



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

**TIGL Ireland Enterprises Ltd
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Cork
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9th August, 2024

Section 5 referral Reference R24-56 – TIGL Ireland Enterprises Ltd

Does the erection of temporary fencing (chestnut-fencing and post-and-rope) on the sand dunes (at specific locations) constitute development and if so, is it exempted development?

A Chara,

I refer to your application received on 16th July 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

The Planning Authority has considered the matter and I attach herewith the Council's findings in this matter.

Where a declaration is issued by the Planning Authority, any person issued with a declaration, may on payment to an Bord Pleanála of the required fee, refer a declaration for review by An Bord Pleanála within 4 weeks of the date of the issuing of the declaration. Details on making such appeal are available on the Board's website at www.pleanala.ie

Mise, le meas

**Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate**

**An Roinn Pleanála
An Stiúarthóireacht Forbairt Gheilleagrach**

Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

**Planning Department
Economic Development Directorate**

Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



CLARE COUNTY COUNCIL

SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED

DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT

Chief Executive's Order No: 83998
Reference Number: R24-56
Date Referral Received: 16th July 2024
Name of Applicant: TIGL Ireland Enterprises Ltd
Location of works in question: Doughmore Beach, Doonbeg, Co. Clare

Section 5 referral Reference R24-56 – TIGL Ireland Enterprises Ltd

Does the erection of temporary fencing (chestnut-fencing and post-and-rope) on the sand dunes (at specific locations) constitute development and if so, is it exempted development?

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2, and 3 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) Class 4, Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended,
- (d) The nature and extent of works as indicated in submitted documents from the referrer.

AND WHEREAS Clare County Council has concluded:

- (a) The erection of the fences constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended.
- (b) The said works constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended.
- (c) The said development consisting of the erection of temporary fencing constitutes development which is exempted development having regard to the extent of works involved, and the provisions of Class 4 Schedule 2 of Part 3, Planning and Development Regulations 2001 as amended,

ORDER: Whereas by Chief Executive's Order No. HR 152 dated 9th April 2021, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Gareth Ruane, Senior Executive Planner, the powers, functions and duties as set out herein,

NOW THEREFORE pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended)

and having considered the various submissions and reports in connection with the referral described above, I, Gareth Ruane, Senior Executive Planner, hereby declare that the erection of temporary fencing (chestnut fencing and post and rope) on the sand dunes (at specific locations) at Doughmore Beach, Doonbeg, Co. Clare is considered development which is exempted development.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER

Date:

9th August, 2024



**DECLARATION ISSUED UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACT 2000 (AS AMENDED)**

Reference No.: R24-56



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R24-56

Does the erection of temporary fencing (chestnut-fencing and post-and-rope) on the sand dunes (at specific locations) constitute development and if so, is it exempted development?

AND WHEREAS, TIGL Ireland Enterprises Ltd has requested a declaration from Clare County Council on the said question.

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –


- (a) Sections 2, and 3 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) Class 4, Schedule 2, Part 3 of the Planning and Development Regulations 2001, as amended,
- (d) The nature and extent of works as indicated in submitted documents from the referrer.

And whereas Clare County Council has concluded:

- (a) The erection of the fences constitutes “works” which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended.
- (b) The said works constitute “development” which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended.
- (c) The said development consisting of the erection of temporary fencing constitutes development which is exempted development having regard to the extent of works involved, and the provisions of Class 4 Schedule 2 of Part 3, Planning and Development Regulations 2001 as amended,

THEREFORE: The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

The proposed development consisting of the erection of temporary fencing (chestnut fencing and post and rope) on the sand dunes (at specific locations) at Doughmore Beach, Doonbeg, Co. Clare **constitutes development** which is **exempted development** as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.



Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

9th August, 2024

CLARE COUNTY COUNCIL

SECTION 5 REFERRAL

Reference No:	R24/ 56
Applicant:	TIGL Ireland Enterprises Ltd
Location:	Doonbeg Co.Clare
Proposal:	Whether the erection of temporary fencing (chestnut fencing and post and rope, [REDACTED] (as specific locations) constitute development and if so is it or is it not exempted development at Carrowmore and Cloonmore Dunes, Doughmore Beach Doonbeg Co.Clare .
Due Date:	12th August 24

This proposal is a request for a declaration under Section 5 of the Planning and Development Act, 2000 as amended to determine whether or not the following constitutes exempted development.

'Whether the erection of temporary fencing (chestnut fencing and post and rope, for the exclusion of people at sand dunes (as specific locations) is or is not development and is or is not exempted development '.

Site location and Zoning

- Carrowmore SAC
- Heritage landscape

Development details and specification

Two to three horizontal strands of galvanized wire woven with vertical pales of split chestnut 1.2m in height. It is made of three separate lengths of fencing , two lengths proposed

at one location 5m apart and 75m in length. A further single length of fencing will have a maximum length of 60m at this location further north along Doughmore Beach. The fencing is temporary. It will be erected in March each year and decommissioned in October over a period of 3 years.

The fencing is required to support the protection and restoration of the dunes at Doughmore beach.

The proposed fencing is within the Carrowmore Dunes SAC site code 002250 and within designated Heritage landscape.

Planning History Nearby

24/ 60049 Application for permission for development which will consist of the construction of a new internal access road with drain crossing, formalisation of staff car parking areas and minor alterations to Doughmore House, O'Dea Barn and Healy House and the external areas of each property including fencing and alterations to entrance at O'Dea Barn. The change of use of Doughmore House from Office/Administration use to Leisure/Recreation Use, the change of use of O'Dea Barn from Agricultural use to Operational/Storage Use, the change of use of Healy House from residential to Office/Administration and the Shed at Healy House to Operational/Storage use. The development includes the construction of a new boiler room, pickle ball courts, basketball court, and two soft play areas at Doughmore House and minor alterations. The provision of new windows, doors, screen fencing and minor alterations to O'Dea Barn. The construction and erection of a covered walkway and front porch, minor alterations to the existing storage building, converting an existing door to a window and minor alterations at Healy House and all associated works. F.I. requested 02/04/24

18-930 – Granted - TIGL Ireland Enterprises Ltd - for development including the construction of Ballroom/Function Room building; Leisure Facility building including restaurant; 53 no dwellings to be used for short term tourist accommodation; minor alterations to Doughmore house; a gatehouse; additional car parking and cycle parking. The development will also provide for the dismantling and removal of the existing Marquee structure, all associated ground works, ancillary works and enabling works and connection to existing services and facilities. The proposal will be developed on undeveloped lands previously part of planning permission P03/937 and associated permissions which have been part implemented, which provided for the construction of the existing Trump International Golf Links and Hotel and associated facilities. The development will be on a site of approx. 9.76 Ha (Circa 10Ha). This application is accompanied by a Natura Impact Statement (NIS) and an Environmental Impact Assessment Report (EIAR).

16-1012 – Refused (At appeal reference ABP300535-17) - TIGL Ireland Enterprises Ltd - development which will comprise of coastal erosion management works at, and adjacent to, Carrowmore Dunes, White Strand, Doughmore Bay and Trump International Golf Links and Hotel, Doonbeg, Co. Clare. The development includes the provision of two new protection structures at the dunes. The construction/development will include excavation of existing sand, the use of sheet piling backstops with soil nailing, geotextile underlay, armourstone protection to the sheet piles with sand and cobbles currently on the beach being used to form a dune profile over a distance of 609 metres (626m curved length with additional revetment overrun) approximately at the southern end of Doughmore Bay, adjacent to and west of the Trump International Golf Hotel. The works will be over a distance of 256 metres (257m curved length with additional revetment overrun) approximately at the northern end of Doughmore Bay, west of the golf course. The storage of the excavated sand on site as part of ongoing replenishment and future site management is also proposed. In a seaward-landward direction the overall extent of the revetment structure will be approximately 12 metres seaward of the existing general dune face with additional underlayers and engineering works. The final structure will be screened from view. Also included as part of the development are enabling works; ancillary construction works and compound; public car park; ongoing access to the beach throughout the construction programme and beyond. An Environmental Impact Statement (EIS) and Natura Impact Statement (NIS) accompanies this planning application. Permission was refused for the following reason:

- 1. On the basis of the submissions made in connection with the application and appeal, including the Natura impact statement, as well as the appropriate assessment carried out by the Planning Inspector, the Board is not satisfied that the proposed development would not result in adverse effects on the physical structure, functionality and sediment supply of dune habitat within the Carrowmore Dunes Special Area of Conservation (Site Code: 002250), which has a stated conservation objective to restore the favourable conservation condition of the dune habitat qualifying interests with a target to maintain the natural circulation of sediment and organic matter without any physical obstructions. The qualifying interests for the Carrowmore Dunes Special Area of Conservation include the Annex 1 habitats, Embryonic shifting dunes, Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes) and Fixed coastal dunes with herbaceous vegetation (grey dunes). In such circumstances, as the Board is not satisfied beyond reasonable scientific doubt that the proposed development would not adversely affect the integrity of the Carrowmore Dunes Special Area of Conservation (Site Code: 002250) in view of the site's conservation objectives, it is precluded from granting permission.*

16-371 – Withdrawn - TIGL Ireland Enterprises Ltd – For development comprising coastal erosion management works at and adjacent Carrowmore Dunes, White Strand, Doughmore Bay and Trump International Golf Links and Hotel, Doonbeg. The development includes the provision of a new berm structure west of the existing dunes. The construction will include the use of armourstone with cobbles and sand currently on the beach being mixed and

transferred into the area behind the armourstone crest to the toe of the dune to provide a base which will facilitate natural dune development over time. The berm will extend southwards some 2.5km from the northern margin of the beach. In a seaward-landward direction the overall extent of the toe berm structure will be approximately 15m-20m seaward of the general dune face. At the southern end a sheet pile backstop will be used to protect the dune for a distance of an additional 350m in front of the 18th fairway and green. A small core of armourstone will be provided to support this sheet pile backstop. A sand face will be reinstated and seeded in front of the armourstone core and sheet piles at this location. Also included as part of the development are enabling works; ancillary construction works and compound; public car park, ongoing access to the beach throughout the construction programme and beyond. An Environmental Impact Statement (EIS) and Natura Impact Statement (NIS) accompanies this planning application

16-124 – Incomplete application.

