

Planning Response Team
Klondyke Building
Cromac Avenue
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Lower Ormeau Road
Belfast BT7 2JA
Telephone: 028 9056 9604

Date: 02 September 2021

Dear Sir/Madam,

Planning Application Ref.: LA10/2019/1386/F

Location: 737m NW of 56 Mullydoo Road Greencastle
through townlands of Crockanboy
Teebane West
Casorna
Rousky
Drumlea
Garvagh
Meenadoo
Trinamadan and Culvacullion ending at 785m NW of 24
Meenadoo Road Culvacullion Gortin.

Proposal:

33kV power line involving both construction of above ground 33kV overhead line supported by wooden poles and underground 33kV cable laid below ground level in ducts, to serve Curraghinalt mine (currently under consideration planning application LA10/2017/1249/F).

33kV connection is c37.9 km in length, comprising of c26.9 km of overhead line supported by single and double wooden pole sets and c11 km of underground cabling.

c 15.1 km of the powerline is within the Fermanagh & Omagh District Council area comprising of c 8.2 km of overhead line supported by single and double wooden pole sets and c 6.9 km of underground cabling.

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Thank you for your consultation on the above which was received by the Department on 18/06/2021.

This letter provides a single combined response for your consultation request across all of DAERA's area of environmental responsibility. Summary comments in relation to the reason for consultation are provided in the table below at Annex A, and, where appropriate, more detailed advice is enclosed and attached to this letter.

You should be aware that, in the absence of comment, no inference can be made on DAERA's position with regard to other environmental matters. It is the responsibility of the planning authority to ensure that all risks to the environment and requirements under environmental legislation and planning policy have been considered.

This advice and guidance will enable you to identify and consider if there are other potential risks to the environment due to impacts from the construction and operation of the proposed development and also its location.

In addition, we would also refer you to DAERA's published advice and guidance on development proposals where there is potential for effects on the natural and marine environments and fisheries interests, available at: <https://www.daera-ni.gov.uk/topics/environmental-advice-planning>.

As the Planning Authority is the competent authority under The Conservation (Natural Habitats, etc.) Regulations 1995 (as amended), this responsibility extends to the carrying out of Habitat Regulations Assessments (HRAs) before a planning decision is made.

Should you require assistance or if you wish to discuss anything further, please do not hesitate to contact the Planning Response Team using the contact details below.

Kind regards.

Planning Response Team

On behalf of DAERA

Email: planningresponse.team@daera-ni.gov.uk

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Annex A

Advice Provided By:	Summary
Marine and Fisheries Division	The Loughs Agency is the lead body for provision of advice regarding impacts to salmonid and inland fisheries interests within the catchments of Lough Foyle and Carlingford Lough. Consequently, said agency should be consulted in relation to this application. DAERA Inland Fisheries will provide fisheries advice for those areas outside of the catchments of Foyle and Carlingford Loughs.
Water Management Unit	Water Management Unit has considered the impacts of the proposal on the surface water environment and on the basis of the information provided are content subject to <ul style="list-style-type: none"> •Conditions •Any relevant statutory permissions are obtained •The applicant referring and adhering to standing advice •The applicant noting the advice contained in the explanatory note.
Drinking Water Inspectorate	Standing advice provided
Regulation Unit	An Environmental Impact Statement (ES) has been provided by RPS in support of this application. Based on the environmental information provided, Regulation Unit (RU) Land and Groundwater Team have no objection subject to Planning Conditions with regard to potential land contamination issues and risk to the groundwater environment.
Industrial Pollution & Radiochemical Inspectorate	This is not a development that is regulated by NIEA-IPRI. No further comments to make.
Natural Environment Division	NIEA, Natural Environment Division (NED) has concerns with this proposal and requires further information to assess the potential landscape and visual impacts.

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Drainage & Water

Planning Reference: LA10/2019/1386/F

737m NW of 56 Mullydoo Road Greencastle through townlands of Crockanboy, Teebane West, Casorna, Rousky, Drumlea, Garvagh, Meenadoo, Trinamadan and Culvacullion ending at 785m NW of 24 Meenadoo Road Culvacullion Gortin: 33kV power line involving both construction of above ground 33kV overhead line supported by wooden poles and underground 33kV cable laid below ground level in ducts, to serve Curraghinalt mine (currently under consideration planning application LA10/2017/1249/F). 33kV connection is c. 37.9 km in length, comprising of c. 26.9 km of overhead line supported by single and double wooden pole sets and c. 11 km of underground cabling. c. 15.1 km of the powerline is within the Fermanagh & Omagh District Council area comprising of c. 8.2 km of overhead line supported by single and double wooden pole sets and c. 6.9 km of underground cabling.

Section Reference: GQ 845

The Drinking Water Inspectorate (DWI) has considered the request and notes the information contained in:

- P1 Application Form and associated Appendix I dated 22nd November 2019;
- Cover letter from Applicant 22nd November 2019;
- Curraghinalt 33KV Connection Project – Request for EIA Screening Determination, dated 13th January 2020
- Environmental Impact Statement: Volume III – Appendix 2.2 Outline Construction Environmental Management Plan, Curraghinalt 33KV Connection project, May 2021.
- Regional Landscape Character Area, Figure 1.1, dated 11 November 2019;
- Water Quality Screening Assessment, dated 12 December 2019;
- Environmental Impact Statement: Volume I – Non-technical summary, Curraghinalt 33KV Connection project, May 2021;
- Environmental Impact Statement: Volume I – Chapter 9 – Water Quality, Curraghinalt 33KV Connection project, May 2021;
- Environmental Impact Statement: Volume II – Environmental Statement Drawings and Figures, Curraghinalt 33KV Connection project, May 2021;
- Environmental Impact Statement: Volume II – Figure 3.8 'Water Environment', Curraghinalt 33KV Connection project, May 2021; and,
- Clarification email issued by RPS Group on 11 August 2021.

Summary:

A development must not impact on either the quality or sufficiency of a private water supply. Taking into account the scale, type, location and the potential impacts the proposal may have on private water supplies, a developer should as appropriate:

- (i) undertake searches and investigations; and,
- (ii) follow the Standing Advice / Guidance, as detailed within Considerations.

Drainage & Water

Considerations:

1. Identification of Private Water Supplies: A development must not impact on either the quality or sufficiency of a private water supply, and mitigation measures must be put in place, where required, in the protection of such drinking water supplies. Therefore the developer should undertake a scoping exercise to determine the location of any private water supplies. Details on undertaking a search for potential private water supplies in the vicinity of the proposed development can be undertaken by accessing the following link: <https://docs.spatialni.gov.uk/applications/drinkingwaterinspectorate/Generalinformation.pdf>.

It is noted in Section 9.6.4 of Chapter 9 of the Environmental Statement that DWI comments have been considered and this scoping exercise was completed in April 2021 on the Spatial NI web portal. It is stated “there are no private water supplies registered within the study area”. Clarification provided by the Consultant on 11 August 2021 confirms that historical and currently registered private water supplies are present within the study area; however, no registered private water supplies are within a 50m buffer of the overhead power line or underground cable route. As such, the potential for impact has been screened out. This methodology is considered acceptable by DWI and would constitute completion of the scoping exercise detailed above.

It was previously advised during the initial consultation response (GQ 600) that the applicant must also consider the use of individual private supplies in the study area that have not been registered with the DWI. The DWI cannot find any reference to this exercise having been completed. As stated under Section 9.8.1.3, bullet point No. 6, “liaison will be required with the landowners to determine if any unregistered private water supplies are located in close proximity to the works area” which is suggestive that the exercise has not been completed. Qualitative assessment of potential impacts to a private well are noted. It is acknowledged that under Section 9.8.1 appropriate mitigation measures are detailed if an unregistered private water supply is encountered during works.

The DWI recommend a conditioned permission were the details of a scoping exercise undertaken along the length of the proposed development are provided to ensure no non registered private water supplies will be adversely affected. This response and condition should be considered alongside the DAERA Regulation Unit Land and Groundwater Team response.

2. Engagement with NI Water (Public Water Supplies): All catchments are considered as Drinking Water Protection Areas (DWPAs) under Article 7 of the Water Framework Directive. The nationwide basins are utilised by the primary Water Undertaker, Northern Ireland Water Limited (NI Water), to provide the public supply of water. Consideration should be given to the location of any infrastructure and protection of DWPAs, especially at the proposed water course crossings. Table 5.7 of the Water Quality Screening Assessment confirms that consideration has been given to the presence of DWPAs and states the rivers from which abstraction may occur are upstream of the proposed development.

The applicant should continue engagement with NI Water in considering the locations and potential impacts on surface water sources used for abstracting the public water supply, particularly in relation to the construction phase where the water courses may be dammed on occasion. A development should not impact on the quality or sufficiency of the public water supply.

Drainage & Water

DWI will continue to engage with NI Water to provide an independent assurance on the safety of the public drinking water supply.

3: Standing Advice: The developer is directed to the following list of standing advice which should, as appropriate and relevant, be considered in relation to the scale, type, location and potential impacts the proposal may have on the water environment: <https://www.daera-ni.gov.uk/publications/standing-advice-development-may-have-effect-water-environment-including-groundwater-and-fisheries>.

Coastal Development

Considerations

Inland Fisheries

The Loughs Agency is the lead body for provision of advice regarding impacts to salmonid and inland fisheries interests within the catchments of Lough Foyle and Carlingford Lough. Consequently, said agency should be consulted in relation to this application. DAERA Inland Fisheries will provide fisheries advice for those areas outside of the catchments of Foyle and Carlingford Loughs.

