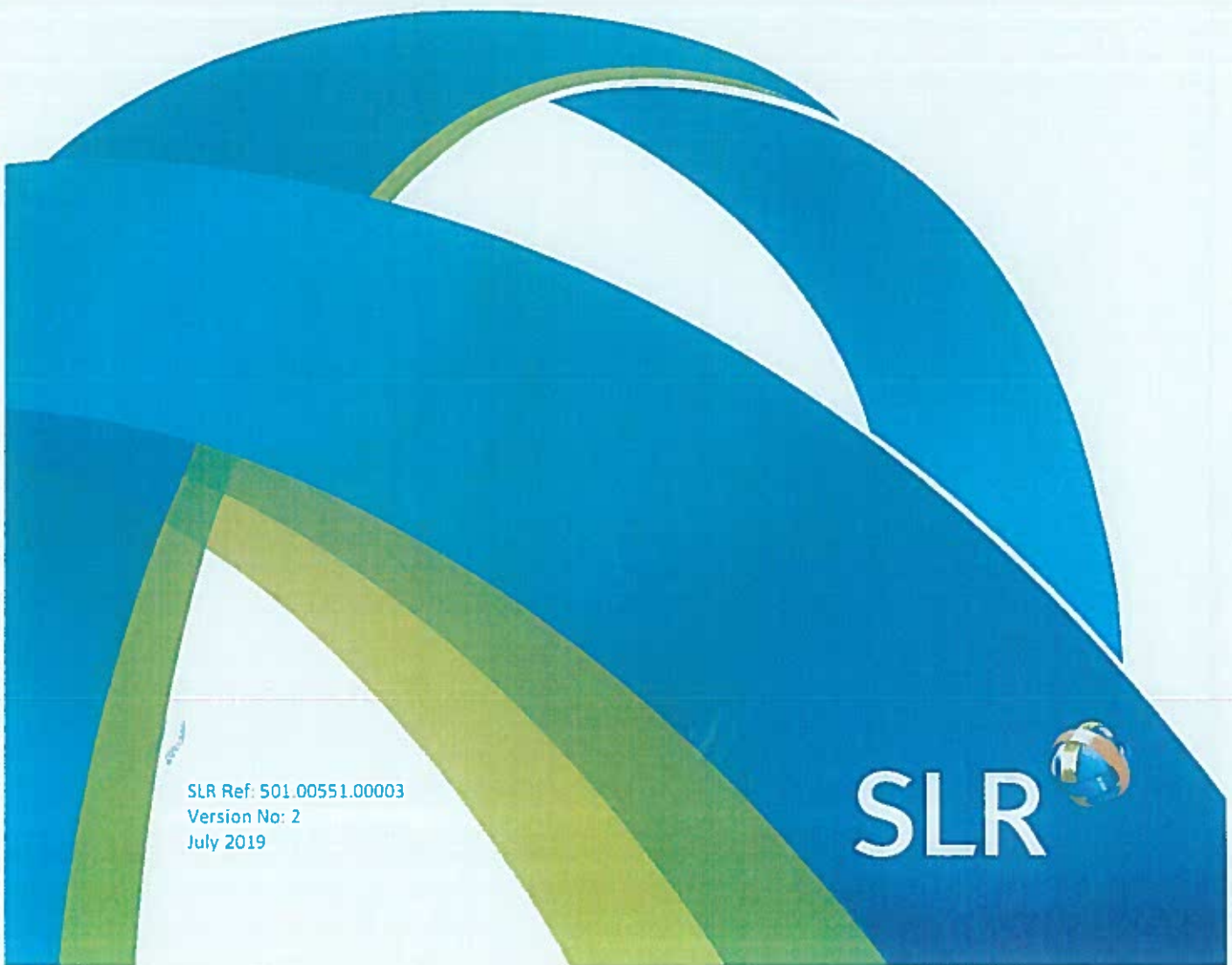


APPROPRIATE ASSESSMENT SCREENING REPORT

Poulanassy Waterfall – Visitor Carpark & Walking Trail,
Poulanassy, Co. Kilkenny

Prepared for: Kilkenny County Council



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0.0 SUMMARY

- 0.1 SLR Consulting Ireland (SLR) was commissioned by Kilgallen and Partners Ltd., on behalf of Kilkenny County Council, on 29 May 2019 to prepare an Appropriate Assessment (AA) screening report for a proposed visitor carpark and improvements to the walking trail at Poulanassy Waterfall, Poulanassy, Co. Kilkenny.
- 0.2 The proposed works area (“the Site”) is set within the townland of Poulanassy, located approximately 2 km west of Mullinavat, Co. Kilkenny. Records from the Environmental Protection Agency (EPA) indicates that the Ballinva South Stream runs adjacent to the Site and the Poulanassy River is ca. 20 m north.
- 0.3 The proposed project is concerned with developing options for a visitor carpark to be accommodated within private agricultural lands at Poulanassy, Mullinavat, Co. Kilkenny. The developed option includes a ca. 780 m² macadam carpark to accommodate 35 carparking bays and upgrading the existing trail with the import of a granular material placed on the existing surface with a treated timber edge restraint. The proposed option also includes a 430 m² amenity area with provision of public seating west of the proposed carpark.
- 0.4 The extents of the proposed works are shown on the Public Display Drawings prepared by Kilgallen and Partners Ltd. for Kilkenny County Council as part of the documentation for the Part 8 application for the Poulanassy Waterfall Visitor Carpark.
- 0.5 The aim of this report is to provide supporting information to assist the competent authority, in this case Kilkenny County Council (KCC), to carry out screening for likely significant effects on Natura 2000 sites as a result of the proposed works at Poulanassy Waterfall, Poulanassy, Co Kilkenny.
- 0.6 A desk study was carried out to collate information available on Natura 2000 sites within the potential zone of influence of the proposed project. These watercourses adjacent to the Site form a surface water connection between the Site and the Lower River Suir Special Area of Conservation (SAC) (Figure 1) over a distance of ca. 15 km downstream. There is no connectivity with any other Natura 2000 sites via surface water pathways or landscape features. Other Natura 2000 sites are not likely to be affected given the nature and scale of the proposed development in addition to the distance between them and the Site. The potential zone of influence for the proposed development is therefore restricted to Lower River Suir SAC.