14-240 – Withdrawn - TIGL Ireland Enterprises Ltd – For development comprising coastal erosion management works at Carrowmore Dunes, White Strand, Doughmore Bay and Trump International Golf Links and Hotel, Doonbeg, Co. Clare. The development will consist of the re-profiling of sand dune slopes and ancillary marram planting, sand trap fencing and golf course repairs at three locations within the Carrowmore Sand Dune System as follows: at Works Area A over a length of dune of approximately 86 metres (total area of works approx 2,010 sq.m); at Works Area B over a length of dune of approximately 96 metres (total area of works approx 2,390 sq.m.); at Works Area C along a length of dune of approximately 160 metres (total area of works approx 3,050 sq.m.); temporary construction compound within the hotel complex; access to the beach during construction via the public access track off Mountrivers Road. A Natura Impact Statement will be submitted to Clare County Council with the planning application; all on lands at White Strand, Carrowmore, Carrowmore North, Cloonmore and Doughmore Bay, Doonbeg.

13-458 - Granted - Doonbeg Golf Club Ltd – to Extend the Appropriate Period of Planning Permission P03/937 for construction of the Doonbeg Lodge and Lodge Suites and associated works. Please refer to original description on parent application P03/937 for details of development.

09-1097 – Granted (At appeal ABP03.238097) - Doonbeg Golf Club Ltd - for development comprising coastal erosion management works. The development will consist of the re-profiling of sand dune slopes, installation of concrete 'seabee' units buried within the re-profiled dune sections, marram planting, sand trap fencing and ancillary golf course alterations all at three locations within the Carrowmore Sand Dune System and Doonbeg Golf Course as follows: at Works Area A in front of the 13th green and 6th tees over a length of

dune of approximately 85 metres (total area of works approx: 1,522 sq.m): at Works Area B in front of the 14th green and 5th green over a length of dune of approximately 93m (total area of works approx:3,80sq.m.): at Works Area C in front of the 18th tees along a length of dune of approximately 161m (total area of works approx: 2,42 sq.m.). The ancillary golf course alterations comprise re-location of the 14th green, re-location of two 15th tee boxes, re-location of one 6th tee box and re-location of one 18th tee box: storage of surplus sand for re-use within a new sand resevoir adjacent to the 12th golf hole (4,000 sq.m. approx): temporary construction compound within the Doonbeg Golf Club Complex: temporary use of the public access track to the beach off Mountrivers Road during construction to include provision of a temporary 2.0m high safety fence along the pedestrian path: site development works: all on lands adjoining the permitted and established Doonbeg Golf Course. An Environmental Impact Statement will be submitted to Clare County Council with the planning application. The Environmental Impact Statement will be available for inspection at the offices of Clare County Council.

03-2375 – Granted - Doonbeg Golf Club - development comprising costal protection works . The development will comprise the augmentation of the existing storm beach at three locations along White Strand as follows: at the northern area of White Strand along a length of approx 265 metres of coastline (total area of works approx 5,995 sq.m.): at the central area of White Strand along a length of approx. 660 metres of coastline (total area of works approx. 16,429 sq.m.): at the southern area of White Strand along a length of approx. 645 metres of coastline (total area of works approx. 13,774 sq.m.): the storm beach augmentation will involve the placement of cobble and rock(max. size of rock 1,200mm) along the upper beach and in front of the existing sand dune face at the three location : (see file for remainder of details) Environmental Impact Statement submitted.

02-591 – Granted - Doonbeg Golf Club Limited – The revision of development permitted under P98/655 consisting of the revised layout and design of the scheme now to comprise of hotel complex, consisting of a 2 storey welcome centre, 33 bedroom hotel also containing golf clubhouse facilities.

98-655 – Granted - Irish National Golf Club Ltd - Hotel, golf course, housing and related facilities.

Designations

Legal Context

Section 2 of the Planning & Development Act, 2000, as amended, defines '**works**' as including 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior of a structure'.

Section 3(1) of the Act defines "**development**" except where the context otherwise requires as:

"The carrying out of any works on, over or under land or the making of any material change in the use of any structures or other land.

SCHEDULE 2 Article 6 PART 3- Exempted development –Rural – Class 4

The construction , erection or maintenance of any wall or fence, other than a fence of sheet metal, or a wall or fence within or bounding the curtilage of a house.

Limitation

1. The height of the wall or fence, other than fence referred to in paragraph 2 shall not exceed 2m.
2. The height of any fence for the purposes of deer farming shall not exceed 3m.

Article 9 of the Regulations sets out that development to which article 6 relates shall not be exempted development for the purposes of the Act –

- (a) if the carrying out of such development would –*
- (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*
 - (ii) consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*
 - (iii) endanger public safety by reason of traffic hazard or obstruction of road users,*

(iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft.

(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,

(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.

(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in

accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.”

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,

(xi) obstruct any public right of way,

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

(b) in an area to which a special amenity area order relates, if such development would be development:—

(i) of class 1, 3, 11, 16, 21, 22, 27, 28, 29, 31, (other than paragraph (a) thereof), 33 (c) (including the laying out and use of land for golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), 39, 44 or 50(a) specified in column 1 of Part 1 of Schedule 2, or

(ii) consisting of the use of a structure or other land for the exhibition of advertisements of class 1, 4, 6, 11, 16 or 17 specified in column 1 of Part 2 of the said Schedule or the erection of an advertisement structure for the exhibition of any advertisement of any of the said classes,

(iii) of class 3, 5, 6, 7, 8, 9, 10, 11, 12 or 13 specified in column 1 of Part 3 of the said Schedule, or (iv) of any class of Parts 1, 2 or 3 of Schedule 2 not referred to in subparagraphs (i), (ii) and (iii) where it is stated in the order made under section 202 of the Act that such development shall be prevented or limited,

(c) if it is development to which Part 10 applies, unless the development is required by or under any statutory provision (other than the Act or these Regulations) to comply with procedures for the purpose of giving effect to the Council Directive,

(d) if it consists of the provision of, or modifications to, an establishment, and could have significant repercussions on major accident hazards

Environmental Impact Assessment

I do not consider that the proposed development falls within the mandatory requirements for an EIA as stated in EU Directive 85/337/EEC (as amended by Directive 97/11/EC, 2003/31/EC and 2009/31/EC). The proposed development is also not considered to fall within the sub-threshold criteria having regard to the third schedule to the European Communities Environmental Impact Assessment (Amendment) Regulations 1999 and in Schedule 7 of the Planning and Development Regulations 2001, as amended.

Appropriate Assessment

See screening report attached.

ASSESSMENT

Considerations

Is or Is Not Development?

Section 2 (1) of the Act defines “works as any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal” I am satisfied that, in accordance with the above definition, the erection of a fence (all be it temporary) is an act or operation and comprises ‘works’ being an act of construction .

Is or Is Not Exempted Development?

Having established that in respect of the temporary fencing that the ‘works’ proposed do constitute development the issue to be considered is whether the development is exempted development or not.

I refer to SCHEDULE 2 Article 6 PART 3- Exempted development –Rural – Class 4 which states the construction , erection or maintenance of any wall or fence, other than a fence of sheet metal, or a wall or fence within or bounding the curtilage of a house.

Limitation

1. The height of the wall or fence, other than fence referred to in paragraph 2 shall not exceed 2m.
2. The height of any fence for the purposes of deer farming shall not exceed 3m.

The height of the fence shall not exceed 2m .

The fence is not for deer farming.

Article 9 of the Regulations sets out that development to which article 6 relates shall not be exempted development for the purposes of the Act –

(b) if the carrying out of such development would –

- (v) *contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*

N/A

- (vi) *consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*

N/A

- (vii) *endanger public safety by reason of traffic hazard or obstruction of road users,*

N/A

(iiiia) *endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft.*

N/A

- (viii) *except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

N/A

(v) *consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,*

N/A

(vi) *interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area*

in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.

The proposed fencing will not interfere with the Heritage landscape as the works are minor in nature and temporary.

(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

While the proposed fencing will be located in the Carrmore Dunes SAC the proposed fencing will not require excavation , alteration or demolition and consists of activities that directly support the site specific conservation objectives of the SAC. See AA screening report attached.

(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,

N/A

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the

development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.

The AA screening confirms that the proposed fencing would directly support the site specific conservation objectives of the SAC. In maintaining or improving the conservation conditions of the shifting dunes.

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.”

N/A

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

N/A.

(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

N/A

(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,

The public will still be able to access Doughmore beach. The fencing is at two locations only and will not restrict recreational use by the public.

(x) *obstruct any public right of way,*

N/A

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

(b) in an area to which a special amenity area order relates, if such development would be development:—

(i) of class 1, 3, 11, 16, 21, 22, 27, 28, 29, 31, (other than paragraph (a) thereof), 33 (c) (including the laying out and use of land for golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), 39, 44 or 50(a) specified in column 1 of Part 1 of Schedule 2, or

(ii) consisting of the use of a structure or other land for the exhibition of advertisements of class 1, 4, 6, 11, 16 or 17 specified in column 1 of Part 2 of the said Schedule or the erection of an advertisement structure for the exhibition of any advertisement of any of the said classes,

(iii) of class 3, 5, 6, 7, 8, 9, 10, 11, 12 or 13 specified in column 1 of Part 3 of the said Schedule, or (iv) of any class of Parts 1, 2 or 3 of Schedule 2 not referred to in subparagraphs (i), (ii) and (iii) where it is stated in the order made under section 202 of the Act that such development shall be prevented or limited,

(c) if it is development to which Part 10 applies, unless the development is required by or under any statutory provision (other than the Act or these Regulations) to comply with procedures for the purpose of giving effect to the Council Directive,

(d) if it consists of the provision of, or modifications to, an establishment, and could have significant repercussions on major accident hazards.

The site is not located in an area to which a special amenity area order relates.

Conclusion

The proposed fencing complies with SCHEDULE 2 Article 6 PART 3- Exempted Development – Rural – Class 4 and is consistent with the conditions of Article 9. The fencing has been designed to protect and restore the dune system at Carrowmore Dunes SAC and therefore is in keeping with the management of the site. Clare County Council as the Competent Authority has determined that there is no risk of significant effects arising from the installation of the fencing.

Recommendation

I recommend that the following is issued to the applicant by the Planning Authority in this instance:

The Planning Authority in considering this referral had regard to:

- (a) Sections 2, and 3 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended ,
- (c) Class 4, Schedule 2, ~~Article 6~~ ^{Part 3} of the Planning and Development Regulations 2001, as amended,
- (d) The nature and extent of works as indicated in submitted documents from the referrer.

And whereas Clare County Council (Planning Authority) has concluded:

- (a) the erection of the fences constitutes “works” which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended.
- (b) the said works constitute “development” which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended.
- (c) the said development consisting of the erection of temporary fencing constitutes development which is exempted development having regard to the extent of works involved, and the provisions of Class 4 Schedule 2 of Part 3 , Planning and Development Regulations 2001 as amended,

Now therefore Clare County Council (Planning Authority), hereby decides that the erection of temporary fencing (chestnut fencing and post and rope) ~~for the exclusion of people at~~ ^{on the} sand dunes (at specific locations) at Doughmore Beach Doonbeg Co Clare is development and is exempted development.