Standing advice

Monitoring and Assessment Team response to planning consultation refers to standing advice:

<https://www.daera-ni.gov.uk/publications/standing-advice-development-may-have-effect-water-environment-including-groundwater-and-fisheries>

Water Management Unit

Section Reference:

WMU/PC/ 31712-3

Considerations:

Water Management Unit has considered the impacts of the proposal on the surface water environment and on the basis of the information provided are content subject to

- Conditions
- Any relevant statutory permissions are obtained
- The applicant referring and adhering to standing advice
- The applicant noting the advice contained in the explanatory note.

Conditions:

Should this application be given approval Water Management Unit recommend the following conditions are included in the decision document.

Condition: Once a contractor has been appointed, a Construction Environmental Management Plan (CEMP) should be submitted to NIEA Water Management Unit, at least 8 weeks prior to the commencement of construction to ensure effective avoidance and mitigation methodologies have been planned for the protection of the water environment.

Reason: To ensure effective avoidance and mitigation measures have been planned for the protection of the water environment.

Condition: Once a contractor has been appointed, details of the type of any drilling muds / fluids to be used including the relevant Material Safety Data Sheets for same should be submitted to NIEA Water Management Unit, at least 2 weeks prior to use of these materials.

Reason: To ensure effective avoidance and mitigation measures have been planned for the protection of the water environment.

Condition: Once a contractor has been appointed, a schedule of works for all underground watercourse crossings to include timings, locations (grid references) and methods to be used for those crossings identified should be submitted to NIEA Water Management Unit, at least 2 weeks prior to those works. (Note Water Management are content for this to be submitted in phases if appropriate).

Reason: To ensure effective avoidance and mitigation measures have been planned for the protection of the water environment.

Explanatory Note:

All standing advice referred to in this response unless otherwise stated can be found at the following link www.daera-ni.gov.uk/water-environment-standingadvice

Water Management Unit has considered the Environmental Statement for those areas that fall within our remit and our generally content. However the applicant should consider the following.

ES Volume 1 Chapter 9 Water Quality

Section 9.6.1 Surface Water Status

The tables record WFD 2018 status by quality element. Table 9-8: Glenelly River (UKGBNI1NW010104040) WFD Status Classification records Moderate Fish status. This is incorrect. The Fish status in 2018 for this river waterbody is High status.

Tables 9-6 to 9-10.

All five tables record Biochemical Oxygen Demand (BOD) and Temperature under physico-chemical elements and indicate no data is available. BOD and Temperature are not a requirement of WFD physico-chemical classification but instead are monitored under WFD for regulation purposes.

All five river waterbodies were assessed as High status for both BOD and Temperature in 2018.

Section 9.6.1 Page 9/16 states 'The Glenmoman River has declined to Moderate Status in 2018 while the water body was previously at Good status during the 2015 monitoring cycle. The elements responsible for the decline in status are both biological (fish) and hydromorphological (morphological regime), which both decreased from Good to Moderate status.'

Hydromorphological status does not have full weighting when used in WFD classification of river waterbodies and as recommended by UKTAG cannot downgrade a river waterbody to less than Good status. The Moderate status in the Glenmornan River in 2018 is due to fish alone.

Section 9.6.3 Protected Areas states 'Waters designated under the Freshwater Fish Directive (FFD) are required to comply with imperative quality standards and should aim to achieve 'guide' standards. Compliance was assessed annually by NIEA using the monitoring results for the calendar year (typically quarterly monitoring).'

Incorrect tense has been used in the first sentence; 'Waters designated under the Freshwater Fish Directive (FFD) were required to comply.....'

Compliance was assessed annually by NIEA using typically monthly monitoring results as required by FFD and not 'typically quarterly monitoring' as stated in this section.

Section 9.8.1.8 Sediment control - there is reference to suspension of movement of vehicles to mitigate against suspended solids from haul road. This will assist but further consideration of the collection, control and treatment of haul road 'slurry' is required.

Monitoring and maintenance of all silt fencing must be reflected to ensure ongoing effective functioning.

Section 9.8.1.2 Consideration must be given to the design and size of attenuation and settlement features re volume and size of fines to ensure they work effectively. A maintenance regime is required to ensure ongoing effective functioning.

There must be monitoring of outflow to vegetation from settlement features to ensure no scouring/ erosion thus preventing generation and mobilisation of suspended solids following treatment.

Care must be taken that any silt sock discharge does not pick up suspended solids if entering storm drains in road verge as these discharge directly to waterways.

Methodology for installation and decommissioning of cofferdams is required (see below).

ES Volume 3 Appendix 2.2 OCEMP

Water Management Unit has considered the Outline Construction Environmental Management Plan or those areas that fall within our remit and our general content. However the applicant should consider the following.

Section 5.2.1.1 Reflects the requirement to remove vegetation 5m either side of the OHL route and reflects desire to avoid remove vegetation within riparian zone. Water Management Unit would like assurances of 10m veg buffer to waterway. If this is not possible in certain areas then additional mitigation measures must be reflected. • Discharges to grassland from treatment areas must be monitored to ensure suspended solids are not picked up or mobilised post treatment.

Treatment systems for suspended solids must be designed and managed in accordance with CIRIA specifications.

Silt socks must be managed to prevent release or escape of suspended solids.

Haul roads sediment control - there is reference to suspension of movement of vehicles to mitigate against suspended solids from haul road. This will assist but further consideration of the collection, control and treatment of haul road 'slurry' is required.

Water Management Unit previously raised the following points for HDD and many have been reflected. However Water Management Unit would reinforce this as this can be a high risk activity.

Transmission and reception pits to be located more than 10m from the river banks – the OCEMP does not reflect this distance at present.

Transmission and reception pits to be of sufficient size to hold excess amount of water/drilling fluids to prevent run off during drilling, if necessary these may be bunded or sand bagged.

Spoil from pits to be loaded directly to lorry for removal from site. Stockpiling can be considered if in line with PPG/GPP/CIRIA best practice to prevent pollution risk of waterways by suspended solids

Sump hole in each pit for the dewatering of pits, water to be pumped to vegetated area opposed to hard standing ground. Liaise with landowner for confirmation on location of land

drains – avoid pumping directly into drainage which will be carried directly to water course without being filtered through the ground. Silt sock is referenced in paragraph 5 – this must be used in line with manufacturer's guidelines and monitored.

The buffer zone should remain vegetated. If stripped or disturbed, then additional mitigation measures will need to be considered.

The need for monitoring for evidence of frac-out during the crossing. It is essential the identified measures are implemented. Firstly, by the locator operator through observation of the river and secondly by the drilling rig driver who will see pressures at the drill head significantly reducing. Thirdly a spotter to be in place up and downstream of drill location to alert drill operator of a break through.

Should a breakthrough occur and any evidence of "bubbling up", an excavator should be on standby to create a channel in the bank to divert any pollutant and minimise the impact downstream.

Silt fencing and/or straw bales on site to minimise or isolate any potential contaminant.

Section 7.1.2 – more detail will be required to demonstrate mitigation measures to prevent pollution during installation and decommissioning of cofferdams e.g. integrity of sandbags, placement and removal issues. The diagram in appendix F is helpful and acceptable in principle but would caveat this with that ongoing monitoring is required to ensure action is taken to mitigate against risk as/if they present themselves. – Appendix D – in OCEMP part 3 – goes some way to achieving this but would need to be developed to reflect these issues including the sequence of removal e.g. downstream first would be the preference to prevent a flush

Section 7.1.3 – size of buffer strip to be 10m and previous comment is applicable where this is not possible.

The use of straw bales is referenced. These are difficult to manage and wrapping in geotextile is important.

Other Comments

Details of mitigating measures to address the environmental impacts on the aquatic environment should be presented in a Final Contractors Construction Environmental Management Plan (CEMP). All such works should be clearly detailed. This should reflect all the precepts contained in the OCEMP as well as the points made above.

Provision of a detailed CEMP must demonstrate that best practice and appropriate mitigation will be applied during the construction, deconstruction and operational phases of the application. This should include pollution prevention measures to protect groundwater and all waterways.

Best practice and appropriate mitigation must be applied in accordance with NIEA's published pollution prevention guidance.

CEMP should:

- Identify the perceived risks to the aquatic environment e.g. from cement, concrete, grout, fuels/ oil/ hydrocarbons and suspended solids,
- Identify potential pollution pathways,
- Identify the mitigation measures employed to minimise the risk of pollution to any waterway (as defined by the Water (NI) Order 1999) e.g.
 1. Safe refuelling, handling and storage practices for earth stockpiles and secondary containment for chemicals, oil, fuels etc.
 2. Emergency spill procedures should be addressed and should include the NIEA pollution hotline 0800 80 70 60 along with a timeframe for response. For example “any spillages / pollution incidents should be reported to the NIEA water pollution hotline within 30 minutes of the incident occurring unless it is not safe to do so”

The CEMP must demonstrate adherence of working practises to the precepts contained in relevant PPG's. e.g. GPP5 Works in, near or liable to affect watercourses and PPG6 Working at Demolition and Construction sites.

The CEMP should include all necessary pollution prevention measures to protect the water environment during the development of this proposal.

The applicant must refer and adhere and the CEMP must reflect, all the relevant precepts contained in DAERA Standing Advice Pollution Prevention Guidance. It should be noted where appropriate further advice can be found (PPG/GPP) relating to a large range of topics that are relevant to this proposal.

