

Otter Derogation Licence Application

Foynes to Limerick Road (incl. Adare Bypass)

January 2025

Prepared for:



Comhairle Cathrach
& Contae **Luimnigh**

Limerick City
& County Council



O'DONNELL 
ENVIRONMENTAL

Summary

Project: Foynes to Limerick Road (including Adare Bypass)

Report by: Tom O'Donnell BSc (Hons) MSc CEnv MCIEEM.

Statement of Competence: O'Donnell Environmental is an independent environmental consultancy established by Tom O'Donnell BSc (Hons) MSc CEnv MCIEEM in 2019. O'Donnell Environmental is a Chartered Institute of Ecology and Environmental Management (CIEEM) 'Registered Practice' which demonstrates our commitment to high professional standards, accountability and the delivery of the best outcomes for biodiversity and our Clients.

Tom O'Donnell is a Chartered Environmentalist and a full member of the Chartered Institute of Ecology and Environmental Management. He was awarded a BSc in Environmental and Earth System Science [Applied Ecology] in 2007 and an MSc in Ecological Assessment in 2009, both from UCC. Tom has over 10 years professional experience in the environmental industry, including working on projects such as windfarms, overhead power lines, roads, cycleways and residential developments. Tom is licensed by NPWS for roost disturbance (Ref: DER/BAT 2023-16) and to capture bats (C25/2023).

Colm Breslin BSc (Hons) is a Qualifying member of the Chartered Institute of Ecology and Environmental Management. He was awarded a BSc in Biological, Earth and Environmental Sciences [Ecology and Environmental Biology] in 2023 from UCC. Colm has experience in habitat mapping, bat activity surveys and preliminary roost assessments for a variety of windfarm and residential developments. Colm is licenced by NPWS for roost disturbance (Ref: DER/BAT 2024-09), to capture bats (C03/2024), and to photograph bats (008/2024).

Project Reference: 2022/27

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1 Introduction

O'Donnell Environmental Ltd. were commissioned by Limerick City and County Council to undertake environmental pre-construction surveys relating to the Foynes to Limerick Road (including the Adare Bypass). The proposed road development is 35km in length and consists of 15.6km length dual carriageway from Foynes to Rathkeale, 1.9km length single-carriageway link between Ballyclogh and Askeaton, 17.5km length of new motorway from Rathkeale to the existing motorway network at Attyflin, and heavy goods vehicle service area near Foynes.

This derogation license application seeks to facilitate construction works in 2025 and follows issue of derogation license DER-OTTER-2024-116 in May 2024. This report describes the results of the environmental pre-construction surveys carried out by O'Donnell Environmental Ltd. All specified ecological services were carried out in accordance with best practice, in terms of survey effort, seasonality and compliance with cognisance of relevant guidance documents.

An extensive pre-construction survey was carried out, extending to at least 200m upstream and downstream of proposed works at all relevant watercourse crossings. Surveys carried out by O'Donnell Environmental in 2023 and 2024 built upon previous surveys carried out at EIAR and pre-construction phases as follows:

- Environmental Impact Assessment Report (AECOM, 2019)
- Pre-Construction Surveys – European Otter (Jacobs, 2022)
- An Bord Pleanála grant notice and conditions.

2 Methodology

Dedicated pre-construction Otter surveys were carried out during Winter 2023/2024 in accordance with the requirements for pre-construction Otter survey set out in Section 7.12 of Chapter 19 of the EIAR and O'Donnell Environmental's scope.

Surveys aimed to identify any otter holts within or proximal to the alignment up to a minimum of 200m upstream and downstream of river crossings. Pre-construction Otter surveys were carried out by O'Donnell Environmental in accordance with industry best practice and standards (e.g. TII's 'Guidelines for the Treatment of Otter prior to the Construction of National Road Schemes' (2006)).