Signed Ellen Corey .

E.P.

Date 7/08/24

Signed 

~~A~~S.E.P.

Date 07/08/24

Assessment & Determination

STEP 1. Description of the project/proposal and local site characteristics:

(a) File Reference No:	Section 5 R24/ 56
(b) Brief description of the project or plan:	Temporary fencing
(c) Brief description of site characteristics:	Dune system - Carrowmore Dune SAC site code 002250
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	Fencing is to be erected in partnership with the NPWS
(e) Response to consultation:	None

STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.

European Site (code)	List of Qualifying Interest/Special Conservation Interest ¹	Distance from proposed development ² (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
Carrowmore Dune SAC	Reefs [1170] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]	Within the SAC	Yes	Yes

	Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Vertigo angustior (Narrow-mouthed Whorl Snail) [1014]			
Mid Clare Coast SPA	Cormorant (Phalacrocorax carbo) [A017] Barnacle Goose (Branta leucopsis) [A045] Ringed Plover (Charadrius hiaticula) [A137] Sanderling (Calidris alba) [A144] Purple Sandpiper (Calidris maritima) [A148] Dunlin (Calidris alpina) [A149]			

¹ Short paraphrasing and/or cross reference to NPWS is acceptable – it is not necessary to reproduce the full text on the QI/SCI.

² If the site or part thereof is within the European site or adjacent to the European site, state here.

STEP 3. Assessment of Likely Significant Effects

(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:

Impacts:	Possible Significance of Impacts: (duration/magnitude etc.)
<p>Construction phase e.g.</p> <ul style="list-style-type: none"> ● Vegetation clearance ● Demolition ● Surface water runoff from soil excavation/infill/landscaping (including borrow pits) ● Dust, noise, vibration ● Lighting disturbance ● Impact on groundwater/dewatering ● Storage of excavated/construction materials ● Access to site ● Pests 	<p>No excavation which would involve the removal of vegetation or sand within the vicinity of the proposed works.</p> <p>Due to the short-term duration of the proposed installation, there is no risk of disturbance or displacement of Special Conservation Interests of the SPA.</p>
<p>Operational phase e.g.</p> <ul style="list-style-type: none"> ● Direct emission to air and water ● Surface water runoff containing contaminant or sediment ● Lighting disturbance ● Noise/vibration ● Changes to water/groundwater due to drainage or abstraction 	<p>There is no potential for any emissions or disturbance to arise through the operational phase.</p> <p>The fence will not act as a barrier to the movement of species and will be temporary in nature.</p>

<ul style="list-style-type: none"> • Presence of people, vehicles and activities • Physical presence of structures (e.g. collision risks) • Potential for accidents or incidents 	
In-combination/Other	There is no potential for in-combination effects to arise

(b) Describe any likely changes to the European site:	
<p>Examples of the type of changes to give consideration to include:</p> <ul style="list-style-type: none"> • Reduction or fragmentation of habitat area • Disturbance to QI species • Habitat or species fragmentation • Reduction or fragmentation in species density • Changes in key indicators of conservation status value (water or air quality etc.) • Changes to areas of sensitivity or threats to QI • Interference with the key relationships that define the structure or ecological function of the site 	<p>There is no potential for negative impacts to the European site. The installation of the fencing is being taken as conservation measure to assist in maintaining and/or improving the conservation condition of the shifting and fixed dunes along the shoreline which have deteriorated over time.</p>

(c) Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?

Yes No

Step 4. Screening Determination Statement

The assessment of significance of effects:

Describe how the proposed development (alone or in-combination) is/is not likely to have significant effects on European site(s) in view of its conservation objectives.

The proposed project is a conservation measure that is directly related to, and necessary for the management of the site (Carrowmore Dunes SAC). The installation of the fencing is being taken as conservation measure to assist in maintaining and/or improving the conservation condition of the shifting and fixed dunes along the shoreline which have deteriorated over time.

Conclusion: The proposed development is not likely to have significant effects on European site(s) in view of its conservation objectives.

	Tick as Appropriate:	Recommendation:
(i) It is clear that there is no likelihood of significant effects on a European site.	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate assessment not required.
(ii) It is uncertain whether the proposal will have a significant effect on a European site.	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission

(iii) Significant effects are likely.

Request NIS

Refuse planning permission

Signature and Date of
Recommending Officer:

Ellen Carey.
Name: Ellen Carey E.P.

07/08/24

Signature and Date of the
Decision Maker:

Ellen Carey. 07/08/24.



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

TIGL Ireland Enterprises Ltd
C/o Conor Healy
Cunnane Stratton Reynolds
Unit 3, Copley Hall
Cotters Street
Cork
T12 T938

17/07/2024

Section 5 referral Reference R24-56 – TIGL Ireland Enterprises Ltd

Does the erection of temporary fencing (chestnut-fencing and post-and-rope) [REDACTED] [REDACTED] (at specific locations) constitute development and if so, is it exempted development?

A Chara,

I refer to your application received on 16th July 2024 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

Please note that the Planning Authority is considering the matter and a reply will issue to you in due course.

Mise, le meas


Brian Fahy
Planning Department
Economic Development Directorate

An Roinn Pleanála
An Stiúirthóireacht Forbairt Gheilleagrach
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

Planning Department
Economic Development Directorate
Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



P07

**CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR**



Planning Department,
Economic Development Directorate,
Clare County Council,
New Road, Ennis,
Co. Clare.
V95DXP2



Telephone No. (065) 6821616
Fax No. (065) 6892071
Email: planoff@clarecoco.ie
Website: www.clarecoco.ie

R24-56

**REQUEST FOR A DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT
(Section 5 of the Planning & Development Act 2000 (as amended))**

FEE: €80

This following form is a non-statutory form which has been prepared by Clare County Council for the purpose of obtaining the necessary information required for a declaration to be made under Section 5 by the Planning Authority

1. CORRESPONDENCE DETAILS.	
(a) Name and Address of person seeking the declaration	TIGL Ireland Enterprises Ltd, Trump International Golf Links and Hotel, Doonbeg, Kilrush, Co. Clare. Eircode: V15 KH39 
(b) Telephone No.:	C/O to agent <input type="text"/> ; agent phone No. if required (i) <input type="text"/>
(c) Email Address:	C/O to agent <input type="text"/> ; applicant email address if required <input type="text"/>
(d) Agent's Name and address:	Conor Healy Cunnane Stratton Reynolds, Unit 3, Copley Hall, Cotters Street, Cork. Eircode: T12 T938 

2. DETAILS REGARDING DECLARATION BEING SOUGHT

- (a) PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT
Note: only works listed and described under this section will be assessed.

Sample Question: *Is the construction of a shed at 1 Main St., Ennis development and if so is it exempted development?*

Does the erection of temporary fencing (chestnut-fencing and post-and-rope) for exclusion of people at sand dunes (at two specific locations) constitute development and if so, is it exempted development?

- (b) Provide a full description of the question/matter/subject which arises wherein a declaration of the question is sought.

Please see the attached document.

The project includes the erection of temporary fencing (chestnut fencing and post-and-rope) at two locations along the dunes at Doughmore.

Location 1: 52°45'2.88"N 9°29'45.26"W

Location 2: 52°45'17.81"N 9°29'36.29"W

These two areas of dune habitat are suffering erosion, exacerbated by human traffic. It is proposed to reduce accessibility to these areas by the temporary erection of chestnut fencing, generally from March/April to October annually. Based on advice from NPWS staff with expertise in coastal ecology, it will be placed perpendicularly to the prevailing wind, above the tide line, and it will be up during the main summer months only. It is important not to let the sand get far enough up the fence that it is difficult to remove, so it will be checked regularly and moved if a lot of sand has been trapped. The fencing will be held in place by stakes. Staff from TIGL will erect and decommission the fencing and will also monitor the fencing over the course of the season to ensure it is intact and in place. If the works are deemed to be exempt, they will require written consent from NPWS.

Monitoring of vegetation in the areas where temporary fencing is erected will be carried out. This will include a baseline survey (pre-erection) and the establishment of fixed-point photography monitoring to capture the changes (in sand accumulation, re-vegetation, etc.).

Marram planting is planned at the two locations. This will be carried out by the landowner and members of the community. The donor Marram will be sourced from a suitable location, outside of the SAC. It will be planted, as per best practice guidelines, in locations of fixed dune only.

It is intended to erect minimal temporary signage at the fencing, along the lines of 'Dune restoration works'.

- (c) List of plans, drawings etc. submitted with this request for a declaration:
(Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey map for the areas, to identify the lands in question)

1. Site Location Map.
2. Fence Detail Drawing.
3. Cover letter from NPWS
4. Report from EAU - Adoption of necessary conservation measures within Carrowmore Dunes Special Area of Conservation in accordance with Regulation 42A EC (Birds and Natural Habitats Regulations 2011-2021).
5. Document with timing, map and photos.
6. CSR Cover Letter.

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
<p>(a) Postal Address of the Property/Site/Building for which the declaration sought:</p>	<p>Two dune locations, along Doughmore / Carrowmore Beach, Doonbeg, Co Clare.</p> <hr/> <hr/> <hr/>
<p>(b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?</p>	<p>No.</p> <hr/> <hr/> <hr/>
<p>(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):</p>	<p>TIGL Ireland Enterprises Ltd is the owner</p>
<p>(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question:</p> <p><i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i></p>	<p>N/A</p>
<p>(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:</p>	<p>N/A</p>
<p>(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i></p>	<p>N/A</p>
<p>(g) Were there previous planning application/s on this site? <i>If so please supply details:</i></p>	<p>See Cover Letter of Planning Applications within Doughmore Beach</p>
<p>(h) Date on which 'works' in question were completed/are likely to take place:</p>	<p>April 2024 (removal in October 2024) and temporary erection again in Spring 2025 and 2026, pending results of monitoring.</p>

SIGNED: 

DATE: 16.07.24

GUIDANCE NOTES

This following are non-statutory advice notes prepared by Clare County Council for the purpose of advising people what information is required for a decision to be made under Section 5 by the Planning Authority

- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration under Section 5 must be accompanied by the required fee of €80.00.
- (iii) If submitting any additional plans/reports etc. as part of the request for a declaration, please submit 2 copies.
- (iv) The request for a declaration should be sent to the following address:

Planning Department,
Economic Development Directorate,
Clare County Council
Aras Contae an Chlair,
New Road,
Ennis,
Co. Clare
V95DXP2

- (v) Notwithstanding the completion of the above form, the Planning Authority may require the submission of further information with regard to the request in order to enable the Authority to issue a declaration on the question.
- (vi) The Planning Authority may also request other persons to submit information on the question which has arisen and on which the declaration is sought

FOR OFFICE USE ONLY

Date Received:	.....	Fee Paid:	.....
Date Acknowledged:	.....	Reference No.:	.....
Date Declaration made:	.....	CEO No.:	.....
Decision:	.....	