All mitigation measures must remain in place until such times as there is no longer a threat to the aquatic environment.

Water Management Unit Pollution Prevention Team will be happy to advise the applicant / contractor on the Final CEMP, provide clarity on any of the points raised above and give any other pollution prevention advice they may require. nieapollutionprevention@daera-ni.gov.uk

Underground Watercourse Crossings

Water Management Unit acknowledges it is not possible to fully identify the method to be utilised at this stage. Water Management Unit requests a schedule of works for all underground watercourse crossings to include timings, locations (grid references) and methods to be used for those crossings identified should be submitted to NIEA Water Management Unit prior to those works taking place.

With regard to HDD, drilling should be carried out using a “closed loop” system with no intentional discharge to the aquatic environment. Any “sumps” or containers to be utilised to hold drilling fluids must be watertight and where appropriate the use of a level warning system should be considered.

All mitigation measures must be fully applied if undertaking HDD activities.

Water Management Unit acknowledges it is not possible to identify the type of drilling fluids / muds to be utilised at this stage. Water Management Unit requests details of the type of any drilling muds / fluids to be used including the relevant Material Safety Data Sheets for same should be submitted to NIEA Water Management Unit prior to these works commencing.

Water Management Unit notes and welcomes the intention to recycle these fluids. Should any of these fluids or drilling fines need to be disposed of these should be removed by a licensed waste carrier to a licensed waste treatment facility.

Welfare

Water Management Unit notes the intention to provide temporary mobile welfare facilities. Any sewage / foul water generated by these should be removed by a licensed waste carrier to a licensed waste treatment facility for disposal.

Statutory Permissions

The applicant should note discharge consent, issued under the Water (Northern Ireland) Order 1999, is required for any discharges to the aquatic environment and may be required for site drainage during the construction phase of this development. Any proposed discharges not directly related to the construction of the development, such as from septic tanks or wash facilities, will also require separate discharge consent applications. The applicant must refer and adhere to the relevant precepts contained in DAERA Standing Advice Discharges to the Water Environment.

Should the water table be intercepted during these works in accordance with the Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006 (as amended) it is a mandatory requirement that upon the abstraction and/or diversion and/or impoundment of water from the natural river channel/lake, coastal or groundwater sources, an abstraction/impoundment licence should be obtained unless the operations specified are Permitted Controlled Activities. The applicant must refer and adhere to all the relevant precepts contained in DAERA Standing Advice Abstractions and Impoundments.

The discharge of water from a dewatering operation will require consent to discharge, under the Water (Northern Ireland) Order 1999 unless discharging using grassland overflow.

Water Management Unit would encourage the use of SuDS (Sustainable Drainage System) techniques during both the construction and operational phases to deal with site drainage. Water Management Unit recommends the applicant refers and adheres to the precepts contained in DAERA Standing Advice Sustainable Drainage Systems including paying regard to the limitations imposed by contaminated land.

Informatives:

The applicant must refer and adhere to all the relevant precepts contained in DAERA Standing Advice

- Commercial or Industrial Developments
- Pollution Prevention Guidance
- Discharges to the Water Environment
- Abstractions or Impoundments

Water Management Unit recommends the applicant refers and adheres to the precepts contained in DAERA Standing Advice Sustainable Drainage Systems

All standing advice referred to unless otherwise stated can be found at the following link www.daera-ni.gov.uk/water-environment-standingadvice

A hydromorphology guidance booklet can be downloaded from the following webpage which the applicant may find useful.

<https://www.daera-ni.gov.uk/artides/hydromorphologysurface-water-alterations>

The applicant should note discharge consent, issued under the Water (Northern Ireland) Order 1999, is required for any discharges to the aquatic environment and may be required for site drainage during the construction phase of this development. Any proposed discharges not directly related to the construction of the development, such as from septic tanks or wash facilities, will also require separate discharge consent applications. The applicant must refer and adhere to the relevant precepts contained in DAERA Standing Advice Discharges to the Water Environment.

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The discharge of water from a dewatering operation will require consent to discharge, under the Water (Northern Ireland) Order 1999 unless discharging using grassland overflow.

The Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017 requires us to protect the status of water bodies from deterioration, and where necessary and practicable, to restore water bodies to good status/good ecological potential.

Effective mitigation measures must be implemented to protect the water environment and surrounding water bodies from any discharge into them that may damage ecological status and to ensure that the objectives for the water body are not compromised nor the objectives in other downstream water bodies in the same and other catchments.

The proposed development must not cause any deterioration in status to the river water body in which it is situated in or any other water bodies in the surrounding area. Also, the proposal should not prevent these river water bodies or any other water bodies in the surrounding area, from achieving objectives.

The applicant should be informed that it is an offence under the Water (Northern Ireland) Order 1999 to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata. Conviction of such an offence may incur a fine of up to £20,000 and / or three months imprisonment.

The applicant should ensure that measures are in place to prevent pollution of surface or groundwater as a result of the activities on site, both during construction and thereafter.

Regulation Unit

Section Reference: LA10/2019/1386/F

Location: 737m NW of 56 Mullydoo Road Greencastle through townlands of Crockanboy Teebane West Casorna Rousky Drumlea Garvagh Meenadoo Trinamadan and Culvacullion ending at 785m NW of 24 Meenadoo Road Culvacullion, Gortin.

Considerations

An Environmental Impact Statement (ES) has been provided by RPS in support of this application. Based on the environmental information provided, Regulation Unit (RU) Land and Groundwater Team have no objection subject to Planning Conditions with regard to potential land contamination issues and risk to the groundwater environment.

Conditions

Wording for proposed Conditions concerning the management of land contamination are provided below and should you wish to discuss or have further clarity then do not hesitate to get in touch with the Land and Groundwater Team in Regulation Unit. In addition to imposing planning Conditions to address contamination and its risks, it is essential to ensure that these planning Conditions are complied with and discharged.

- 1. If during the site investigation or development works, new contamination or risks are encountered which have not previously been identified, works should cease and the Planning Authority shall be notified immediately. This new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM) guidance available at: <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>. In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Planning Authority in writing, and subsequently implemented and verified to its satisfaction.**

Reason: Protection of environmental receptors to ensure the site is suitable for use.

- 2. After completing the remediation works under Condition 1; and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with Planning Authority. This report should be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance available at: <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>.**

The verification report should present all the remediation, waste management and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and wastes in achieving the remedial objectives.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

- 3. The development hereby permitted shall not commence until a field/walkover survey of water features (including unregistered private water supplies) has been provided. If any additional water features (not discussed in the**

Regulation Unit

Environmental Statement) are identified a risk assessment and potential mitigations should be submitted to the Planning Department for consideration prior to works commencing in the vicinity of the water feature.

Reason: Protection of environmental receptors

Explanatory note

The comments below are not exhaustive but serve to capture key points in support of the Regulation Unit (RU) Land and Groundwater Team position outlined above. These comments are made on consideration of:

- RPS Environmental Statement – Curraghinahilt 33KV Connection Project. Dated May 2021.
1. The priority of RU in considering this request for information is to consider the potential for contamination to be present at the site that could impact on environmentally sensitive receptors including groundwater and surface water. It should be noted that Fermanagh and Omagh District Council is the authoritative body with respect to environmental health matters and we would ask that you ensure they have an opportunity to comment on all relevant information.
 2. RU note that the Construction Environmental Management Plan (CEMP) provided as part of the ES confirms that non-intrusive site investigation has been completed and intrusive site investigation involving progression of trial holes, at a rate of one hole per 100 m of underground cable, will take place prior to excavation and installation works commencing.
 3. RU further note that there is potential for planned site investigation or construction stage works to encounter areas of contaminated land, particularly during underground cable excavation / drilling works in off-road areas. RU are content that the likelihood of encountering contamination is low given the stated depth (1000 mm) and width (500 mm) of the cable track excavation. In the event that contamination is encountered during intrusive site investigation or construction stage, Planning Conditions to mitigate land contamination risks to receptors using current guidance are provided below.
 4. RU are content that full implementation of the advised Planning Conditions for any contamination encountered during site investigation and construction stage will ensure no unacceptable land contamination risks to the water environment will arise as a result of the proposed development. Further information is available at: [Development on Land Potentially Affected by Contamination | Department of Agriculture, Environment and Rural Affairs \(daera-ni.gov.uk\)](https://www.daera-ni.gov.uk/development-on-land-potentially-affected-by-contamination)
 5. RU note that the applicant has stated “there are no known private wells in the vicinity of the proposed development” (Section 9.8.1.3 Hydromorphology of Chapter 9). Although the applicant has consulted the NIEA Water Information Request Viewer and Spatial NI Web portal there is no evidence that all potential private groundwater abstractions have been considered. The Land and Groundwater Team recommend prior to works commencing that a field survey/ walkover to confirm the presence of any water additional receptors is completed as per the proposed Condition 3. If any additional water features (not discussed in the Environmental Statement) are identified a risk assessment and potential mitigations should be submitted to the Planning Department for consideration prior to works commencing in the vicinity of the water feature.

Regulation Unit

This proposed condition and response should be considered alongside the DAERA Drinking Water Inspectorate Consultation response

The Land and Groundwater Team recommend the following guidance regarding water feature surveys is considered:

<https://www.daera->

[ni.gov.uk/sites/default/files/publications/daera/Water%20Features%20Survey%20-%20August%202018.pdf](https://www.daera-ni.gov.uk/sites/default/files/publications/daera/Water%20Features%20Survey%20-%20August%202018.pdf)

6. The applicant has stated that dewatering of cable trenches or launch and received pits may be required (Section 5.2.1.1 Sediment Management Measures of Appendix 2.2 Outline Construction Environmental Management Plan). The potential requirement for dewatering further supports the need for a sufficient water feature survey to identify groundwater receptors and the potential risk associated.
7. It is recommended that all risk assessment and risk management work follows the UK technical framework as described in the Land Contamination: Risk Management (LCRM) guidance available at <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>.