A total of 20 river crossings across the entire road scheme were surveyed as part of the original EIAR (AECOM, 2019). Repeat surveys in 2022 re-surveyed 6 of these watercourses, only within Section D (Jacobs, 2022). All 20 river crossings were re-surveyed by O'Donnell Environmental during Winter 2023/2024, in addition to one extra watercourse, totalling 21 river crossings.

Identified holts or resting places were subject to monitoring in accordance with the above-mentioned best practice standards, and mitigation measures applied where necessary.

2.1 SURVEY LIMITATIONS

All watercourse crossings were surveyed up to a maximum of 200m distance upstream and downstream. Surveys took place during Winter 2023/2024 in the optimal survey season, when vegetation has died back and mammal signs are most easily identified. It is considered that surveys were not limited in any form.

3 Results

Surveys carried out between November 2016 and April 2017 as part of the EIAR identified evidence of Otter activity but no evidence of their dwellings (AECOM, 2019). Surveys in 2022 carried out by Jacobs as part of pre-planning surveys (carried out in advance of the project being taken to judicial review) recorded an Otter couch, slide, prints and individual sighting along the River Maigue adjacent to the LMA but no evidence of holts in Section D.

3.1 OTTER COUCH

As discussed above, an Otter Couch was first identified upstream of the proposed River Maigue crossing in 2022.

O'Donnell Environmental carried out extensive surveys targeting key ecological receptors, including Otter, in the winter 2023/2024. Surveys undertaken re-identified the aforementioned couch and was confirmed to still be in use with recent sprainting and trails nearby. See **Figure 3.4-3.4**; Grid ref. R 46081 47120).

Piling will be carried out at the proposed River Maigue crossing, and this is likely to cause disturbance at the couch location.

This couch is the subject of the current derogation license application.

3.2 OTTER HOLTS

Two previously unidentified Otter holts were identified by O'Donnell Environmental along the proposed road scheme, and both of these were outside the LMA in areas not directly affected by the scheme. These holts are located on the River Deel (W11; Grid ref. R 34403 46805) and Greanagh River (W17; Grid ref. R 43530 45867), approximately 100m west and 120m south of the works area respectively (see **Figure 3.3** and **Figure 3.4**).

The active Otter holt along W17 is located approximately 120m south of the LMA (see **Plates 3.3-3.4**; **Figure 3.3**). Best practice guidance iterates that no heavy construction techniques works may take place within 150m of any holts which contain breeding females or pups (TII, 2006). It was determined that mature cubs were present in the area during camera trapping surveys in January 2024 (see **Plate 3.3**). However, it is unlikely that cubs are present currently considering the time elapsed since they were identified in the area. Additionally, no heavy construction techniques (e.g. pile driving) are projected for the area as part of the proposed road scheme.

It is noted that works were carried out on behalf of OPW which resulted in extensive riparian vegetation clearance in close proximity to the active holt along the Greanagh River (W17; see **Plate 3.7-3.9**) on 27th January 2024. Remaining intermediate vegetation clearance and railway bridge provide sufficient screening between the active holt and proposed road scheme.

The disused Otter holt along The River Deel (W11) is located approximately 100m west of the LMA (see **Plate 3.3**; **Figure 3.2**) within an area of abundant Otter signs including sprainting and prints. Recent sprainting was recorded in the entrance of the disused holt. Camera trapping surveys revealed this feature is no longer in use, with Otter recorded on a single occasion commuting along the riverbank (see **Plate 3.6**). The disused holt (see **Plate 3.5**) benefits from

extensive intermediate screening in the form of ash forestry between the proposed road scheme.

NRA (2006) states that “*Derogations are ... required for any works likely to cause disturbance (e.g. piling and blasting) to active breeding holts (when present within c.150m of a scheme)*”.

Considering the separation distances involved between the identified Otter holts and the works, the ecological context and the absence of any heavy construction techniques, it is concluded that no disturbance is likely to occur on these holts (resting places). It is considered in this instance that derogation licensing is not required in relation to the two identified holts.