Rialtas na hÉireann
Government of Ireland

Screening for Appropriate Assessment

**Adoption of necessary conservation measures within
Carrowmore Dunes Special Area of Conservation in
accordance with Regulation 42A EC (Birds and Natural)
Habitats Regulations 2011-2021**

Prepared by the Department of Housing, Local Government and Heritage
npws.ie

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1. Introduction

This determination on Screening for Appropriate Assessment (AA) has been made by the Ecological Assessment Unit (EAU) of the Department of Housing, Local Government and Heritage (DHLGH) in accordance with Regulation 42A(8) of the European Communities (Birds and Natural Habitats) Regulations 2011-2021 ("the 2011 Regulations").¹

On the 2nd December 2024, in accordance with the requirements of Regulation 42A(3) of the 2011-2021 Regulations, the Minister for Housing, Local Government and Heritage ("the Minister") furnished the EAU with a request for a Screening for Appropriate Assessment (AA) determination for the proposed restoration of coastal dune vegetation within Carrowmore Dunes Special Area of Conservation (SAC) [Site Code: 002250], Co. Clare. Hereafter referred to as "the project".

The EAU have evaluated and analysed the information contained in the referred to above documents and location maps provided and carried out a determination. The purpose of this document is to provide a record and an audit trail of the EAU reasoned thinking in view of best scientific knowledge and the Conservation Objectives of European Sites.

¹ As inserted by Regulation 7 of the European Union (Birds and Natural Habitats) (Amendment).

2. Background

Pursuant to Regulation 42A(1) of the European Communities (Birds and Natural Habitats) Regulations, 2011 (S.I. 477 of 2011), a Screening for AA is required to be carried out on the project. AA is a process required under Article 6(3) of the EU Habitats Directive. Article 6(3) is transposed in Ireland by the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011), as amended, and by Part XAB of the Planning and Development Act, 2000, as amended.

All plans and projects which are not directly connected with or necessary to the management of a European Site, but which either individually or in combination with other plans or projects, are likely to have a significant effect on a "European Site", require that an AA of these effects to determine if they will adversely affect the integrity of these sites. The proposed conservation measures are considered to fall under the requirements of AA as applied to all plans and projects.

The Screening for AA process scrutinises the plan or project to determine if there is potential for likely significant effects either individually or in combination with other plans or projects, on a European Site. European Sites are part of the Natura 2000 network and include those designated as Special Areas of Conservation (SAC), Candidate SACs (cSACs) or Special Protection Areas (SPA). This Screening for Appropriate Assessment describes the outcome of this analysis in respect of the project.

3. Legislation and Guidance

This section provides details on the adopted methodology with sources of guidance and information gathered to inform the preparation of the report.

3.1. Guidance and Data Sources

- Communication from the Commission on the precautionary principle. European Commission (2000);
- European Commission. (2001) Assessment of Plans and Projects Significantly Affecting Natura 2000 Sites: Methodical Guidance on the Provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC;
- European Commission. (2007) Guidance Document on Article 6(4) of the Habitats Directive 92/43/EEC;
- Department of Environment, Heritage and Local Government. (2010) Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities;
- Appropriate Assessment under Article 6 of the Habitats Directive; Guidance for Planning Authorities. Circular NPW 1/10 and PSSP 2/10;
- European Commission. (2018) Managing Natura 2000 Sites: The Provision of Article 6 of the Habitats Directive 92/43/EEC;
- Office of the Planning Regulator. (2021) Practice Note PN01 - AA Screening for Development Management; and,
- Official Journal of the European Union. (2021) Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (Volume 64; 2021/C 437/01).

Assessment Methodology

This report is based on review of desktop data. Sources of information utilised for this report and accessed during February 2024 include the following:

- National Parks & Wildlife Service (NPWS) Designations Viewer²; and,
- National Biodiversity Data Centre (NBDC) Maps³.

3.2. Legislative Background

According to the EU Habitats Directive (92/43/EEC) and the EU Birds Directive (79/409/EEC), Member States are required to establish a Natura 2000 network of sites of highest biodiversity importance for rare and threatened habitats and species across the EU.

In Ireland, the Natura 2000 network of European sites comprises SACs, candidate SACs and SPAs.

SACs are selected for the conservation of Annex I habitats (including priority types which are in danger of disappearance) and Annex II species (other than birds). SPAs are selected for the conservation of Annex I birds and all migratory birds and their habitats. The Annex habitats and species, for which each site is selected, are the Qualifying Interests (QI) for SACs and Special Conservation Interests (SCI) for SPAs of each site. Conservation Objectives for the site are defined for these QI or SCI.

A key requirement of the Habitats Directive is that the effects of any plan or project, which is not directly connected with or necessary to the management of a European Site, but which alone, or in combination with, other plans or projects, are likely to have a significant effect on a European Site, should be assessed before any decision is made to allow that plan or project to proceed. The obligation to undertake a screening for AA, and if necessary, an AA, derives from Article 6(3) of the Habitats Directive and both involve a number of steps and tests that need to be applied in sequential order.

Article 6(3) is concerned with the strict protection of sites, while Article 6(4) is the procedure for allowing derogation from this strict protection in certain restricted circumstances.

² National Parks & Wildlife Service Designation Viewer. Accessed at ArcGIS Web Application 15/02/2024.

³ National Biodiversity Data Centre Maps. Accessed at Maps - Biodiversity Maps (biodiversityireland.ie) 15/02/2024.

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Article 6(3) of the Habitats Directive states:

“Any plan or project not directly connected with, or necessary to, the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans and projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only having ascertained that it will not adversely affect the integrity of the site concerned and if appropriate, after having obtained the opinion of the general public”.

Article 6(4) states:

“If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.

Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest.”

The competent authority is required to carry out a screening for AA, and if necessary, an AA as required by Article 6(3) of the Habitats Directive. If the competent authority determines that the plan or project will adversely affect the integrity of a European site, it may only authorise that plan or project by following the Article 6(4) procedure.

The Article 6(3) and 6(4) procedures are outlined as follows:

Stage 1 - Screening for Appropriate Assessment – to assess, in view of best scientific knowledge, if the project or plan, individually or in combination with another plan or project is likely to have a significant effect on the Natura 2000 site.

Stage 2 - Appropriate Assessment – This is required if it cannot be excluded, on the basis of objective information, that the project or plan, individually or in combination with other plans or projects, will have a significant effect on a Natura 2000 site. The AA must include a final determination by the competent authority as to whether or not a proposed project would adversely affect the integrity of a Natura 2000 site. In order to reach a final determination, the competent authority must undertake examination, analysis and evaluation, followed by findings, conclusions and a final determination. The appropriate assessment must contain complete, precise and definitive findings and conclusions, and may not have lacunae or gaps.

Stage 3 – Assessment of alternative solutions - the process which examines alternative ways of achieving the objectives of the project or plan that avoid adverse impacts on the integrity of the Natura 2000 site.

Stage 4 - Assessment where no alternative solutions exist and where adverse impacts remain - an assessment of compensatory measures where, in the light of an assessment of imperative reasons of overriding public interest (IROPI), it is deemed that the project or plan should proceed.

Under Regulation 42A(1) of the European Communities (Birds and Natural Habitats) Regulations, 2011-2021 (S.I. 293 of 2021), the Ecological Assessment Unit is the competent authority in relation to screening for AA of projects and plans (such as the proposed activity) which the Minister proposes to undertake or adopt.

4. Overview of the Project

Carrowmore Dunes are situated on the south-western coast of Co. Clare, roughly midway between Milltown Malbay and Kilkee, and extend from Carrowmore Point in the north to Doonbeg Bay in the south. Fine sandy beach merges into a cobble beach on the seaward side of a sand dune system (See Figure 1).

Fixed dune with herbaceous vegetation is the largest dune habitat present within the site. Typically, the high dunes have an abundant Marram (*Ammophila arenaria*) cover and in places attain a height of up to 25 m. Fixed dune vegetation occurs mainly on the largest dune systems, being those that have the width to allow it to develop. It typically occurs inland of the zone dominated by Marram *Ammophila arenaria* on coastal dunes, and represents the vegetation that replaces Marram as the dune stabilises and the organic content of the sand increases.

Shifting dunes along the shoreline with *Ammophila arenaria* ("white dunes") encompasses most of the vegetation of unstable dunes where there is active sand movement. Under these conditions sand-binding marram *Ammophila arenaria* is always a prominent feature of the vegetation and is usually dominant. This is a dynamic vegetation type maintained only by change. It can occur on both accreting and eroding dunes, but will rapidly change and disappear if stability is imposed. It rarely occurs in isolation because of its dynamic nature and because it is successional related to other dune habitats.

The site is also designated as a Special Protection Area (SPA) under the E.U. Birds Directive (Figure 2 and 3). Special Conservation Interests for the site include the following species: Cormorant, Barnacle Goose, Ringed Plover, Sanderling, Purple Sandpiper, Dunlin and Turnstone.

The proposed project aims to strategically place chestnut fencing (two or three horizontal strands of galvanised wire woven with vertical pales of split chestnut) on bare ground to manage access where there is evidence of damaging recreational pressure on habitat condition and sand accumulation. The fence will also slow wind movement so that sand is deposited where dunes formerly existed. This allows the passive recovery of foredune dune vegetation, and over time, the development of fixed, stable sand dunes (grey dunes). Chestnut fencing is planned in two areas of the site at the strand ward side of the dune vegetation in the townland of Carrowmore and Cloonmore (See Figure 4).

Dune habitats occur as a complex mosaic of constantly changing and evolving vegetation communities. They are inextricably linked in terms of their ecological functioning and should be regarded as single geomorphological units. As such, no dune habitat should be considered in isolation from the other dune habitats present at a site, or the adjoining semi-natural habitats with which they often form important transitional communities. In view of this dynamic, fencing may be moved during if necessary to prevent it being buried by sand and to allow for continued accumulation

of sand in other places as the dune vegetation recovers. The fencing may be removed and stored locally for use again within the site as required. The works will be co-ordinated and supervised by the NPWS Regional Management.