- 0.7 The proposed works at Poulanassy Waterfall is not considered likely to result in appreciable effects on Lower River Suir SAC and as a result there is no risk of undermining the conservation objectives of this site. There are no likely significant effects on any Natura 2000 sites as a result of the proposed car park and improvements to the walking trail at Poulanassy waterfall, Poulanassy, Co. Kilkenny.
- 0.8 We therefore submit that the competent authority, in this case Kilkenny County Council, can determine that appropriate assessment (Stage 2) is not required, as the proposed project, individually or in combination with other plans or projects, will not have a significant effect on any European (Natura 2000) sites.

1.0 INTRODUCTION

- 1.1 SLR Consulting Ireland (SLR) was commissioned by Kilgallen and Partners Ltd., on behalf of Kilkenny County Council, on 29 May 2019 to prepare an Appropriate Assessment (AA) screening report for a proposed car park and improvements to the walking trail at Poulanassy Waterfall, Poulanassy, Co. Kilkenny.

General Description of the Site

- 1.2 The proposed works area (“the Site”) is set within the townland of Poulanassy, Co. Kilkenny and approximately centred at Irish Transverse Mercator (ITM) coordinates 654786, 623740. The Site is set in an agricultural landscape south of Poulanassy River, ca. 1.8 km west of Mullinavat Town
- 1.3 Records from the Environmental Protection Agency (EPA) indicate that the Ballinva South Stream¹ runs adjacent to the proposed walking trail improvement. The Poulanassy River² is ca. 20 m north of the proposed walking trail improvement and ca. 90 m north of the proposed visitor carpark. The Poulanassy River flows into the Blackwater [Kilmacow]² which eventually flows into the River Suir at Newrath, Co. Kilkenny. This is over a total distance of ca. 15.5 km downstream when measured along surface water pathways from the Site (Figure 1).

Brief Project Description

- 1.4 The following project description was provided by Kilgallen and Partners Consulting Engineers.

“Kilkenny Co Co engaged Kilgallen & Partners to develop options for a visitor carpark to be accommodated within private agricultural lands at Poulanassy, Mullinavat, Co. Kilkenny. The objective of the project is to provide dedicated parking facilities thereby removing current on-street parking and thus improving the safety of public road users and to enhance the accessibility to the natural amenity of Poulanassy Waterfall.

The developed option provides a new access from the public road to serve 35nr. carparking bays on a c780sqm macadam impermeable surface. The works also comprise of the set-back of the existing roadside boundary treatment to provide unobstructed forward visibility for vehicles and public road users accessing and egressing from the new entrance. An unobstructed forward visibility of 90m in the vertical and horizontal geometry shall be achieved through removal of the existing hedgerow and the planting of a double row native hedgerow planting with sod & stone mound to the rear of the required sightline.