Plate 3.1 Overview of Otter couch along the River Maigue. This feature was previously identified by Jacobs in 2022.



Plate 3.2 Close-up of recent Otter sprainting within known couch (see previous plate).



Plate 3.3 Two Otters entering holt, likely mother and pup. Captured along Greanagh River 120m south of the LMA.



Plate 3.4 Single Otter at holt entrance. Captured along Greanagh River 120m south of the LMA..



Plate 3.5 Disused Otter holt with single entrance along River Deel. Identified 100m east of the LMA.



Plate 3.6 Otter commuting past disused holt entrance along River Deel. Identified 100m east of the LMA.



Plate 3.7 Excavator undertaking riparian vegetation clearance in close proximity to Otter holt along the Greanagh River.



Plate 3.8 View of excavator clearing vegetation along the Greanagh River in proximity to known Otter holt.



Plate 3.9 Site of vegetation clearance in proximity to Otter holt (approximate location shown by red arrow).

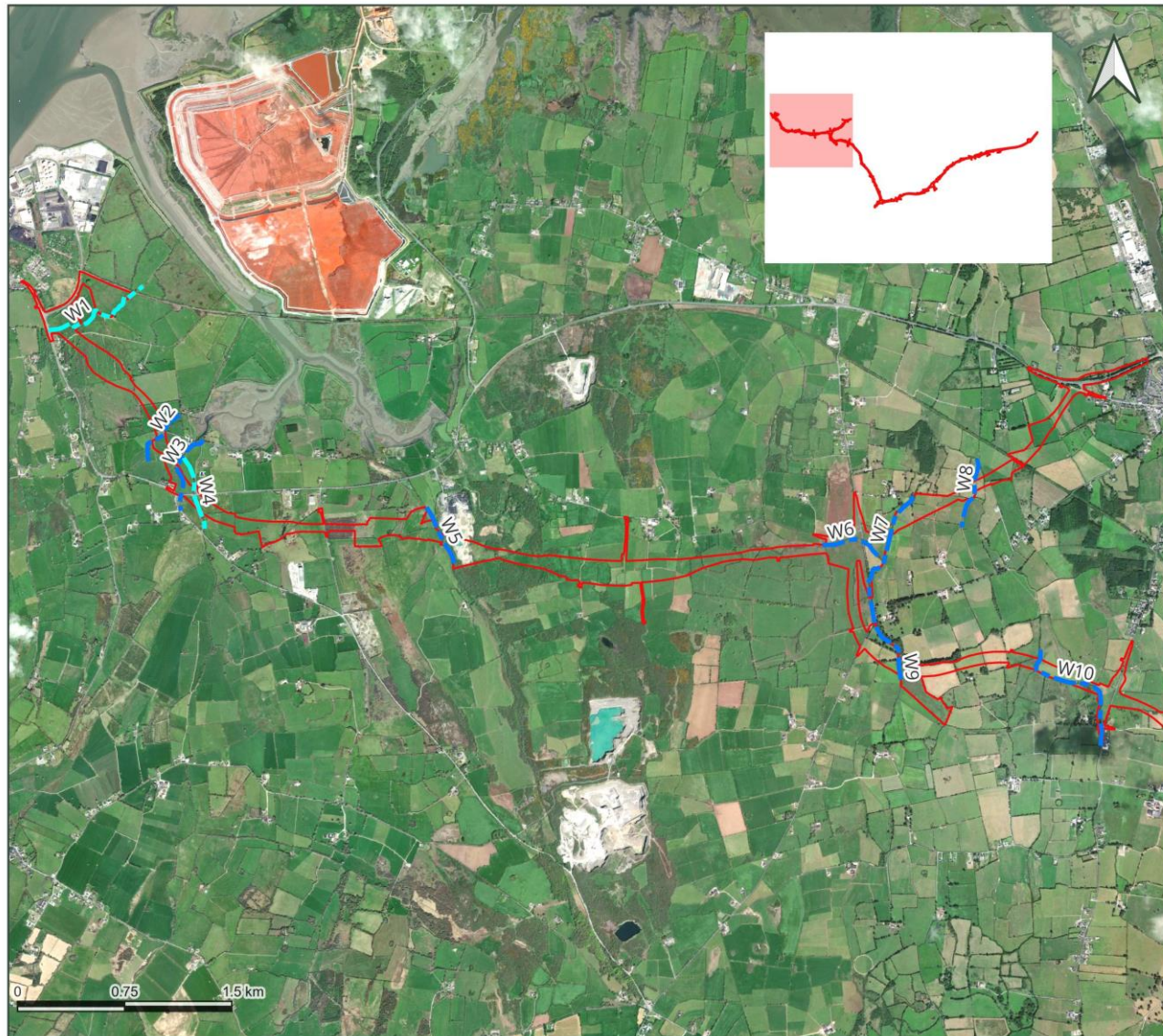


Figure 3.1
Otter Survey Results

Project:
Foynes to Limerick Road
(incl. Adare Bypass)

Prepared for:
National Parks and Wildlife
Services

Colm Breslin BSc (Hons)
D: 09/05/2024

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Legend

□ LMA

Otter Survey Areas

— Otter Signs

— No Otter Signs



Figure 3.2
Otter Survey Results

Project:
Foynes to Limerick Road
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Legend

- LMA
- Otter Survey Areas**
- Otter Holt
- No Otter Signs
- ◆ Otter Holt Location



Figure 3.3
Otter Survey Results

Project:
Foynes to Limerick Road
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Legend

- LMA
- Otter Survey Areas**
- Otter Holt
- Otter Signs
- No Otter Signs
- ◆ Otter Holt Location
- ◆ Otter Couch