5. Purpose

The Carrowmore Dunes SAC has been designated to protect shifting and fixed dunes and to contribute to the favourable conservation status of dune habitats in Ireland. The Habitats Directive (Article 6.2) obliges Member States to take appropriate steps to avoid the deterioration of natural habitats and the significant disturbance of the species for which a site has been designated. In this context 'taking appropriate steps' means for the Minister to adopt the necessary legal and/or contractual measures to make sure that the deterioration of the natural habitats for which the Carrowmore Dunes SAC has been designated is avoided.

Recreational pressure and erosion has caused a decline in the extent of the dune habitats with an increase in the cover of bare sand within the site and this is threatening the long-term viability of the QI.

The use of chestnut fencing to limit recreational pressure and trap sand on coastal dunes is a cost-effective and passive practice that improves the conservation status of degraded and trampled dune habitats and can aid in the restoration of ecosystem functioning within a relatively short time-frame. Sand trapping fences create local reductions of wind velocity, leading to downwind sediment accumulation. These positive effects provide great potential as a coastal protection tool, supporting the rehabilitation of eroded areas in coastal dunes; strengthening coastal dunes through prevention of sand drifting; limiting human access to (protected) coastal areas under pressure from recreation; and, initiating coastal dune formation by selective sand deposition.

6. Part 1: Necessary conservation measures

Answer these questions if the activity is “directly connected with or necessary to the management of the site”. Otherwise go to Part 2.

- a). List the European site(s) and the relevant Conservation Objectives (include version number of the Conservation Objective).

Carrowmore Dunes SAC [Site code: 002250].

NPWS (2014) Conservation Objectives: Carrowmore Dunes SAC 002250. Version 1. National Parks and Wildlife Service, Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs. Accessed 15th February 2024.

Available at: https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002250.pdf

Qualifying Interests

Reefs [1170]

Embryonic shifting dunes [2110]

Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes) [2120]

Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]

Vertigo angustior (Narrow-mouthed Whorl Snail) [1014]

Conservation Objectives for Qualifying Interests.

Reefs [1170]:

To maintain the favourable conservation condition of Reefs in Carrowmore Dunes SAC, which is defined by the following list of attributes and targets:

- Habitat area.
- Habitat distribution.
- Community structure

Embryonic shifting dunes [2110]:

To restore the favourable conservation condition of Embryonic shifting dunes in Carrowmore Dunes SAC, which is defined by the following list of attributes:

- Habitat area.
- Habitat distribution.
- Physical structure: functionality and sediment supply.
- Vegetation structure: zonation.
- Vegetation composition: plant health of foredune grasses; typical species and sub-communities; and, negative indicator species.

Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes) [2120]:

To restore the favourable conservation condition of Shifting dunes along the shoreline with *Ammophila arenaria* in Carrowmore Dunes SAC, which is defined by the following list of attributes:

- Habitat area.
- Habitat distribution.
- Physical structure: functionality and sediment supply.
- Vegetation structure: zonation.
- Vegetation composition: plant health of dune grasses; typical species and sub-communities; and, negative indicator species.

***Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]:**

To restore the favourable conservation condition of Fixed coastal dunes with herbaceous vegetation (grey dunes) in Carrowmore Dunes SAC, which is defined by the following list of attributes:

- Habitat area.
- Habitat distribution.

- Physical structure: functionality and sediment supply.
- Vegetation structure: zonation; bare ground; and, vegetation height.
- Vegetation composition: typical species and sub-communities; negative indicator species; and, scrub/trees.

***Vertigo angustior* (Narrow-mouthed Whorl Snail) [1014]**

To restore the favourable conservation condition of Narrow-mouthed Whorl Snail (*Vertigo angustior*) in Carrowmore Dunes SAC, which is defined by the following list of attributes:

- Distribution.
- Occurrence in suitable habitat.
- Habitat area.
- Habitat Quality: soil wetness.

Mid-Clare Coast SPA [Site code: 004182].

NPWS (2014) Conservation Objectives: Mid-Clare Coast SPA 004182. Version 1. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht. Accessed 15th February 2024.

Available at: https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004182.pdf

Special Conservation Interests

- Cormorant (*Phalacrocorax carbo*) [A017]
- Barnacle Goose (*Branta leucopsis*) [A045]
- Ringed Plover (*Charadrius hiaticula*) [A137]
- Sanderling (*Calidris alba*) [A144]
- Purple Sandpiper (*Calidris maritima*) [A148]
- Dunlin (*Calidris alpina*) [A149]
- Turnstone (*Arenaria interpres*) [A169]
- Wetland and Waterbirds [A999]

Conservation Objectives for Special Conservation Interests.

Cormorant (*Phalacrocorax carbo*) [A017]

To maintain the favourable conservation condition of Cormorant in Mid-Clare Coast SPA, which is defined by the following list of attributes:

- Breeding population abundance: apparently occupied nests (AONs)
- Productivity rate.
- Distribution: breeding colonies.
- Prey biomass available.
- Barriers to connectivity.
- Disturbance at the breeding site.

Barnacle Goose (*Branta leucopsis*) [A045]

To maintain the favourable conservation condition of Barnacle Goose in Mid-Clare Coast SPA, which is defined by the following list of attributes:

- Population trend.
- Distribution.

Ringed Plover (*Charadrius hiaticula*) [A137]

To maintain the favourable conservation condition of Ringed Plover in Mid-Clare Coast SPA, which is defined by the following list of attributes:

- Population trend.
- Distribution.

Sanderling (*Calidris alba*) [A144]

To maintain the favourable conservation condition of Sanderling in Mid-Clare Coast SPA, which is defined by the following list of attributes:

- Population trend.
- Distribution.

Purple Sandpiper (*Calidris maritima*) [A148]

To maintain the favourable conservation condition of Purple Sandpiper in Mid-Clare Coast SPA, which is defined by the following list of attributes:

- Population trend.
- Distribution.

Dunlin (*Calidris alpina*) [A149]

To maintain the favourable conservation condition of Dunlin in Mid-Clare Coast SPA, which is defined by the following list of attributes:

- Population trend.
- Distribution.

Turnstone (*Arenaria interpres*) [A169]

To maintain the favourable conservation condition of Turnstone in Mid-Clare Coast SPA, which is defined by the following list of attributes:

- Population trend.
- Distribution.

Wetland and Waterbirds [A999]

To maintain the favourable conservation condition of the wetland habitat in Mid-Clare Coast SPA as a resource for the regularly occurring migratory waterbirds that utilise it. This is defined by the following attribute:

- Habitat area.

b). State how this activity furthers the Conservation Objective(s)

Under Article 6 of the EU Habitats Directive, DHLGH is required to ensure the favourable conservation status of all Annex I habitats and Annex II species within SACs.

The Conservation Objectives seek to maintain protected SAC feature(s) where evidence exists that it is in favourable condition in the site, or

where there is uncertainty concerning the assessed condition of a feature but no reason to suspect deterioration in condition since designation.

Where evidence exists that a feature is declining and/or damaged and therefore not in a favourable condition in the site, the Conservation Objectives will seek to restore the protected feature.

The shifting and fixed dunes within the site are considered to be in an unfavourable condition due to the existing recreational and erosion impacts, therefore the Conservation Objectives seek to restore this condition.

The Conservation Objectives recognise that shifting and fixed dune habitats are complex and dynamic communities where changes to physical and vegetation structure are known to negatively alter this habitat. The implementation of the project as outlined above will restore and improve the conservation status of the degraded and trampled shifting and fixed dune habitat and directly contribute to the Site Specific Conservation Objectives. Notably:

Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes) [2120]:

- **Habitat area.**
- **Habitat distribution.**
- **Physical structure: functionality and sediment supply.**
- **Vegetation structure: zonation.**
- **Vegetation composition: plant health of dune grasses; typical species and sub-communities;**

*Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]:

- **Habitat area.**
- **Habitat distribution.**
- **Physical structure: functionality and sediment supply.**
- **Vegetation structure: zonation; bare ground; and, vegetation height.**
- **Vegetation composition: typical species and sub-communities.**

The project will be beneficial to maintaining and working towards achieving favourable conservation condition of the shifting and fixed dune habitats in the site and the typical species of these protected habitat types.

One specialised species of dune systems, *Vertigo angustior* is also a Qualifying Interest in the Carrowmore Dunes SAC. Cycles of erosion and stabilisation provide the necessary conditions that support a diverse range of specialist dune invertebrates. *V. angustior* can occur within a number of habitat 'types' but has very specific micro-habitat requirements in dune systems on sandy substrates that are free draining in areas that are not liable to inundation and so is more often found in humid dune grassland situations within the SAC and more likely to occur in the transition zone between a wetter and drier dune habitat types.

The project is considered to be directly connected with and necessary for the management of the site for improving the conservation status of *V. angustior* as any reduction in trampling and erosion associated with recreational access and pressure will allow the recovery of permanently moist vegetation litter within fixed dune and humid slack vegetation, the re-establishment of mosses, and where the litter is shaded by moderately tall vegetation in semi-open dune vegetation, conditions beneficial to this QI.

In the absence of the project, the Conservation Objectives for Carrowmore Dunes SAC would not be achieved as there would be continued trampling and erosion within shifting and fixed dune habitats and subsequent continued further degradation of adjacent dune slack vegetation and loss of the optimum micro-habitat requirements for *V. angustior*.

- c). Does this activity have the potential to impact negatively on any Conservation Objective (CO), Qualifying Interest (QI)/Special Conservation Interest (SCI) for this or any other European site?

Yes

No

The effect on all European Sites and their QI/SCI within a defined Zone of Influence of the proposed project has been assessed using expert opinion.

The potential effect of human disturbance on SCI of the SPA while undertaking installation of chestnut fencing is considered negligible due to the short-term duration of activity and specific targeted location of the measures.

There is not considered to be any potential for disturbance beyond a *de minimus* level on any SCI for which the Mid-Clare Coast SPA is designated.

No significant adverse impacts on the QI or SCI features of any other SAC or SPA are anticipated in the short or long term.

- d). Are there aspects of this activity which are NOT directly connected with the management of the site?

Yes

No



If the answer to EITHER of the above questions is **Yes** a Screening for AA is required, go to Part 2.

If the answer to BOTH questions is **No** go to Part 5.

7. Part 2: Identification of European Sites within the Potential Zone of Influence of proposed activities

List all European sites which may be affected by this activity because they are linked by an ecological pathway. If the site has a second European designation (SAC, SPA) this also needs to be considered.

8. Part 3: Assess the likelihood of significant effects

Provide this information for **each site** listed in Part 2.

List the QI/SCIs for the site(s), their current conservation condition and the Site Specific Conservation Objectives (SSCO) for that QI/SCI. Then answer the questions about the impact on that QI/SCI. Tick all the boxes below which may apply.