The natural sloping topography of the site will require earthworks and regrading works with the import of Class 2 granular material to make up levels. The carpark will be of typical construction and shall comprise of site clearance, removal of topsoil, followed by the placement and compaction of capping material and 150mm CL804 sub-base material with a macadam surface finish.

All surface water run-off from the 780sqm impermeable carpark area will be contained through the installation of precast concrete kerbing and conveyed to drainage gullys and connecting underground drainage pipework for discharge to an on-site infiltration area as a sustainable drainage system. An integrated bypass separator shall be installed on the surface water drainage

¹ As named on EPA Maps <https://gis.epa.ie/EPAMaps/> (last accessed 18 June 2019)

² Known as “Pollanassa” on EPA Maps (last accessed 18 June 2019)

network prior to discharging to the on-site infiltration area. Infiltration methods will be used for surface water disposal throughout

A 430sqm area of grassed landscaped amenity area with native boundary treatment and planting with provision of public seating within the amenity area is also to be provided west of the proposed carpark and graded with on-site material to existing topography levels. No public lighting is proposed in this rural area. A min 1.5m permeable hardstanding trail from the carpark to the existing walking trail shall be incorporated with upgrade of the existing walking trail (97linm) also proposed.

With the exception of some minor site clearance and pruning of overhanging vegetation, no excavation works are proposed along the walking trail to Poulanassy Waterfall as part of the upgrade works. Upgrade of the existing trail involves the import of a granular material placed on the existing surface with a treated timber edge restraint. The stepped decent/accnt will be formed from timber sleepers or other formed step and shall extend to the waterfall location some 16.5m below the proposed finished carpark level. No works are proposed within a 35 m vicinity of the waterfall and watercourse.”

- 1.5 The extent of the proposed works is shown on the Public Display Drawings prepared by Kilgallen and Partners Ltd. for Kilkenny County Council as part of the documentation prepared for the Part 8 application for the Poulanassy Waterfall Visitor Carpark.

Aim of the Report

- 1.1 The aim of this report is to provide supporting information to assist the competent authority, in this case Kilkenny County Council (KCC), to carry out screening for likely significant effects on Natura 2000 sites as a result of the proposed works at Poulanassy Waterfall, Poulanassy, Co. Kilkenny.

Objectives of Appropriate Assessment

- 1.2 The Habitats Directive promotes a hierarchy of avoidance, mitigation and compensatory measures to be addressed in the AA process³ 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.
 - 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.

Evidence of Technical Competence and Experience

- 1.3 The appropriate assessment screening report was prepared by SLR ecologist Owen Twomey BSc PDip. Elaine Dromey BSc MSc MCIEEM carried out the technical review of this report.

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

- 1.4 Owen Twomey has worked in ecological consultancy since 2016. Owen holds a BSc in Environmental Science (Zoology) and a Postgraduate Diploma in Ecological Assessment, both from University College Cork. Owen has prepared ecological reports including Appropriate Assessment (AA) screening reports and Natura Impact Statements (NIS) for a wide range of projects, including a variety of development types within Co. Kilkenny.
- 1.5 Elaine Dromey 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.

2.0 RELEVANT LEGISLATION

European Nature Directives (Habitats and Birds)

- 2.1 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.
- 2.2 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, and the development, where necessary, of mitigation or avoidance measures to preclude negative effects.
- 2.3 Article 6, paragraph 3 of the European Commission 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”.

European Communities (Birds and Natural Habitats) Regulations 2011

- 2.4 Part 5 of the European Communities (Birds and Natural Habitats) Regulations 2011 sets out the circumstances under which an ‘appropriate assessment’ is required.
- 2.5 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.’
- 2.6 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.
- 2.7 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 request any additional information that is considered necessary for the purposes of undertaking a screening. A Natura Impact Statement has to include such information or data as the public authority considers necessary to enable it to ascertain if the plan or project will affect the integrity of a Natura 2000 site. Where appropriate, a Natura Impact Statement also needs to include:

- I. the alternative solutions that have been considered and the reasons why they have not been adopted,
 - II. the imperative reasons of overriding public interest that are being relied upon to indicate that the plan or project should proceed notwithstanding that it may adversely affect the integrity of a European site,
 - III. the compensatory measures that are being proposed.
- 2.8 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'*.

3.0 METHODS

Desk Study

- 3.1 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 imagery⁴ and Environmental Protection Agency (EPA) Maps⁵. Kilkenny County Council planning portal⁶ was accessed for information on other projects and plans. The National Parks and Wildlife Service (NPWS) website⁷ was accessed for information on Natura 2000 sites.