Informatives

1. **The purpose of the Conditions 1 & 2 is to ensure that any site risk assessment and remediation work is undertaken to a standard that enables safe development and end-use of the site such that it would not be determined as contaminated land under the forthcoming Contaminated Land legislation i.e. Part III of the Waste and Contaminated Land Order (NI) 1997. It remains the responsibility of the developer to undertake and demonstrate that the works have been effective in managing all risks.**
2. **The purpose of Condition 3 is to ensure the protection of environmental (groundwater) receptors which may not have been identified within the Environmental Statement.**
3. **The applicant should ensure that the management of all materials onto and off this site are suitably authorized through the Waste and Contaminated Land (Northern Ireland) Order 1997, the Waste Management Licensing Regulations (Northern Ireland) 2003 and the Water Order (Northern Ireland) 1999.**
4. **RU recommend that the applicant consult with the Water Management Unit within the NIEA regarding any potential dewatering that may be required during the redevelopment works including the need for discharge consent. Discharged waters should meet appropriate discharge consent Conditions.**

Natural Heritage & Conservation Areas

Section Reference: CB28889-3 & CB28890-3

Planning Reference: LA11/2019/1000/F & LA10/2019/1386/F

Date of NED response: 2 September 2021

Summary of Position

NIEA, Natural Environment Division (NED) has concerns with this proposal and requires further information to assess the potential landscape and visual impacts.

Considerations

Please note that this proposal is subject to the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) (known as the Habitats Regulations).

The application site is hydrologically linked and/or within/adjacent to the Owenkillew River Special Area of Conservation (SAC) and Area of Special Scientific Interest (ASSI), the River Foyle and Tributaries SAC and ASSI and the Owenreagh River ASSI which are of international and national importance and are protected by the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) and The Environment (Northern Ireland) Order 2002 (as amended).

The site is within Sperrin Area of Outstanding Natural Beauty (AONB).

The site supports otters and is likely to be used by bats, both European protected species under the Habitats Regulations.

The site supports badgers, lizards, marsh fritillary butterfly and nesting birds which are protected under the Wildlife (Northern Ireland) Order 1985 (as amended).

The site contains the Northern Ireland priority habitats (NIPHs) wet woodland, hedgerows, rivers and streams, purple moor-grass and rush pasture, blanket bog, upland heathland and upland fens, flushes and swamps.

NED acknowledges receipt of the Environmental Statement (ES) dated May 2021 and the associated documents and drawings.

Please note that this is a desk based response.

Explanatory note

The proposal is for a 33kV power line involving both construction of above ground 33kV overhead line supported by wooden poles and underground 33kV cable laid below ground level in ducts, to serve Curraghinalt mine (currently under consideration planning application LA10/2017/1249/F). 33kV connection is c37.9 km in length, comprising of c26.9 km of overhead line supported by single and double wooden pole sets and c11 km of underground cabling.

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Protected Landscapes

In response to the clarification email from RPS dated 18 August 2021, NED has the following comments to make. For reasons of clarity NED will deal with each of the points 1-4 in RPS's letter.

1. NED acknowledge the fact that the proposal would go through 2 Regional Landscape Character Areas (RLCA) although approx. 99.7% of the proposal lies within RLCA 7 'Sperrins'. Although the scale of the Northern Ireland Regional Landscape Character Assessment (NIRLCA) may be described as macro there is considerable detail contained within the NIRLCA which provides robust and comprehensive information and analysis which are particularly useful in this instance;
2. NED agree with and acknowledge this point;
3. NED would agree that the physical geography aspects of the route (including some vegetation and landcover) may not have changed significantly or in some instances not at all since the NILCA was published in 1999. However the terms 'landscape' and 'landscape character' have been widened since its publication, particularly by the landscape profession and as described in the European Landscape Convention (ELC) of which the UK is a signatory (signed 2006 and introduced 2007). The ELC provides a people-centred and forward-looking way to reconcile management of the environment with the social and economic challenges of the future, and aims to help people reconnect with place. In several respects the NILCA is out-of-date and DAERA intend to undertake a refresh of this in the future – hopefully soon. The forces for change have obviously changed since 1999, for example, when renewable energy and climate change were not obvious forces and therefore not mentioned. Another difference is the lack of any information on the perceptual and cultural connections with the landscape, factors that are given equal weight to the physical aspects presently.

The NIRLCA, perhaps unlike some other regional Landscape Character Assessments deals with the following landscape factors within what we term as landscape character:-

- Cultural Influences such as art, poetry, dance, crafts, folklore etc.
 - Perceptual Influences
 - Past, present and future forces for change such as climate change, renewable energy, plant disease etc.
 - Ecosystem Services: **Provisioning Services** such as food, fibre, fuel and minerals;
 - **Regulating Services** such as Carbon storage, climate regulation. Flood regulation and **Cultural Services**.
4. As above.

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We would, for the above reasons, maintain that the NIRLCA should form part of the baseline information for the LVIA.

Discussion has also been held with RPS in relation to the term 'negligible' being applied to the impact of the proposal on the landscape and also that "all predicted effects on the 213 individual properties are judged to be not significant". The photomontages submitted in the ES show that the impact will not be negligible and in some instances will be significant in our opinion. Figure 5.6 VP02 Curlyhill Road is a case in point (see below). We have requested that a more balanced approach is taken.



Designated Sites

The application site is hydrologically linked and/or within/adjacent to the following national, European and international designated sites:

- Owenkillew River SAC and River Foyle and Tributaries SAC, which are designated under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended);
- Owenkillew River ASSI, Owenreagh River ASSI and River Foyle and Tributaries ASSI, which are declared under the Environment Order (Northern Ireland) 2002

In accordance with the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), the Competent Authority should ensure an assessment is carried out to determine if the proposal, either alone or in combination, is likely to have a significant effect on a European site and the qualifying features, in line with the site conservation objectives.

NED has considered the proposal and highlights the following as potential impacts on the designated sites;

Natural Heritage & Conservation Areas

Potential Impacts	Designated site considerations
<p data-bbox="204 300 587 521">Degradation of adjacent aquatic environment and consequently the designated site from contaminated runoff resulting from construction, works.</p> <p data-bbox="204 633 587 936">Mortality of salmon due to vibration/noise, release of sediment, contaminated runoff or effluent resulting in smothering of gills or infilling of interstitial spaces used and reduced oxygen flow across spawning beds.</p>	<p data-bbox="609 331 1374 479">The proposed powerline spans from Strabane main substation to the proposed Curraghinalt mine and comprises c. 18.7km of overhead line (OHL) and c. 4.1km of underground cabling (UGC).</p> <p data-bbox="609 517 1374 898">NED have considered the potential likely significant impacts to fisheries and aquatic ecology, as presented within Chapter 8 of the Environmental Statement (date received 01/06/2021). The species in this Chapter either form a feature component of the designated sites (Atlantic salmon) or are inextricably linked to features of the designated sites, through their role as host species during the glochida stage of freshwater pearl mussel, or as prey to the Atlantic salmon and other populations of the designated sites.</p> <p data-bbox="609 936 1374 1742">The Chapter states that drilling and noise vibration impacts are unlikely to result in disruption of the migratory behaviour of salmon, given that no local fish were present within the streams where horizontal directional drilling (HDD) has been proposed, or that the habitat consisted of poor fisheries potential. Regarding the removal of sensitive benthic macroinvertebrates during open-cut crossings, the report considers impacts to be very localised, and of negligible magnitude, because of the restricted area of excavation, coupled with the likelihood of rapid recolonization of invertebrates from upstream. NED note that temporary damming and channel blocking required for open-cut crossings could affect migratory movement of salmonids but that, as per the ES, apart from ST11, none of the stream crossings were found to have fish present locally. At this site, fish will be collected by electrofishing immediately upstream, within and downstream of the proposed works areas and translocated much further downstream. NED note that open cut crossings will not be undertaken during key migratory periods (1st October to 30th April).</p> <p data-bbox="609 1780 1374 2004">NED acknowledge receipt of Appendix 2.2: the Outline Construction Environmental Management Plan (OCEMP) and Chapter 9 of the ES: Water Quality (both date received 01/06/2021) which propose a series of mitigation measures to prevent degradation of the adjacent aquatic environment during UGC and OHL installation works.</p>