Your answer will determine if the activity is likely to have a (negative) effect on this QI/SCI. Negative effects may arise because of the activity's location within the site; its proximity to the QI/SCI or the size of the land take involved; the abstraction of water or minerals; emissions or waste arising; the types of transport or machinery being used; the length of time involved or seasonality of the work.

- a). There is likely to be a reduction in the area of QI/SCI habitat
- b). The physical/chemical quality of the environment is likely to be changed in a way which may cause the deterioration of the QI/SCI habitat (e.g. applying lime to an acidic soil)
- c). The structure of the ecological community is likely to be altered (e.g. through altered species composition) in a way which will have negative impact on the QI/SCI.
- d). A QI/SCI species is likely to be disturbed (e.g. through noise, vibrations)
- e). The population size, characteristics or reproductive success of a QI/SCI species is likely to be changed either directly or indirectly (e.g. lighting close to a bat roost entrance)
- f). QI/SCI species or habitats are likely to be more vulnerable to change or less resilient to external change (e.g. to flooding, fire or drought)
- g). There are likely to be effects on other species /habitats (not a QI/SCI for this site) which are ecologically linked with this QI/SCI and, as a consequence, there are likely to be negative effects on this QI/SCI (e.g. the impacts on geese which are the SCI when their non-QI feeding areas are damaged).
- h). This activity will cause a deterioration in the conservation condition of this QI/SCI.
- i). There are likely to be other ecological effects not listed above which are likely to have a significant effect on the QI/SCI.

Explain the effects:

If you have ticked a box for any QI/SCI in any of the sites affected by this activity the likelihood of a significant effect cannot be ruled out and the activity MUST be screened IN for AA.

9. Part 4: In Combination Effects

Is this activity likely to cause negative effects in combination with any other plan or project?

(In answering this question you should consider any other consents which have been applied for or granted. For example, other ARCs, planning consents, forestry consents, or activities authorised as part of an agreed farm or land management plan. List the plans or projects considered).

No Yes Uncertain

If the answer is Yes or Uncertain the activity MUST be screened IN for AA. Fill in Part 5 accordingly.

10. Part 5: Findings of the Screening for AA

Screening not carried out as the activity is “directly connected with or necessary to the management of the site”.



Likely significant effects are expected or uncertain.

This activity Screens **IN** and AA **is** required.



Likely significant effects are NOT expected.

This activity Screens **OUT** AA **is not** required.



Signature: Ryan Wilson-Parr, Head of Ecological Assessment

Date: 15th February 2024.

11. Part 6: Conclusion

Following an analysis of the project, the EAU determines, in accordance with Regulation 42A(8) of the 2011 Regulations, that the passive recovery of shifting and fixed dune vegetation through the use of chestnut fencing within the Carrowmore Dunes SAC [Site code: 002250] is entirely comprised of activities that directly support the Site Specific Conservation Objectives of this European site.

It can be concluded with certainty that the project is a necessary conservation measure that is directly related to, and necessary for the management of the target site, and it is clearly related to maintaining or improving the conservation condition of Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes) and Fixed coastal dunes with herbaceous vegetation (grey dunes) with secondary benefits for dune slack habitats supporting *Vertigo angustior* (Narrow-mouthed Whorl Snail) within the site.

12. Supplementary Information

Figure 1. (below): Location of Carrowmore Dunes SAC as per NPWS (2014) Conservation Objectives: Carrowmore Dunes SAC 002250.

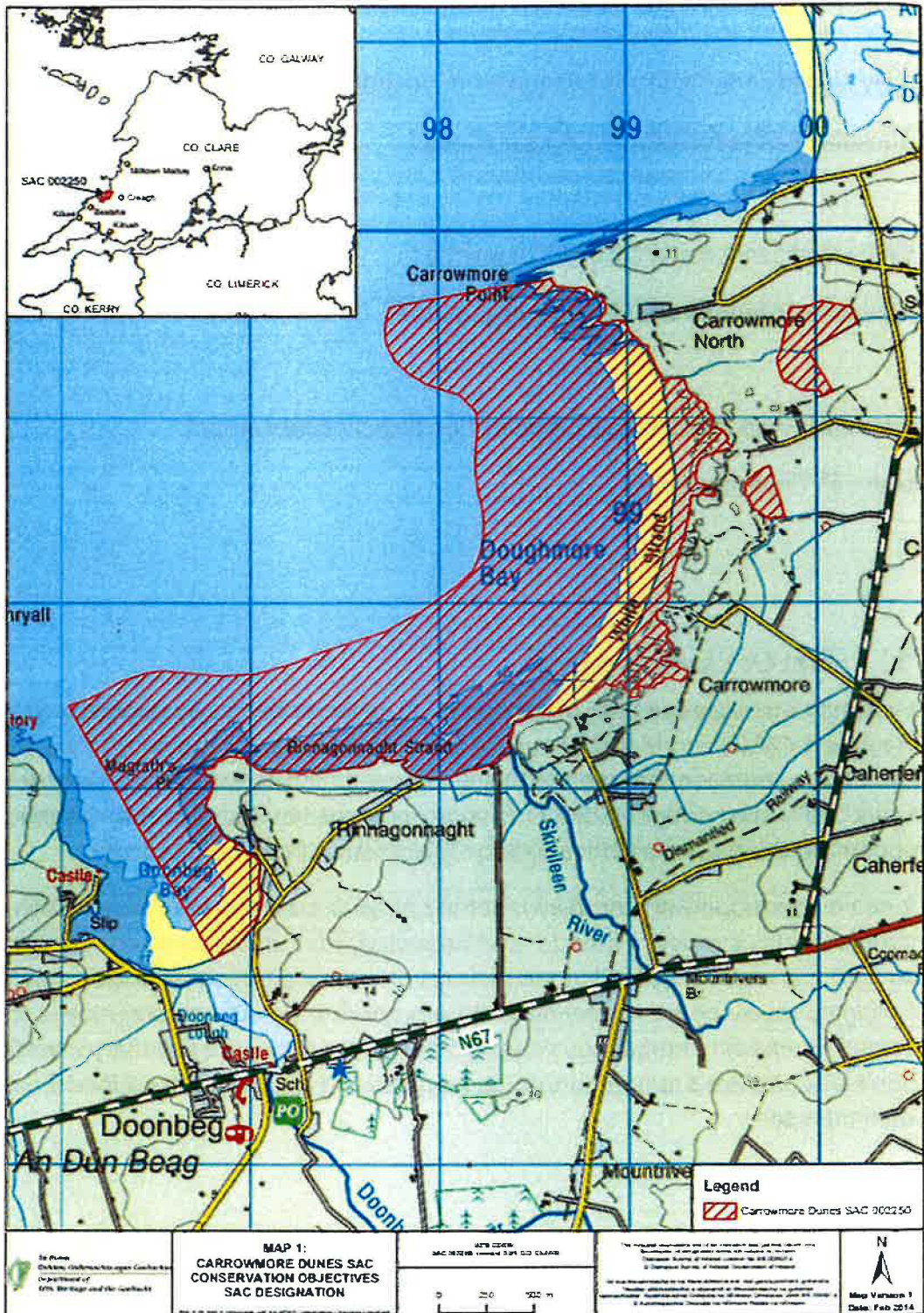


Figure 2. (below): Location of Mid-Clare Coast SPA as per NPWS (2014) Conservation Objectives: Carrowmore Dunes SAC 002250.

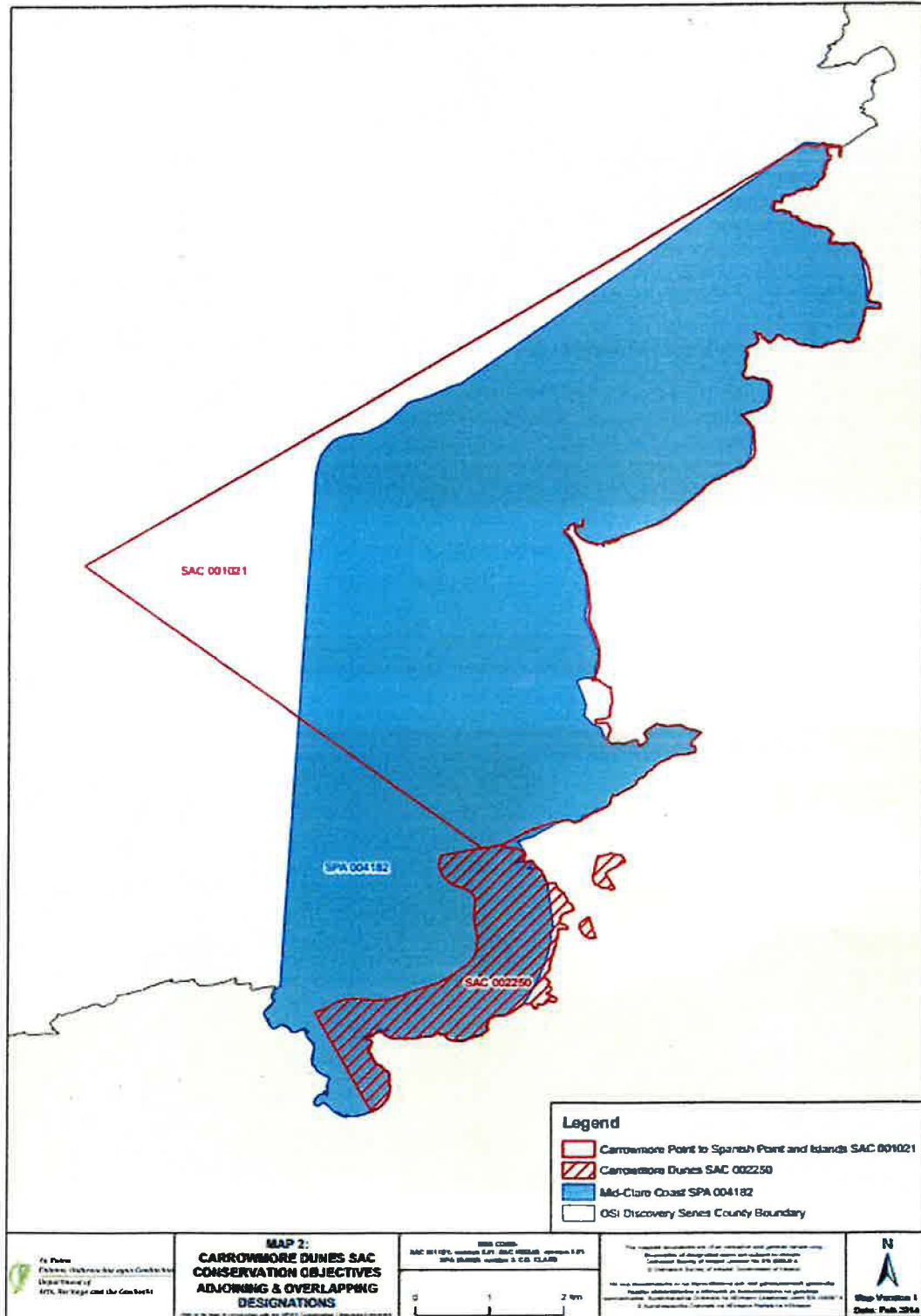


Figure 3. (below): Location of the Carrowmore Dunes SAC and Mid-Clare Coast SPA as shown on the NPWS Designations Viewer and Ordnance Survey orthophotography.