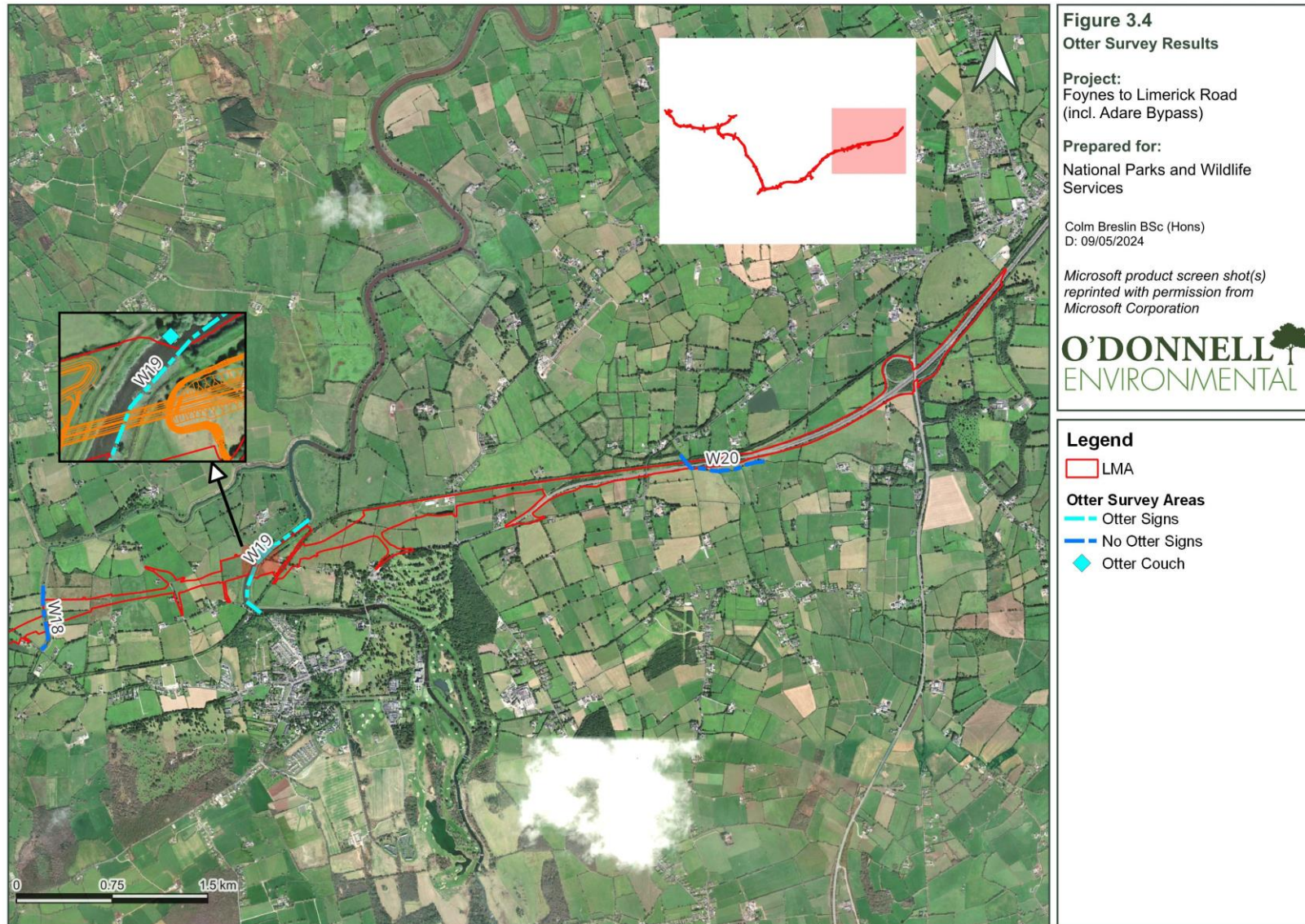


Figure 3.4
Otter Survey Results

Project:
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ENVIRONMENTAL

Legend

- LMA
- Otter Survey Areas**
- Otter Signs
- No Otter Signs
- ◆ Otter Couch

4 Derogation Licence Application

Following consultation with NPWS (Tom O'Donnell email dated 21st November 2023), Otter couches were confirmed to represent 'resting places' in the meaning of the European Communities (Birds and Natural Habitats) Regulations 2011 and therefore are protected.

The Otter couch is located proximal to the River Mague crossing point of the road scheme (see **Figure 3.3**). Heavy construction techniques such as pile driving are proposed for this area and will introduce disturbance to the protected Otter couch. As such, a derogation licence is required to facilitate works in this area.

A mitigation by design approach was taken in the design of the River Mague crossing. The projects EIAR (AECOM, 2019) outlines the following measures in relation to minimising habitat loss and disturbance at the River Mague crossing specifically.

- There will be no works permitted outside the identified land take area within the SAC as shown in Figures 4.74 to 4.76 of Volume 3;
- The location of piers on the Mague flood embankments has been selected to minimise damage or disturbance to habitats within the SAC;
- The detailed design for the bridge has been developed to avoid any requirement for piers or other elements within the SAC by providing a clear span structure.
- There is no lighting proposed over the River Mague Bridge so as to avoid light spill into the river and the adjacent riverbanks and to avoid disturbance to fish, mammals and bats in the area.
- Pile driving activities during construction will be confined to daylight hours during winter months.

A number of measures are already included in the design of the project which are intended to minimise disturbance impacts to Otter, no additional measures are considered feasible in terms of further reducing the impact of the scheme on Otter locally.

A derogation license is requested for the proposed works, with the following details:

- Applicant: **Ger Carey, C/O Limerick City and County Council, Midwest National Roads Design Office, Lissanalta House, Dooradoyle, Co.Limerick.**
- Supervised by: **Tom O'Donnell and Colm Breslin of O'Donnell Environmental Ltd, Lawley House, Monahan Road, Cork City, T12N6PY.**
- Species: **European Otter**
- Activity: **Foynes to Limerick (including Adare Bypass) Road Scheme**
- Timeline: **2025.**

Table 5.1 provides responses to four key issues which will be considered during the derogation license decision making process.