Potential Zone of Influence

- 3.2 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).
- 3.3 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). For projects, the distance could be much less than 15 km, and in some cases less than 100 m. National Parks and Wildlife Service guidance (NPWS, 2009) advises that 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.
- 3.4 The zone of influence of the proposed development is discussed in paragraphs 4.2 – 4.5 of this report.

Screening Report

- 3.5 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.

⁴ <https://www.google.ie/maps> & <http://www.bing.com/maps/> (last accessed 18 June 2019)

⁵ <http://gis.epa.ie/> (last accessed 18 June 2019)

⁶ <http://www.eplanning.ie/KilkennyCC/SearchTypes> (last accessed 25 June 2019)

⁷ <https://www.npws.ie/protected-sites> (last accessed 18 June 2019)

- 3.6 The approach taken in preparing the screening report is based on standard methods and good practice guidance, as listed in the references section of this report.

4.0 APPROPRIATE ASSESSMENT SCREENING

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

Identification of Natura 2000 Sites

- 4.2 The first step in identification of Natura 2000 sites is to determine the potential zone of influence of the project. When the potential zone of influence of the project has been determined Natura 2000 sites within this area can be identified and the information on each collated.
- 4.3 The potential zone of influence for proposed developments of this scale and nature, that do not result in emissions to air or water or where such emissions are so low that any effect would not be appreciable⁸, is likely to be less than 1 km. Even if a precautionary zone of 2 km were to be applied there are no Natura 2000 Sites within this distance of the proposed Site.
- 4.4 The Ballinva South Stream which runs adjacent to the Site and the Poulanassy River, ca 20 m north of the Site, both eventually drain to the River Suir via the River Blackwater [Kilmacow]. These watercourses form a surface water connection between the Site and the Lower River Suir Special Area of Conservation (SAC) (Figure 1) over a distance of ca. 15.5 km. Lower River Suir SAC is designated for a number of different types of aquatic habitats and species. In the absence of other Natura 2000 Sites within the potential zone of influence of the proposed development the Lower River Suir is examined further within this report.
- 4.5 There is no connectivity with any other Natura 2000 sites via surface water pathways or landscape features. Other Natura 2000 sites are not likely to be affected given the nature and scale of the proposed development in addition to the distance between them and the Site. The potential zone of influence for the proposed development (with respect to Natura 2000 sites) is therefore restricted to Lower River Suir SAC.

Description of Natura 2000 Sites

- 4.6 Lower River Suir SAC 002137 is described below. The description of this site has been prepared and summarised using the supporting information available on the NPWS website⁹.

Lower River Suir SAC 002137

"Lower River Suir SAC consists of the freshwater stretches of the River Suir immediately south of Thurles, the tidal stretches as far as the confluence with the Barrow/Nore immediately east of Cheekpoint in Co. Waterford, and many tributaries including the Clodiagh in Co. Waterford, the Lingaun, Anner, Nier, Tar, Aherlow, Multeen and Clodiagh in Co. Tipperary. The Suir and its tributaries flow through the counties of Tipperary, Kilkenny and Waterford.

⁸ Kelly & Ors. v An Bord Pleanála (25 July 2014) Paragraph 48 "The requirement that the effect in question be 'significant' exists in order to lay down a *de minimis* threshold. Plans or projects that have no **appreciable effect** on the site are thereby excluded. If all plans or projects capable of having any effect whatsoever on the site were to be caught by Article 6(3), activities on or near the site would risk being impossible by reason of legislative overkill." [emphasis added]

⁹ <https://www.npws.ie/protected-sites>

The Lower River Suir contains excellent examples of a number of Annex I habitats, including the priority habitats alluvial forest and Yew woodland. The site also supports populations of several important animal species, some listed on Annex II of the Habitats Directive or listed in the Irish Red Data Book. The presence of two legally protected plants (Flora (Protection) Order, 1999) and the ornithological importance of the site adds further to the ecological interest and importance.”

Features of Interest and Conservation Objectives

4.7 The features of interest and conservation objectives for Lower River Suir SAC 002137 are listed within Table 1 below. This information was obtained from the resources available on the NPWS website.