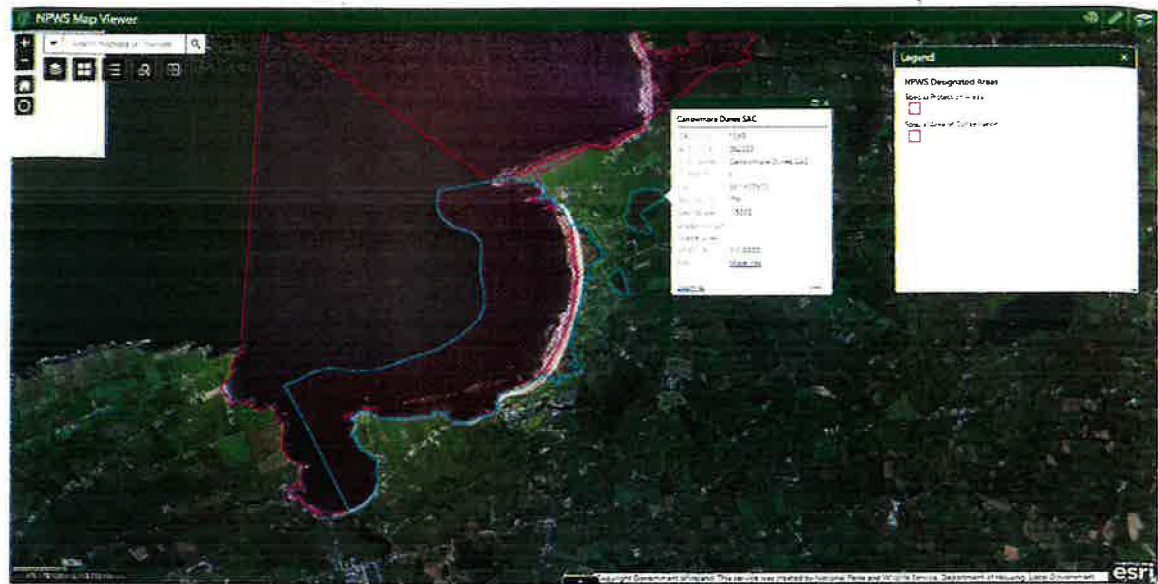


Figure 4. (below): Location of the proposed chesnut fencing (yellow points) at the Carrowmore Dunes SAC as shown on the NPWS Designations Viewer and Ordnance Survey orthophotography.



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Department of Housing, Local Government and Heritage



Rialtas na hÉireann
Government of Ireland



NPWS

An tSeirbhís Páirceanna
Náisiúnta agus Fiadhúlra
National Parks and Wildlife
Service

National Parks and Wildlife Service
NEPS Building,
Francis Street,
Ennis,
Co. Clare
V95 K3CH

15th March 2024

**Re: Proposed Temporary Fencing – Dune protection/restoration
Carrowmore Dunes Special Area of Conservation (SAC) (site code 002165)**

To whom it concerns,

Local NPWS were asked to advise on possible dune protection / restoration works at various points along the dunes at Doughmore Beach. After receiving advice from a coastal ecologist, it was deemed most appropriate to trial temporary fencing at two specific dune locations. The aim of the works is to reduce erosion at the specific dunes.

The Ecological Assessment Unit of this Department prepared a report analysing the proposed works in relation to the conservation objectives for the Carrowmore Dunes Special Area of Conservation (SAC) (site code 000250). It is enclosed for information.

Please note, if the proposed works do not require consent from the local authority, the works will require written consent from this Department, under the S.I. 328 of 2023 EU Habitats (Lower River Shannon Special Area of Conservation 002165) Regulations 2023, under ARC10.

Yours sincerely,

Helen Carty
Regional Manager

Timing, Map and Photos

		Timeframe
Breakdown of project and timing:	Location 1: Erect fencing, over approximately 60m length maximum, with small signage on fence.	April 2024
	Fixed point monitoring and vegetation monitoring	April 2024
	Take down fencing.	October 2024
	Location 2: Erect fencing, over maximum 150m length, with small signage on fence	March 2024
	Fixed point monitoring and vegetation monitoring	March 2024
	Take down fencing	October 2024
	Marram Planting To take place at locations 1 and 2.	April 2024
	Monitoring – including fixed point monitoring, vegetation monitoring also.	October 2024 October 2025 October 2026
	Marram Planting, repeated as required in 2025 and 2026.	2025, 2026
	Repeat fencing erection/decommission (March – October annually).	Mar – Oct 2025
		Mar – Oct 2026

Map





Photo 1. Location 1



Photo 2. Location 2

CUNNANE STRATTON

Planning Department,
Economic Development Directorate,
Clare County Council,
Aras Contae an Chláir,
New Road, Ennis,
Co. Clare
V95DXP2

Date: 16 July 2024

RE: SECTION 5 DECLARATION REQUEST FOR PROPOSED TEMPORARY FENCING AT DOUGHMORE BEACH, CARROWMORE, CO. CLARE.

Dear Sir/Madam,

We, Cunnane Stratton Reynolds of Copley Hall, Cotters Street, Cork are seeking a Section 5 declaration on behalf our clients TIGL Ireland Enterprises Ltd. This request seeks to confirm if the provision of temporary fencing to protect the sand dunes on Doughmore Beach is or is not development and whether the above is or is not exempted development.

THE CONTENT OF THIS REQUEST

This request contains the following documents:

- This cover letter.
- The completed Section 5 application form.
- Site location map.
- Fence details drawing.
- National Park and Wildlife Services cover letter.
- National Park and Wildlife Services Ecological Assessment Unit (EAU) AA Screening.
- Document with timing, map and photos.
- Fee of €80.00 which will be paid electronically by the applicant upon lodgement.

PROPOSAL

The fencing proposal is a result of consultation with coastal ecology specialists and the National Parks and Wildlife Service (NPWS). The proposed fencing is temporary and will be erected in March each year and decommissioned in October over a period of three years and will be further complimented by marram planting to support the protection and restoration of the sand dunes at Doughmore Beach. The temporary fencing is proposed at two locations to protect and restore the sand dunes on Doughmore Beach. The fencing will be formed of chestnut and will have a maximum height of 1.2m and is made up of three separate lengths of fencing, with two lengths proposed at one location, 5m apart and each 75m in length. A further single length of fencing will have a maximum length of 60m at a location further north along Doughmore Beach.

The proposed temporary chestnut fencing at Doughmore beach is a vital ecological initiative designed to protect and restore the fragile sand dune ecosystem and should be supported. The seasonal approach ensures minimal environmental impact while providing critical support to dune stability.

The proposed initiative mirrors the successful conservation efforts by the Maharees Conservation Association in County Kerry, where similar temporary fencing measures have effectively safeguarded dunes from erosion without permanent changes to the landscape. The detailed plans prepared by Healy Architects demonstrate the strategic placement and environmentally sensitive design of the fencing.

The proposal aligns with best practices in coastal conservation and ensures the preservation of Doughmore Beach's natural heritage and is fully supported by the NPWS.

SECTION 5 DECLARATION REQUEST

We are therefore seeking a Section 5 Declaration on whether,

Q.1 - The erection of proposed temporary fencing at Doughmore Beach, Co. Clare is or is not development? and

Q. 2 - Whether the proposed temporary fencing, if development, is exempted?

RELEVANT POLICY

To assist the County Council in making a declaration on the above, we have assessed the proposal in the context of the Planning and Development Act 2000 (as amended) (PDA) and the Planning and Development Regulations 2001 (as amended) (PDR).

Planning and Development Act (PDA) 2000 (as amended)

In the context of this request, the following sections of the PDA are relevant.

Section 2(1) - (Works) - "*works*" includes any act or operation of construction, excavation, demolition, extension, alteration, repair, or renewal.

Section 3(1)(a) - (Development) – *In this Act, except where the context otherwise requires, "development" means, the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land.*

Assessment

In the context of the Planning and Development Act 2000 (as amended), the fencing requires "*works*," as defined in Section 2(1), therefore the proposal triggers Section 3(1)(a) of the PDA. We therefore conclude that the proposed erection of temporary fencing at Doughmore Beach is considered "*development*" under Section 3(1)(a) as a result of "*works*" being required as set out under Section 2(1).

Planning and Development Regulations (PDR) 2001 (as amended)

The following are the key articles within the PDR in the context of this declaration request:

Article 6(1) - *Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.*

Article 9 - *Development to which article 6 relates shall not be exempted development for the purposes of the Act —*

Assessment

Whilst the proposed fencing is considered development as set out above, we believe that this development is “*exempted development*” as outlined below, under the Planning and Development Regulations 2001 (as amended) and would not require planning consent. In this context, the proposal has been assessed under Article 6(1) above, with the relevant development class, **Part 3, Class 4** in Schedule 2 of the PDR is set out in **Table 1** below.

Class 4	Conditions
The construction, erection or maintenance of any wall or fence, other than a fence of sheet metal, or a wall or fence within or bounding the curtilage of a house	<ol style="list-style-type: none"> 1. The height of the wall or fence, other than a fence referred to in paragraph 2, shall not exceed 2 metres. 2. The height of any fence for the purposes of deer farming or conservation shall not exceed 3 metres.

Table 1: Class 4 of Schedule 2 of the Planning & Development Regulations.

Based on the detail of the proposed fencing, the height of the fence shall not exceed 2m and is not intended for deer farming or conservation. Therefore, the proposed fencing does not exceed the conditions of the exemption under Class 4 as set out in Table 1 above. The proposed fencing is therefore considered “**exempted development**” under Article 6(1) of the PDA.

Whilst the proposed fencing is entirely consistent with Article 6(1) of the PDA, this exemption is subject to further conditions set out under Article 9(1) of the PDA. These conditions have been carefully assessed in relation to the proposed development and are detailed in Table 2 below.