Table 5.1 - Derogation License Checklist

<p><i>Explanation as to why the derogation licence sought is the only available option for works and no suitable alternative exists as per Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations.</i></p> <p>The project is vital on economic grounds for the strategic development and expansion of Shannon Foynes Port, for West Limerick and the Mid-West Region in general (limerick.ie) and has been approved by An Bord Pleanála.</p> <p>No suitable alternatives to the proposal exist. The permitted design was subject to EIA and an assessment of alternative solutions was carried out as part of this procedure. The permitted design was found to be the best available solution, considering all environmental, technical and economic constraints.</p> <p>Heavy construction techniques such as pile driving are required as part of the permitted road development in order to construct the bridge structures crossing the River Maigue.</p> <p>Avoidance and mitigation measures are presented in the EIAR. The disturbance impacts of the works on the identified Otter couch nearby cannot be fully avoided or mitigated considering the proximity to the couch, the nature of the riparian corridor, and the nature of the planned works.</p>	<input checked="" type="checkbox"/>
<p><i>Evidence that actions permitted by a derogation licence will not be detrimental to the maintenance of the populations of the species to which the Habitats Directive relates at a favourable conservation status in their natural range as is required under Section 54(2) of the European Communities (Birds and Natural Habitats) Regulations.</i></p> <p>No holts will be directly disturbed by the proposed works, and measures are in place for all watercourse crossings to minimise disturbance to Otter.</p> <p>It is concluded that there will be no direct impacts on the Lower River Shannon SAC for which Otter is a qualifying interest. Alternative couch areas are locally abundant in the area surrounding the identified couch along the banks of the River Maigue. Setbacks outlined in Section 7.5.3 of the EIAR state setback distances and ecological exclusion zones surrounding the River Maigue to ensure the commuting value of the riparian corridor remains intact. No night-time works are proposed and no lighting is proposed.</p>	<input checked="" type="checkbox"/>
<p><i>Details of any mitigation measures planned for the species affected by the derogation at the location, along with evidence that such mitigation has been successful elsewhere.</i></p> <p>As outlined in above, measures have been included in the EIAR (AECOM, 2019) to avoid or reduce ecological impacts on Otters. These include:</p> <ul style="list-style-type: none"> • Timing of pile driving activities to daylight hours during winter months. • Facilities for Otter passage will be provided at all watercourses (i.e. retention of natural bank paths, a raised ledge within box culvert or a separate dedicated mammal culvert, permeable fencing). • Mammal-proof fencing will be put in place in accordance with the best-practice guidelines for the 'Treatment of Otters Prior to the Construction of National Road Schemes' (TII (formerly NRA), 2006) and Standard Construction Design (TII SCD 300 Series, 2017) extending 500m either side of crossing points. 	<input checked="" type="checkbox"/>

<ul style="list-style-type: none"> • Natural riparian vegetation cover will be retained where practical or other measures undertaken, to ensure that all watercourses may continue to function as natural habitat for this species. • Water quality protection measures. 	
<p><i>As much information as possible to allow a decision to be made on this application.</i></p> <p>Full information is outlined in the current report.</p>	<p>☒</p>

5 References

NRA (now TII), 2006. Guidelines for the Treatment of Otters prior to the Construction of National Road Schemes. Dublin: National Roads Authority.