Table 1 Features of Interest and Conservation Objectives for Lower River Suir SAC

Natura 2000 Site	Distance	Features of Interests	Conservation objectives
Lower River Suir SAC 002137	ca. 15.5 km downstream	<ul style="list-style-type: none"> • [1330] Atlantic Salt Meadows • [1410] Mediterranean Salt Meadows • [3260] Floating River Vegetation • [6430] Hydrophilous Tall Herb Communities • [91A0] Old Oak Woodlands • [91E0] Alluvial Forests* • [91J0] Yew Woodlands* • [1029] Freshwater Pearl Mussel (<i>Margaritifera margaritifera</i>) • [1092] White-clawed Crayfish (<i>Austropotamobius pallipes</i>) • [1095] Sea Lamprey (<i>Petromyzon marinus</i>) • [1096] Brook Lamprey (<i>Lampetra planeri</i>) • [1099] River Lamprey (<i>Lampetra fluviatilis</i>) • [1103] Twaite Shad (<i>Alosa fallax</i>) • [1106] Atlantic Salmon (<i>Salmo salar</i>) • [1355] Otter (<i>Lutra lutra</i>) 	<p>Objective: To maintain or restore the favourable conservation condition of the species and habitats listed as Qualifying Interests for this SAC.</p> <p>Detailed conservation objectives for each feature of interest can be accessed online at https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002137.pdf</p>

Identification of potential impacts and effects

4.8 The proposed development consists of the development of a c.780 m² macadam carpark, including concrete kerbing, drainage gullies and an on-site infiltration area with integrated bypass separator, as well as the set-back of the existing roadside boundary. Import of fill material will be required to level the proposed carpark. The proposed trail upgrade will consist of regrading and widening to a minimum of 1.5m and replacing the current surface with one of permeable hardstanding with timber sleepers and edge restraint.

- 4.9 The potential impacts and effects on Natura 2000 sites are identified by considering the nature and scale of the proposed works; the location relative to Natura 2000 sites and any connectivity via landscape features and hydrological pathways.

Potential Impacts and Effects

- 4.10 There is no risk of habitat damage, loss or fragmentation within the Lower River Suir SAC 002137 due to the proposed development as there is no land take or works proposed within the boundary of (or in close proximity to) any Natura 2000 site.
- 4.11 The nature of the proposed development is such that any effects on the ecological environment during the construction phase will be very localised and limited to the immediate area of the proposed works. It is not proposed to work in-stream or to alter the Ballinva South Stream channel in anyway. The works will be set back at least 35 m from the Poulanassy River and given the relatively small scale and nature of the proposed works it is not likely that there will be any effect on this watercourse as a result. While the Lower River Suir SAC is designated for mobile species listed such as white-clawed crayfish *Austropotamobius pallipes*, salmon *Salmo salar* and otter *Lutra lutra* it is not likely that these will be present, or at least not in any numbers or with any regularity, in the upper reaches of either the Ballinva South Stream or the Poulanassy River. However; even if such species were to be present the proposed works are not likely to result in deterioration of water quality, changes to water chemistry or otherwise change the aquatic environment in a manner that would result in an appreciable effect on any of the species listed as features of interest of the Lower River Suir SAC.
- 4.12 The nature and design of the proposed works, in addition to the considerable distance between the Site and the SAC boundary downstream, removes the potential for any appreciable effects on the habitats and species listed as features of interest for the Lower River Suir SAC.

Cumulative Effects

- 4.13 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).
- 4.14 Effects on Natura 2000 sites are not expected as a result of the proposed works at Poulanassy Waterfall and therefore, there are no pathways for the project to act in-combination with other plans or projects. Cumulative effects on Natura 2000 sites are not predicted to occur as a result of the proposed car park and improvements to the walking trail at Poulanassy Waterfall, Poulanassy, Co. Kilkenny.

Likelihood of Significant Effects on Natura 2000 Sites

- 4.15 A significant effect is defined in paragraph 49 of the [Waddenzee Case C-127/02](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62002CJ0127)¹⁰ 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.”

¹⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62002CJ0127>

- 4.16 DoEHLG (2009) 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 when considering if the proposed works could result in likely significant effects on European (Natura 2000) sites.
- 4.17 The proposed car park and improvements to the walking trail at Poulanassy waterfall, Poulanassy, Co. Kilkenny are not considered likely to result in appreciable effects on Lower River Suir SAC and as a result there is no risk of undermining the conservation objectives of this site. There are no likely significant effects on any Natura 2000 sites likely to occur as a result of the proposed car park and improvements to the walking trail at Poulanassy waterfall, Poulanassy, Co. Kilkenny.

Consideration of Findings

- 4.18 This screening report, based on the available scientific information and project details, demonstrates that the proposed car park and improvements to the walking trail at Poulanassy waterfall, Poulanassy, Co. Kilkenny does not pose a risk of likely significant effects on Lower River Suir SAC.
- 4.19 We therefore submit that the competent authority, in this case Kilkenny 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 on any European (Natura 2000) sites.

5.0 REFERENCES

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FIGURES

FIGURE 1LOCATION OF PROJECT AND NATURA 2000 SITES