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	<p>Spatial buffers and sediment traps have been proposed to protect sensitive waterways where HDD is undertaken. Drill pits shall be located a minimum of 20m from a watercourse. Drilling fluid leakage and bankside disturbance shall be prevented by ensuring that the drill launch and receiver pits are sufficiently distant from the banks and removal and disposal of the drilling slurry shall be managed through safe methods such as a vacuum lorry. As detailed in Chapter 9 of the ES, particular care and attention should be sustained to ensure there is no direct discharge of untreated surface run-off into any hydrologically connected watercourses/drains. Watercourse spatial buffer strips should be maintained, except at the identified water crossing points. NED note that there will be no requirement for surface water abstractions.</p> <p>Due to the sensitivities of the hydrologically connected designated sites, both in terms of Atlantic salmon populations along with host species to the freshwater pearl mussels, NED recommend that HDD be used in preference to open cut techniques for installation of UGC at watercourse crossings. However, NED recognise that open-cut approaches will be taken when on-site management is deemed to pose a risk of drilling mud break out through fissures or weakness in the underground strata.</p> <p>Should ground investigations determine that the nature of strata is not suitable in a certain location for HDD and open-cut technique will be required, NED should be re-consulted in order to undertake a full assessment of potential impacts to the designated site selection features.</p> <p>NED note that open cut crossings will be undertaken in dry conditions, by damming the reach across and pumping of water behind an upstream cofferdam into a river reach downstream of a secondary cofferdam, resulting in a very low likelihood of sediment entrainment and associated negative impacts to the aquatic species of the sites.</p> <p>Sediment release, throughout the proposed works, shall also be prevented through the following mitigation; limit movement of vehicles after heavy rainfall, avoid vehicle use within close proximity to a watercourse, silt fencing, swales, drone overhead line stringing, and biodegradable membranes to stabilise and reinstate the bank in riparian zones, along with visual inspections and planned</p>
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Natural Heritage & Conservation Areas

	<p>emergency response procedures. Pollution prevention resulting from refuelling, the storage of oils and fuels and disposal of site work sewage have been considered and appropriately mitigated in the OCEMP.</p> <p>NED acknowledge receipt of the shadow Habitats Regulations Assessment (sHRA) (date stamped 08/06/2021) which concludes that, subject to adherence to the mitigation measures prescribed within the above documents, construction and operation of the proposed development will not adversely affect the conservation objectives for River Finn SAC, River Foyle and Tributaries SAC, Owenkillew River SAC or Lough Foyle SPA/Ramsar.</p>
<p>Direct/indirect impact through destruction of otter holt or disturbance during construction works.</p> <p>Invasive species</p>	<p>Chapter 7 of the ES briefly covers designated site features including Otter and Atlantic Salmon which have the potential to be impacted by the development. Although no otter holts, couches or signs were recorded within 80m of the working area they are known to transverse the watercourse, with NIEA holding several records of otter nearby. The chapter states that Otters have the potential to be disturbed by works adjacent to the watercourse due to the construction and maintenance of poles 2263 and 2263a. Potential disturbance will be reduced by keeping tree cutting works to one day, with as much tree and vegetation cover being retained as possible for the OHL to function. NED advise that monitoring of the watercourse by an ecological clerk of works take place when construction works occur adjacent to the Owenkillew watercourse. If otters are sighted then construction works must cease immediately and further advice sought from NIEA. Water quality impacts that may indirectly impact otter such as suspended solids and construction run-off are covered within Chapter 9 of the ES and within the OCEMP.</p> <p>The proposed works at the Glenelly river section have the potential to enable the spread of invasive species downstream to Owenkillew River and Tributaries SAC, with 'Old sessile oak woods with Ilex and Blechnum in the British Isles' feature 6.5km downstream. An Invasive Non-Native Species Method Statement has been included with the OCEMP to prevent this. Ecological Exclusion Zone's (EEZ) will be set up around stands of invasive species to prevent ground disturbance or plant disturbance which could result in plant spread. No contractors or vehicles etc. will be allowed into the EEZ. At all locations staff will be</p>

Natural Heritage & Conservation Areas

	briefed and made aware of the non-native species present and the purpose of the exclusion zones
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Recommendations

NED would advise the following are considered:

- NED are content with the details and mitigation provided in the Outline Construction Environmental Management Plan, the Environmental Statement (both date received 01/06/2021) and shadow Habitats Regulations Assessment (date stamped 08/06/2021) and unless there is a substantial change to these documents, are content if the measures are implemented they will mitigate against any potential impacts on the protected sites.
- Should ground investigations determine that the nature of strata is not suitable in a certain location for HDD, and open-cut technique will be required, NED should be re-consulted prior to commencement of the open-cut UGC installation works.

Priority Habitats

NED has assessed the ES, associated habitat maps in Figures 7.3.1 to 7.3.18 and the Extended Phase 1 Habitat Survey Target Notes in Appendix 7.5 and notes that seven NIPHS have been identified that will be directly impacted by the proposed development. These include wet woodland, hedgerows, rivers and streams, purple moor-grass and rush pasture, blanket bog, upland heathland and upland fens, flushes and swamps.

The ES states that a total of 293m² of blanket bog, wet modified bog and upland fens, flushes and swamps and 42m² of upland heathland will be lost due to the proposed development and it is proposed to compensate for the loss and damage to these habitats through habitat creation and restoration/enhancement of existing peatland habitats on land within the control of Dalradian Gold Ltd. at the site of the associated proposed Curraghinalt mine.

In an email from RPS, dated 11 August 2021, it is proposed that compensation for the loss of these habitats can be included in the Ecological Mitigation and Management Plan (EMMP) for the mine site.

In an email from RPS, dated 25 August 2021, the attached document "Folio 14387_Aug2021" shows available lands under the control of Dalradian Gold Ltd. where compensation for habitat loss associated with this proposal can be implemented. This land is in addition to the adjacent areas of land already proposed for compensation for the mine site and contains similar habitat.

The total area of compensation proposed for blanket bog, wet modified bog, upland fens, flushes and swamps and upland heathland in the ES is 335m², however, NED recommends this is increased to 670m² to allow for potential risk and uncertainties during restoration and to ensure there is a better chance of achieving a sufficient area of compensation. It is stated

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in the email from RPS dated 25 August 2021 that the additional lands available can easily accommodate the recommended 670m².

NED has assessed the Ecological Mitigation and Management Plan (SLR, September 2017) in Appendix C9 of the ES for the mine site referred to in RPS's email of 11 August 2021. NED is content that the compensation for habitat loss associated with this proposal can be included in the final EMMP should planning permission be granted.

The final EMMP must clearly show the location of the 670m² area of compensation for habitat losses associated with the powerline which must be in addition to the compensation proposed for habitat loss associated with the mine site. The final EMMP should also detail the management prescriptions, monitoring and surveillance for this additional area.

NED has recommended an appropriate condition below to ensure implementation of these compensation measures.

NED notes that poles 2079 and 2110 are to be sited in what is considered likely to be active peatland. NED consider it would be ideal if these poles were moved out of areas of active peatland, however, we understand that this may not be feasible and are content that sufficient compensation can be provided at the mine site.

NED note the use of creosote utility poles for the OHL sections across NIPH. NED recommend the use of a Pole Guard, or similar system, to prevent the leaching out of creosote wood preservative from the pole and extend the life of the pole. This will reduce potential impacts to NIPH from the creosote and increase the lifespan of the pole thereby preventing damage to NIPH from pole replacement in the future.

NED notes that 50.84m² of wet woodland will be lost to the proposed development. An email from RPS, dated 11 August 2021, states that 4.44ha of woodland planting is proposed along the Pollanroe Burn at the mine site to mitigate the landscape and visual impact of the proposed development and this planting is not compensation for loss of any habitat associated with the main mine application and therefore can be used as compensation for the loss of wet woodland associated with this proposal. This planting is detailed in Drawing Number 41 Rev B, Landscape Plan and Drawing Number 110, Planting and Maintenance Schedule, both date stamped 4 Nov 2020 by DfI Planning and submitted with the mine application. NED is content that this planting will provide sufficient compensation for the loss of wet woodland from this proposal. DfI must ensure an appropriate condition is attached to any planning approval to ensure the implementation of this planting as compensation for NIPH loss from this proposal.

NED notes numerous hedgerows will be impacted by the proposed development. Hedgerows will be required to be cut to a height of 1.5m within the 10m working area of the OHL, however NED is content that no significant hedgerow removal is required other than two sections to facilitate the installation of a section of the UGC. NED notes from the ES that these will be reinstated using native species similar to that removed.

The route of the proposed development crosses 23 watercourses including tributaries of the Glenmornan River, Glenelly River, Owenkillev River and Owenreagh River. The Owenkillev River is an SAC and ASSI and the Owenreagh River an ASSI. NED notes that 12 poles are

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proposed to be sited 10m or less from some of the rivers. However, NED considers that with the implementation of the mitigation measures set out in Chapters 7, 8 and 9 of the ES and in the OCEMP there are unlikely to be any significant impacts on any watercourses.

Purple moor-grass and rush pasture is also found within the working area of the powerline, however, no poles are to be sited within this habitat.

NED notes that mitigation measures to be implemented during the construction of the powerline have been detailed in the ES and OCEMP for each habitat including non-priority habitats. NED is content that the implementation of these mitigation measures will help minimise the impact of the proposal on all habitats.

NED also notes that approximately 0.066 ha of non-priority broadleaved woodland habitat will be lost as part of the proposed development. However, NED is content that the woodland planting shown in Drawing Number 41 Rev B, Landscape Plan referred to above will provide sufficient compensation for the loss of this woodland.

Bats

NED has assessed Chapter 7 of the ES and the Preliminary Roost Assessment of Trees & Potential Roost Feature Inspection Surveys report in Appendix 7.6 of the ES.

A Preliminary Roost Assessment (PRA) of trees along the route of the proposed powerline was carried which identified 33 trees with low suitability for roosting bats and 11 trees with moderate suitability for roosting bats that will be directly impacted by the proposed development. These trees were then subject to a Potential Roost Feature (PRF) inspection survey using an endoscope. The PRF inspection survey confirmed 11 trees with negligible suitability for roosting bats, 21 trees with low suitability and 12 trees with moderate suitability.