Appendix A - Otter Survey Results

Foynes to Limerick Road Scheme - Otter Survey Results For All Watercourses

Survey Area	2019*	2022*	Chainage	Results
Stream at Ardaneer	W1	-	1+100	Watercourse was deep and slow flowing and banks consisted of rank grassland up to the waters edge, with no suitable banks or couches. Northside of railway crossing was shallower and surveyed instream fully using waders. Exposed boulder showed single instance of Otter spraint. No other Otter signs.
Stream at Sroolane North	W2	-	2+150	Watercourse consisted primarily of deep drainage ditches composed of rank grassland banks. No Otter signs.
Stream at Sroolane North	W3	-	2+500	Relatively deep river with limited suitable banks. No Otter signs.
Stream at Robertstown	W4	-	2+700	Relatively deep river with limited suitable banks. Southern extent presented with suitable riparian corridor, with muddy banks showing Otter prints. No other Otter signs.
Ahacronnane River	W5	-	4+450	Fast flowing river bordered by wet woodland habitat to the east. No Otter signs.
Stream at Ballyclogh	W6		7+150 and 10+150	No Otter signs.
Ballycullen Stream	W7	-	10+300 and 20+400	Deep drainage ditch infilled with wet grassland vegetation. No suitable banks or fisheries value within survey area. No Otter signs.
Stream at Clonreask	W8	-	10+950	Shallow stream which transitions into drainage ditch in portions. Badger sett and mammal trails identified along watercourse but no Otter signs.
Ballycullen Stream	W9	-	20+950	Steep sided riverbanks bordering mature broadleaf woodland. Eastern side poached heavily by cattle in places. No Otter sign.
Stream at Baunreagh	W10		21+700 to 22+500	Drainage ditch bordering intensive agricultural fields with little to no setback from watercourses. No suitable banks for holts aside from southern extent where ditch transitions into narrow woodland stream. No Otter sign.
River Deel	W11	-	24+000	Extremely suitable area for Otter along River Deel. Abundant prints and sprainting along eastern bank. Disused Otter holt and slipway identified along riverbank. Entrance periodically flooded during high rain periods. Otter recorded commuting along eastern riverbank.
Doohyle Stream ay Bullaun	W12	-	24+500 to 24+950	Moderately deep stream bordering woodland. Mammal trails along riverbank likely attributed to nearby Badger sett but no Otter signs.
Doohyle Stream at Graigeen	-	-	26+000 to 26+500	Shallow river forming tributary to River Deel downstream. Streambed moderately silted with some fishery value. Surveyed instream fully using waders. No Otter signs.
Doohyle Stream at Graigeen	W13	-	26+880 to 27+050	Densely vegetated riparian corridor with steep sided banks and minor stream. No Otter signs.
Doohyle Stream at Kyletaun	W14	-	28+200 to 29+100	Steep sided and deep watercourse in places. Mammal trails along riverbanks likely attributed to nearby Badger setts. No Otter signs.

Foynes to Limerick Road Scheme - Otter Survey Results For All Watercourses

Survey Area	2019*	2022*	Chainage	Results
Cloghatrida Stream at Blossomhill	W15	1	50+780 to 51+060	Shallow stream, heavily scrubbed up in places and loaded with sediment. Little to no fishery value. Disused and active Badger sett along stream. No Otter signs.
Clonshire River at Clonshire More	W16	2	56+550	Otter spraint identified immediately north of existing bridge. Riverbanks suitable for Otter but no holts identified.
Greanagh River A at Rower More	W17	3	58+180	Otter holt identified within this area approximately 120m south of the LMA. Otherwise suitable for Otter and have been recorded commuting along riverbanks. Invasive Mink recorded using holt on nights Otter were not present. Additional burrow identified but deemed too small for Otter to occupy.
Greanagh River B	W18	4	59+200	Deep and wide flowing river with fisheries value. Largely intact riparian vegetation. Riverbanks suitable for Otter but no signs recorded.
River Mague	W19	5	61+000	Completed in previous reports where Otter prints, a slide and a couch were found along riverbank alongside live Otter (Jacobs, 2022). Re-survey identified previous couch, regular prints and single instance of spraint. This portion of river is tidal and regularly inundated, thus reducing suitability for holts.
Stream at Monearla	W20	6	64+400 to 65+100	Narrow stream crossing underneath existing roadway with dense riparian vegetation. Suitable for Otter in places but no signs recorded.

*Note: indicates water crossing survey number from previous reports (AECOM, 2019; Jacobs, 2022)

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