Bats are a European protected species under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The proposed development will require the cutting of woodland, treelines, hedgerows and scrub to a height of 1.5m within the 10m working area of the OHL.

NED notes that it is proposed to carry out a pre-construction PRF inspection survey by the Ecological Clerk of Works (ECoW), of the 12 trees with moderate suitability for roosting bats immediately prior to clearance works and trees immediately felled following confirmation no bats are present. NED welcomes these mitigation measures and would highlight that should a bat roost be found no works to, or felling of, the trees can take place until a European Protected Species licence has been obtained from NIEA Wildlife Team. NED also recommend that, as a matter of good practice, a check for bats is carried out by the ECoW, immediately prior to removal of the trees with low suitability for roosting bats and the trees are soft felled.

It is stated in the ES that in the event that a bat roost is found to be present during the pre-construction PRF Inspection Surveys, alternative roost provision will be provided using appropriate artificial bat boxes for the species concerned, to be erected on suitable trees, as close to the site of the original roost as possible. NED welcomes these measures and also suggests that as tree roosts can be used sporadically and potential roosting habitat is being

Natural Heritage & Conservation Areas

lost, that as a habitat enhancement measure for bats, consideration is given to providing compensation for the loss of these PRFs in the form of bat boxes. NED recommends 3 bat boxes are provided as compensation for the loss of every tree with moderate suitability for roosting bats.

As previously stated, hedgerows and treelines within the 10m working area are to be cut to a height of 1.5m during pre-clearance works and every three years thereafter. As no significant hedgerow removal is proposed NED is content that connectivity and commuting habitat for bats will be retained. As highlighted in the ES the cutting of hedgerows may lead to lower abundances of associated insect prey for bats in the first growing season, however, this is not considered to be significant.

NED is content that provided all recommended mitigation measures are implemented there are unlikely to be any significant impacts on the local bat population.

Badgers

NED notes from Annex 1, Confidential Ecological Survey for Badger report, that numerous badger setts are located in the vicinity of the proposed powerline, several of which will be impacted by the proposed development. Badgers and their places of refuge are protected at all times under the Wildlife (Northern Ireland) Order 1985 (as amended). NED would highlight that no works may occur within 25m of a badger sett without a wildlife licence having been obtained from NIEA beforehand.

Section 5.2 of the Ecological Survey for Badger report states that a licence will be required for 6 of the badger setts in order to facilitate tree felling within 25m of 5 of the setts and for the erection of one pole just outside the 25m protection zone of one of the setts. NED also notes from Table 1 in the report that the temporary closure of setts 26 and 27 is proposed as works will encroach within the 25m protection zone.

In order to determine the potential impacts on badgers and ensure alternative setts are available, NED requires the main sett of the badger social group associated with the setts proposed to be closed to be identified. From the clarification provided in the email from RPS dated 27 August 2021, NED is content that the location of the main setts associated with setts 26 and 27 has been confirmed.

NED is content with the mitigation measures proposed in the Ecological Survey for Badger report to protect the local badger population. NED would highlight that a wildlife licence must be obtained from NIEA for any works within 25m of a badger sett.

From Table 1 of the Ecological Survey for Badgers report NED notes that access to the 25m EEZ of some setts will be required for stringing of the overhead line. It is proposed that stringing will take place by quad or on foot within the EEZ. NED recommends that access to the 25m EEZ for stringing is kept to a minimum and all stringing takes place on foot only in order to minimise disturbance to badgers.

NED also notes from Table 1 that it is considered no mitigation is required for sett 25. NED considers that as this sett is within the proposed working area that a 25m EEZ should be erected around this sett.

Natural Heritage & Conservation Areas

NED notes from Chapter 14: Noise and Vibration of the ES, that the proposed construction activities do not include piling. NED would highlight that noise and vibrations from activities such as piling can cause disturbance to badgers. If any piling works are proposed, a 100m buffer should be implemented between the badger setts located within and nearby the site and any piling activities, otherwise a wildlife licence from NIEA may be required.

Section 7.4.8.2 of Chapter 7 of the ES highlights that proposed works have the potential to result in temporary disturbance to badgers from construction noise. NED notes that whilst no specific mitigation to minimise the impact of noise on badgers has been proposed, mitigation measures are proposed in the ES and OCEMP to minimise the impact of noise on other sensitive receptors. NED considers these mitigation measures will also help to minimise the impact of noise disturbance on badgers. NED recommends the use of noisy plant and machinery should be avoided or limited near badger setts.

NED also recommends that during construction works any excavations should be covered at night or fitted with a means of escape such as a ramp to prevent badgers becoming entrapped. Details of these mitigation measures should also be included in the final CEMP.

NED notes that all mitigation measures detailed in the Ecological Survey for Badgers report are not included in the OCEMP. All mitigation measures detailed in said report and recommended by NED should be included in the final CEMP. The 25m EEZs as detailed in the Ecological Survey for Badgers must also be clearly shown in the final CEMP.

Otters

NED notes from the ES that a survey for otters was carried out and that whilst no otter holts or couches were recorded within the survey area, otter activity was recorded at several locations along the Legnahone Burn, Letterbrat Burn and Glenelly River. Otters are a European protected species under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). However, NED is content that provided the mitigation measures detailed in the ES, OCEMP and those recommended by NED in the designated sites section above are implemented in full there are unlikely to be any significant impacts on the local otter population.

Ornithology

NED Ornithology has previously commented on this proposed development under CB28889, LA11/2019/1000/F (13/05/2020). The following is an updated assessment taking into account further environmental information submitted by the applicant in 2021 following a further season of breeding bird surveys in 2020.

The project has a total length of 37.9km. The greater part of the line (26.9km) will be supported on wooden poles, with the remainder underground. Pole height will vary between 11m and 16m with an average planting depth of approximately 2.5m.

In preliminary discussions with the developer, NED identified three areas within the total extent of the powerline which had previous records of breeding waders. Surveys were requested in these areas which are identified as Craginagapple, Slievemore and Mullydoo in the developer's survey report (RPS 2021). Only Craginagapple and Slievemore are covered

Natural Heritage & Conservation Areas

by this application. It was also requested that, during breeding wader surveys, records should be kept of any other sensitive bird species of conservation concern, particularly breeding raptors and Red Grouse (Red-listed species of conservation concern in Ireland).

Habitats within the Craignagapple and Slievemore survey areas are similar, consisting of an extensive central area of upland heath and rough pasture bordered to the east and west by a mosaic of improved, semi-improved grassland and, in the case of Slievemore, cut-over bog. Both areas contain blocks of coniferous plantation but these comprise only a small percentage of the total area and are not crossed by the powerline route. The Mullydoo survey area consists largely of small fields semi-natural grassland bordered by hedgerows, bordered to the north east by an extensive area of upland heath.

Breeding bird surveys were carried out in 2018, 2019 and 2020 using methods derived from Brown and Shepherd (1993), adapted for a transect-based approach. Three visits to each survey area were made between March and June in each year and covered an area extending 800m on either side of the proposed powerline route in each of the three areas. The results for target species in 2020 are presented in Table 2c of the ornithological report but this is mistakenly labelled 2018.

Snipe (Amber-listed) were recorded in all three survey areas. In all cases, numbers were greatest on the first visit with peak counts of 9, 8 and 13 individuals being recorded in Craignagapple, Slievemore and Mullydoo respectively. Numbers fell sharply on subsequent visits with no snipe being detected on visits 2 and 3 in Slievemore and Mullydoo in all three years. This strongly suggests that the majority of Snipe present early in the season were wintering birds. Only two instances of Snipe displaying territorial behaviour were recorded, one in each of 2018 and 2019. Both of these territories were within Craignagapple and were located approximately 400m and 150m respectively from the powerline route.

The only other wader species recorded were Woodcock and Golden Plover. Three wintering/passage Woodcock (Amber-listed) were present at Slievemore in 2018. A passage flock of 64 Golden Plover (Red-listed) was recorded at Slievemore during 2019, when two individuals were also found early in the season at Craignagapple. Maxima of two and five individuals were observed at Craignagapple and Mullydoo respectively in 2020. These again appeared to be passage birds.

Five species of raptor (Hen Harrier, Buzzard, Sparrowhawk, Kestrel and Merlin) were recorded during the surveys but numbers were low and evidence of breeding within the survey areas was found only for Kestrel (Red-listed). A single Hen Harrier (Amber-listed) was observed in Craignagapple during the early season visit in 2018, but not subsequently. All other species were recorded in both Craignagapple and Slievemore over the three years but only a single Buzzard was seen in Mullydoo. In the case of Sparrowhawk (Amber-listed) and Merlin (Amber-listed), single birds were observed once in each of the 2018 and 2019 seasons, but not at all in 2020. The maximum number of Buzzards and Kestrels recorded in any site visit was three for each species.

A pair of Kestrels probably nested within the Slievemore survey area in both 2018 and 2019, though this territory appeared to be unoccupied in 2020. The likely nest location was approximately 200m from the proposed powerline route. The risk of disturbance to birds using this site is likely to be relatively low but the implementation of a precautionary buffer

Natural Heritage & Conservation Areas

zone of 500m during any construction work within the breeding season has been proposed. The collision risk to this species is also assessed as low. BCS has no records of recent nesting by any other raptor species of conservation concern at locations in proximity to the powerline route where there would be a significant risk of disturbance associated with construction work.

Evidence of the presence of Red Grouse was found in all three survey areas but densities appear to be very low. A maximum of three birds was recorded in Craignagapple, but only droppings were detected in Slievemore. A pair with chicks was seen in Mullydoo during 2020, however. Only in Craignagapple was this species observed in close proximity to the powerline route. All observations at Mullydoo were close to, or beyond, the boundary of the survey area at 800m from the route.

NED is not aware of any areas used regularly by wintering Whooper Swans (EU Birds Directive: Annex 1) or other migratory waterfowl for foraging or roosting within 5km of the proposed powerline. There is also no evidence that the route is crossed by any important migratory or commuting flyways for the above species. It is therefore considered unlikely that the project would present a significant collision risk to these species.

A number of passerine species were recorded during the surveys but are not listed in the report. Bird communities along the route are likely to be typical of upland farmland and moorland edge. As collision risk for these species is assessed as extremely low and direct habitat loss will be on a very small scale, it is highly unlikely that this project would result in any significant, long-term adverse impact on any passerine species at the regional population level if appropriate mitigation is implemented.

NED is satisfied that the proposed development will have no significant adverse impact upon local bird populations. We do, however, recommend that the mitigation measures listed in Section 4 of the developer's ornithological survey report (RPS 2021) are fully implemented to prevent disturbance of breeding birds and maintain the availability of nest sites. These measures include:

1. Construction within the Craignagapple survey area to be undertaken outside the bird breeding season, which runs from 1st March to 31st August, to avoid potential disturbance to breeding Snipe and Red Grouse.
2. No works to be undertaken within 500m of the previously used Kestrel nest site in the Slievemore survey area during the breeding season.
3. Removal of trees, scrub and other vegetation to be minimised.
4. Any unavoidable vegetation removal or management to be undertaken outside the bird breeding season (as defined above).
5. If it is considered essential that vegetation removal is carried out during the breeding season, the affected area should be checked thoroughly for nesting activity by an experienced ornithologist prior to works commencing and appropriate buffer zones established around any active nests found until the chicks have fledged or breeding activity has ceased. N.B. Construction teams should be made aware of the possibility

Natural Heritage & Conservation Areas

of the presence of ground-nesting species, such as Skylark (Amber-listed) and Meadow Pipit (Red-listed) in grassland areas. The affected area at each pole location in such habitat should also be subject to a preliminary check for active nests.

6. All works should be carried out within the red-line boundary, as shown in the original drawings.

Full details of these measures should be included in the final CEMP.

Smooth Newts

NED has assessed the Ecological Survey for Smooth Newt in Appendix 7.2 of the ES and notes that two adjacent ponds along the route of the proposed development were considered to provide suitable breeding habitat for smooth newts. Smooth Newts are protected under the Wildlife (Northern Ireland) Order 1985 (as amended). Surveys carried out of these ponds failed to confirm the presence of newts, however, environmental DNA analysis carried out on water samples from the ponds returned a positive result for one of the ponds indicating the presence of smooth newt. The report states that these results suggest the presence of either transient smooth newt or a very low population of smooth newt. These ponds are outside of the development working area and therefore will not be impacted by the proposed development.

NED notes that 3 adjacent depressions near poles 2142-2143 were assessed for their suitability to support breeding newts. These depressions were previously assessed as having below average pond suitability using the HSI but were dried out in 2020 and considered to be unsuitable for breeding smooth newts. NED welcomes the precautionary mitigation measures proposed in the ES and OCEMP to be implemented in these areas. Measures proposed include an EEZ. NED notes that no size for this EEZ has been given and recommends an EEZ of 10m is applied. The EEZs should be clearly shown in the final CEMP.

NED also notes that 4 drainage ditches located throughout the site were assessed for their potential to support breeding newts. These ditches were assessed as having poor suitability for newts and were excluded from further assessment.

NED is content that the proposal is unlikely to have a significant impact on smooth newts provided the recommended mitigation measures are implemented.

Common Lizards

NED has assessed the Ecological Survey for Common Lizard in Appendix 7.3 of the ES and notes that suitable habitat for common lizards is present along the route of the proposed powerline including blanket bog, wet modified bog, grasslands, earth banks and stone walls. Surveys were carried out at 5 locations within areas of suitable habitat with lizards confirmed at 3 of these locations. Common lizard are protected under the Wildlife (Northern Ireland) Order 1985 (as amended). NED is content that provided the mitigation proposed in the ES and OCEMP is implemented in full, there are unlikely to be any significant impacts on the local common lizard population. NED would highlight that a wildlife licence from NIEA will be required for pre-construction site clearance and construction work searches for lizards.

Natural Heritage & Conservation Areas

Marsh Fritillary

NED has assessed the Ecological Survey for Marsh Fritillary report in Appendix 7.1 of the ES and notes that devil's-bit scabious was recorded at nine locations along the route of the proposed powerline. Seven of these locations were considered to have the potential to provide suitable habitat for Marsh Fritillary and were subject to Marsh Fritillary larval web surveys in 2019 and 2020. Marsh Fritillary larval webs were confirmed at 2 locations in 2019. No larval webs were recorded in 2020.

Marsh Fritillary butterfly is protected under the Wildlife (Northern Ireland) Order 1985 (as amended) and is listed in Annex II of the Habitats Directive.

NED notes that several mitigation measures have been proposed to protect Marsh Fritillary habitat, with separate measures being proposed for the areas where larval webs were found to those where no larval webs were found. NED considers that the mitigation measures proposed to protect the Marsh Fritillary habitat where larval webs were found should be applied to all areas of suitable habitat. NED also recommends that if works in Marsh Fritillary habitat are to be carried out during the larval web season then as a precaution a search for larval webs should be carried out by the ECoW prior to any works commencing. NED would highlight that a wildlife licence from NIEA will be required for pre-construction works searches for larval webs. NED is content that with the implementation of all recommended mitigation measures there are unlikely to be any significant impacts on the local Marsh Fritillary population. Details of all mitigation measures should be included in the final CEMP.

Red Squirrel

Red squirrel and their places of refuge are protected under the Wildlife (Northern Ireland) Order 1985 (as amended). NED notes that woodland habitat is limited in extent within the site and is mainly associated with riparian habitats. The ES states that no evidence of red squirrel was found within the site and therefore, red squirrel was excluded from any further assessment. However, NED notes from the Ecological Survey for Badger report that it is proposed the ECoW carry out a pre-felling inspection of an area of sitka spruce for red squirrel dreys. NED recommends that as a matter of good practice a check for any red squirrel dreys is carried out by the ECoW prior to any woodland clearance works. Details of these mitigation measures should be included in the final CEMP.

Pine Marten

Pine marten and their places of refuge are protected under the Wildlife (Northern Ireland) Order 1985 (as amended). NED notes that woodland habitat is limited in extent within the site and is mainly associated with riparian habitats. The ES states that no evidence of pine marten was found within the site, however, NED recommends that as a matter of good practice a check for any potential pine marten dens is carried out by the ECoW prior to any woodland and vegetation clearance works. Details of these mitigation measures should be included in the final CEMP.

Natural Heritage & Conservation Areas

Invasive Species

NED notes from the ES that non-native invasive species, Japanese Knotweed *Fallopia japonica* and Himalayan Balsam *Impatiens glandulifera* are present within the site. Japanese Knotweed is listed on Part II of Schedule 9 of the Wildlife (Northern Ireland) Order 1985 (as amended). Himalayan Balsam is listed on Part 2 of the Schedule of The Invasive Alien Species (Enforcement and Permitting) Order (Northern Ireland) 2019.

NED is content that sufficient mitigation measures are proposed in the ES and Invasive Non-Native Species Method Statement in the OCEMP to prevent the spread of these invasive species. NED recommends that all mitigation measures proposed in the ES are included in the final CEMP.

Other Natural Heritage Interests

Irish hare were observed during the ecological surveys. Irish hare are a Northern Ireland priority species. As there will be no significant loss of habitat for Irish hare NED considers the proposed development is unlikely to have a significant impact on the local Irish hare population.

The site provides suitable habitat for hedgehogs. Hedgehogs are a Northern Ireland priority species. NED considers there is unlikely to be any significant impacts on the local hedgehog population provided appropriate mitigation measures are implemented. Hedgehogs hibernate between November and March in habitats such as dense scrub, log piles and piles of leaves. Any vegetation clearance to be carried out during this time should be done with caution and if any such habitats are encountered works should cease and the ECoW contacted. During construction works any excavations should be covered at night or fitted with a means of escape such as a ramp. Details of these mitigation measures should be included in the final CEMP.

NED notes from the ES that evidence of rabbits and foxes has been recorded within the site. Therefore, the applicant should be aware of the protection afforded to all animals under the Welfare of Animals Act (Northern Ireland) 2011.

Several Local Wildlife Sites are present along the route of the proposed development, however, NED is content that with the implementation of the mitigation measures recommended in the ES there are unlikely to be any significant impacts on these Local Wildlife Sites.

Therefore, based on the information provided to date, NED is content with the proposal, subject to the following recommended conditions and informatives.

Conditions

1. No development activity, including ground preparation or vegetation clearance, shall take place until a final Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Planning Authority. The approved CEMP shall be implemented in accordance with the approved details and all works on site shall

Natural Heritage & Conservation Areas

conform to the approved CEMP, unless otherwise agreed in writing by the Planning Authority. The CEMP shall include the following:

- a) Construction methodology and timings of works;
- b) Pollution Prevention Plan; including suitable buffers between the location of all construction works, storage of excavated spoil and construction materials, any refuelling, storage of oil/fuel, concrete mixing and washing areas and any watercourses or surface drains present on or adjacent to the site;
- c) Site Drainage Management Plan; including Sustainable Drainage Systems (SuDS), foul water disposal and silt management measures;
- d) Peat/Spoil Management Plan; including identification of peat/spoil storage areas, management and handling of peat/spoil and details of the reinstatement of excavated peat/spoil;
- e) Water Quality Monitoring Plan;
- f) Environmental Emergency Plan;
- g) Mitigation measures as detailed in the Environmental Statement and Outline Construction Environmental Management Plan;
- h) Details of appropriate mitigation measures to protect badgers, including an updated survey prior to works commencing and drawings to clearly show 25 metre Ecological Exclusion Zones;
- i) Details of appropriate mitigation measures to protect protected and priority species;
- j) Details of appropriate mitigation measures to prevent the spread of non-native invasive species;
- k) Details of the appointment of an Ecological Clerk of Works (ECoW) to oversee all works and the implementation of mitigation measures and their roles and responsibilities.

Reason: To protect Northern Ireland priority habitats and protected and priority species, to ensure implementation of mitigation measures identified within the Environmental Statement and to prevent likely significant effects on the Owenkillew River Special Area of Conservation (SAC) and Area of Special Scientific Interest (ASSI), the River Foyle and Tributaries SAC and ASSI and the Owenreagh River ASSI.

2. No development activity, including ground preparation or vegetation clearance, shall take place until protection zones, clearly marked with posts joined with hazard warning tape, has been provided around each badger sett entrance at a radius of 25 metres (as shown in Annex 1, Confidential Ecological Survey for Badger report). No works, vegetation clearance, disturbance by machinery, dumping or storage of materials shall take place within the protection zones unless an appropriate Wildlife Licence has been obtained from

Natural Heritage & Conservation Areas

NIEA. The protection zones shall be retained and maintained until all construction activity has been completed on site.

Reason: To protect badgers and their setts on the site.

3. No development activity, including ground preparation or vegetation clearance, shall take place until a final Ecological Mitigation and Management Plan (EMMP), has been submitted to and agreed with the Department (see Appendix C9 of the ES for the mine site - SLR, September 2017- Application Reference LA10/2017/1249/F). The final EMMP shall clearly show the location of the 670m² area of compensation for habitat losses associated with the powerlines which shall be in addition to the compensation proposed for habitat loss associated with the mine site (Application Reference LA10/2017/1249/F). The final EMMP shall also detail the management prescriptions, monitoring and surveillance for this additional area.

The EMMP shall be carried out as agreed.

Reason: To ensure that adequate compensation measures specific to Northern Ireland priority habitat loss from the powerlines are secured and implemented.

Informatives

1. The applicant's attention is drawn to the following Standing Advice for Pollution Prevention Guidance, Sustainable Drainage Systems and Discharges to the Water Environment.

Standing advice notes are available at:

<https://www.daera-ni.gov.uk/articles/standing-advice-0>.

2. The applicant's attention is drawn to The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:
 - a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes all species of bat;
 - b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
 - c) Deliberately to disturb such an animal in such a way as to be likely to -
 - i. affect the local distribution or abundance of the species to which it belongs;
 - ii. Impair its ability to survive, breed or reproduce, or rear or care for its young; or
 - iii. Impair its ability to hibernate or migrate;
 - d) Deliberately to obstruct access to a breeding site or resting place of such an animal;
or
 - e) To damage or destroy a breeding site or resting place of such an animal.

Natural Heritage & Conservation Areas

If there is evidence of bat activity / roosts on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

To avoid any breach of The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), all mature trees and/or buildings which require works should be surveyed for the presence of bats by an experienced bat worker or surveyor within 48 hours prior to removal, felling, lopping or demolition. All survey work should be carried out according to the Bat Conservation Trust Good Practice Guidelines (<http://www.bats.org.uk>). If evidence of bat activity is discovered all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

3. The applicant's attention is drawn to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:
 - a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes the otter (*Lutra lutra*);
 - b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
 - c) Deliberately to disturb such an animal in such a way as to be likely to -
 - i. affect the local distribution or abundance of the species to which it belongs;
 - ii. Impair its ability to survive, breed or reproduce, or rear or care for its young; or
 - iii. Impair its ability to hibernate or migrate;
 - d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
 - e) To damage or destroy a breeding site or resting place of such an animal.

If there is evidence of otter activity on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

4. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:
 - kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*);
 - damage or destroy, or obstruct access to, any structure or place which badgers use for shelter or protection;

Natural Heritage & Conservation Areas

- damage or destroy anything which conceals or protects any such structure;
- disturb a badger while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

If there is evidence of badger on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

Any works within 25 metres of a badger sett will require a wildlife licence to be obtained from NIEA. Licence applications should be made to the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

Any blasting or piling within 100 metres of a badger sett will require a wildlife licence to be obtained from NIEA. Licence applications should be made to the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

5. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the smooth or common newt (*Lissotriton vulgaris*, formerly *Triturus vulgaris*);
- damage or destroy, or obstruct access to, any structure or place which newts use for shelter or protection;
- damage or destroy anything which conceals or protects any such structure;
- disturb a newt while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

If there is evidence of newts on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

6. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

Natural Heritage & Conservation Areas

- kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the red squirrel (*Sciurus vulgaris*);
- damage or destroy, or obstruct access to, any structure or place which red squirrels use for shelter or protection;
- damage or destroy anything which conceals or protects any such structure;
- disturb a red squirrel while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

If there is evidence of red squirrel on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

7. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the common lizard (*Lacerta vivipara*);
- damage or destroy, or obstruct access to, any structure or place which common lizards use for shelter or protection;
- damage or destroy anything which conceals or protects any such structure;
- disturb a common lizard while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

If there is evidence of common lizard on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

8. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the marsh fritillary butterfly (*Euphydryas aurinia*);
- damage or destroy, or obstruct access to, any structure or place which marsh fritillary use for shelter or protection;

Natural Heritage & Conservation Areas

- damage or destroy anything which conceals or protects any such structure;
- disturb a marsh fritillary while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

If there is any evidence of a marsh fritillary colony on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

9. The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- kill, injure or take any wild bird; or
- take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
- at any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or
- obstruct or prevent any wild bird from using its nest; or
- take or destroy an egg of any wild bird; or
- disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or
- disturb dependent young of such a bird.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

It is therefore advised that any tree or hedgerow loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season (e.g. between 1st March and 31st August).

10. The applicant's attention is drawn to Article 15 of The Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence for any person to plant or otherwise cause to grow in the wild any plant included in Part II of Schedule 9 of the Order, which includes Japanese knotweed (*Fallopia japonica*). This highly invasive plant species has been recorded on site and biosecurity measures must be taken to ensure that any works do not cause it to spread either on or off the site.

Japanese knotweed spreads entirely via fragments of plant material or rhizome (root) material. Any soil, containing such material, which is removed off site, is classified as controlled waste under the Controlled Waste Regulations (Northern Ireland) 2002 (as

Natural Heritage & Conservation Areas

amended). The Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002 (as amended) places a duty of care on 'anyone who produces, imports, stores, transports, treats, recycles or disposes of waste to take the necessary steps to keep it safe and to prevent it from causing harm, especially to the environment or to human health'. In the case of Japanese knotweed it is the duty of the waste producer to inform the licensed waste carrier and licensed landfill site that the controlled waste material contains Japanese knotweed as part of the waste transfer process.

Please see the following link for further information:

<http://invasivespeciesireland.com/species-accounts/established/terrestrial/japanese-knotweed>

Further advice can be sought from the Invasive Non-Native Species (INNS) Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel: 028 9056 9558.

11. The applicant's attention is drawn to Invasive Alien Species (Enforcement and Permitting) Order (Northern Ireland) 2019 – Himalayan Balsam (*Impatiens glandulifera*) must not intentionally be brought into the Union; kept; bred; transported to, from or within the United Kingdom, unless for the transportation to facilities in the context of eradication; placed on the market; used or exchanged; permitted to reproduce, grown or cultivated; or released into the environment.

There is now a requirement under The Invasive Alien Species (Enforcement and Permitting) Order (Northern Ireland) 2019 for landowners to manage this species, especially to prevent its spread outside their own land.

The Department have designated this species as a Widely Spread Species which obligates us to initiate management measures to reduce its distribution throughout Northern Ireland.

Any soil, containing Himalayan Balsam plant or seed material, which is removed off site, is classified as controlled waste under the Controlled Waste Regulations (Northern Ireland) 2002 (as amended). The Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002 (as amended) places a duty of care on 'anyone who produces, imports, stores, transports, treats, recycles or disposes of waste to take the necessary steps to keep it safe and to prevent it from causing harm, especially to the environment or to human health'. In the case of Himalayan Balsam it is the duty of the waste producer to inform the licensed waste carrier and licensed landfill site that the controlled waste material contains Himalayan Balsam as part of the waste transfer process.

Please see the following link for further information:

<http://invasivespeciesireland.com/species-accounts/established/terrestrial/himalayan-balsam>

Further advice can be sought from the Invasive Non-Native Species (INNS) Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel: 028 9056 9558.

Natural Heritage & Conservation Areas

12. The applicant's attention is drawn to the Welfare of Animals Act (Northern Ireland) 2011 which indicates that it is an offence to cause unnecessary suffering to any animal. There are wild animals such as foxes and rabbits present on site. To avoid any breach of the Act through entombment or injury to animals on site the applicant should ensure that best practice techniques are applied during construction works. Advice on working with wildlife is available from the CIRIA online knowledge base at www.ciria.org.