Article 9, (1) Development to which Article 6 relates shall not be exempted development for the purposes of the Act—	
(a) if the carrying out of such development would—	
(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,	N/A
(ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,	N/A
(iii) endanger public safety by reason of traffic hazard or obstruction of road users,	N/A
(iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes, or aircraft,	N/A
(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,	N/A
(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,	N/A

<p>(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,</p>	<p>The proposed fencing is located within "The Coast" an area designated as a "Heritage Landscape" within the Clare County Development Plan.</p> <p>The minor scale of the works, combined with the temporary nature of the fence placement, and sensitive design, ensures that the proposed fencing will not interfere with the designated "Heritage Landscape".</p>
<p>(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,</p>	<p>The proposed fencing will not comprise the excavation, alteration or demolition of places, caves, sites, features, or other objects of archaeological, geological, historical, scientific, or ecological interest the preservation, conservation, or protection of which is an objective of a development plan</p> <p>Whilst the proposed fencing is within the Carrowmore Dunes Special Area of Conservation (SAC) (Site Code 002250), the proposed fencing will not require excavation, alteration or demolition and consists of activities that directly supports the Site-Specific Conservation Objectives of the SAC.</p> <p>For further detail, please refer to the Appropriate Assessment Screening Report accompanying this application prepared by the NPWS.</p>
<p>(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,</p>	<p>N/A</p>
<p>(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,</p>	<p>As noted above, the proposal has been prepared with the assistance of the NPWS. The submitted Appropriate Assessment Screening prepared by the Ecological Assessment Unit (EAU) of the NPWS provides analysis of the proposed works in relation to the conservation objectives for the Carrowmore Dunes Special Area of Conservation (SAC) (Site Code 000250).</p> <p>This Appropriate Assessment Screening confirms that the proposed fencing would directly support the <u>site-specific conservation objectives of the SAC, in maintaining or improving the conservation condition of shifting dunes along the shoreline with Ammophila Arenaria (white dunes) and fixed coastal dunes with herbaceous vegetation (grey dunes), whilst also providing secondary benefits for dune slack habitats supporting Vertigo Angustior (Narrow-mouthed Whorl Snail).</u></p> <p>For further detail, please refer to the Appropriate Assessment Screening Report accompanying this application prepared by the NPWS.</p>

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000	N/A
(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,	N/A
(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,	N/A
(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,	The proposed erection of temporary chestnut fencing will not encroach on any access to the seashore, ensuring that the public will still be able to access the area. The fencing will be concentrated only in two specific locations experiencing considerable pressures, thereby not restricting any general access to Doughmore Beach. The works will not preclude any recreational purposes, allowing the public to continue enjoying the natural beauty and recreational of the beach. This careful placement ensures that the temporary fencing supports conservation efforts without impacting public use and enjoyment of the area.
(xi) obstruct any public right of way,	N/A
(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area,	N/A
(b) in an area to which a special amenity area order relates, if such development would be development: —	
(i) of class 1, 3, 11, 16, 21, 22, 27, 28, 29, 31, (other than paragraph (a) thereof), 33 (c) (including the laying out and use of land for golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), 39, 44 or 50(a) specified in column 1 of Part 1 of Schedule 2, or	N/A
(ii) consisting of the use of a structure or other land for the exhibition of advertisements of class 1, 4, 6, 11, 16 or 17 specified in column 1 of Part 2 of the said Schedule or the erection of an advertisement structure for the exhibition of any advertisement of any of the said classes, or	N/A
(iii) of class 3, 5, 6, 7, 8, 9, 10, 11, 12 or 13 specified in column 1 of Part 3 of the said Schedule, or	N/A
(iv) of any class of Parts 1, 2 or 3 of Schedule 2 not referred to in subparagraphs (i), (ii) and (iii) where it is stated in the order made under section 202 of the Act that such development shall be prevented or limited,	N/A
(c) if it is development to which Part 10 applies, unless the development is required by or under any statutory provision (other than the Act or these Regulations) to comply with procedures for the purpose of giving effect to the Council Directive,	
N/A	
(d) if it consists of the provision of, or modifications to, an establishment, and could have significant repercussions on major accident hazards.	

N/A
2. Sub-article (1)(a)(vi) shall not apply where the development consists of the construction by any electricity undertaking of an overhead line or cable not exceeding 100 metres in length for the purpose of conducting electricity from a distribution or transmission line to any premises.
N/A
3. For the avoidance of doubt, sub-article (1)(a)(vii) shall not apply to any operation or activity in respect of which a Minister of the Government has granted consent or approval in accordance with the requirements of regulation 31 of the Habitats Regulations 1997, and where regulation 31(5) does not apply.
N/A

Table 2 Article 9 Exempted Development conditions.

CONCLUSION

The proposed temporary chestnut fencing at Doughmore Beach has been designed in consultation with coastal ecology specialists and the National Parks and Wildlife Service (NPWS). The proposed fencing, has been designed to protect and restore the sand dunes which are key to the conservation objectives of the Carrowmore Sand Dunes Special Area of Conservation (SAC) (Site Code 000250) as confirmed within the AA Screening prepared by the NPWS submitted with this request.

The proposed fencing is entirely consistent with the conditions set out within the Planning and Development Regulations 2001 (As Amended) under both Article 6(1) and Article 9(1).

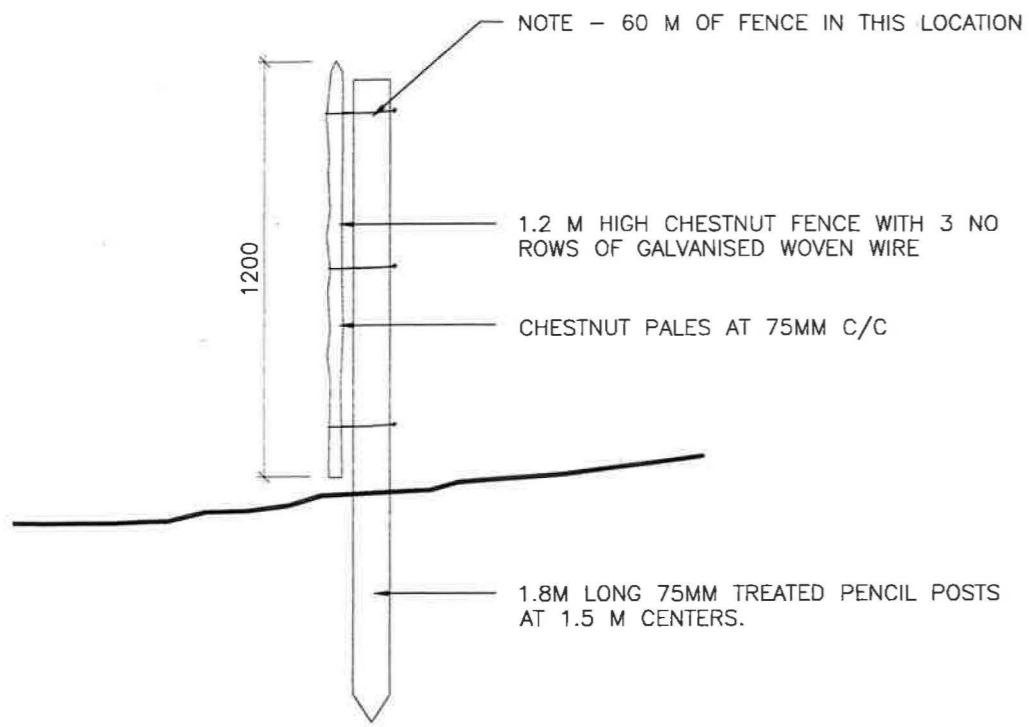
Therefore, we conclude that following our assessment the proposed fencing is "**Development**" and is "**Exempted Development.**" We therefore request that a declaration is made confirming the above conclusion.

If you have any queries, please contact the undersigned at the address given below.

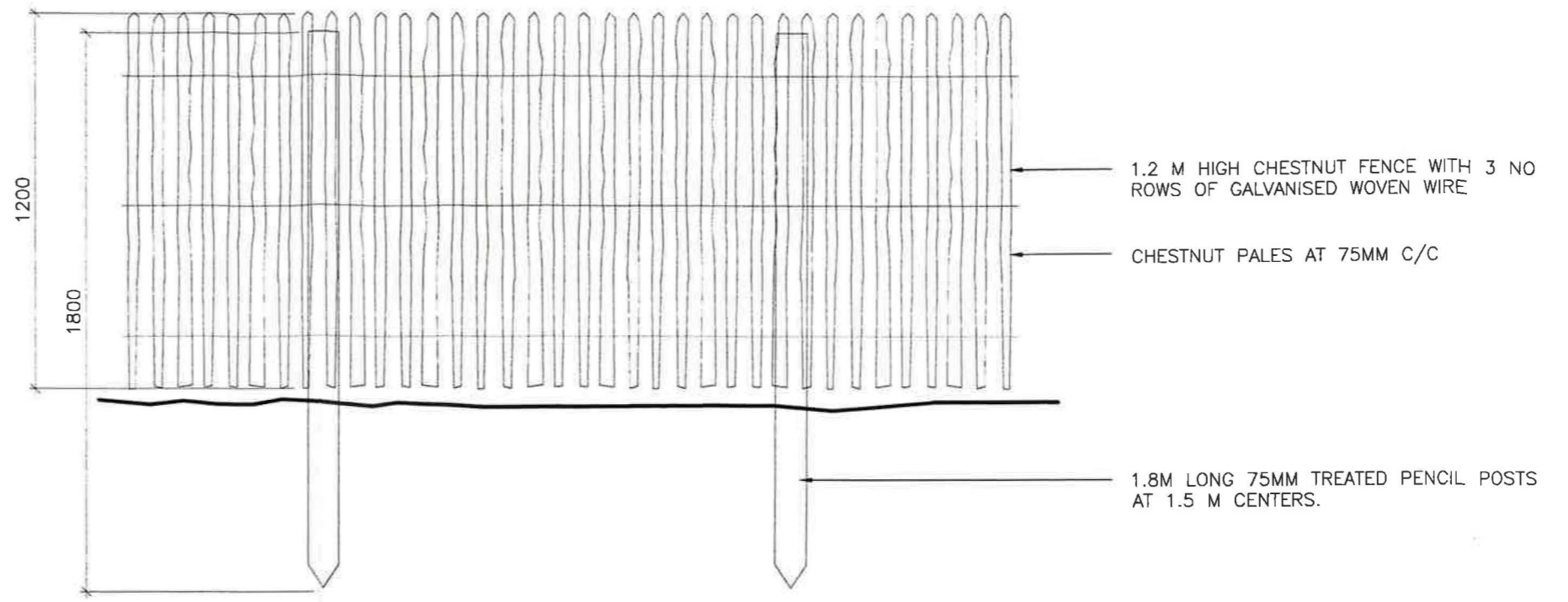
Yours sincerely



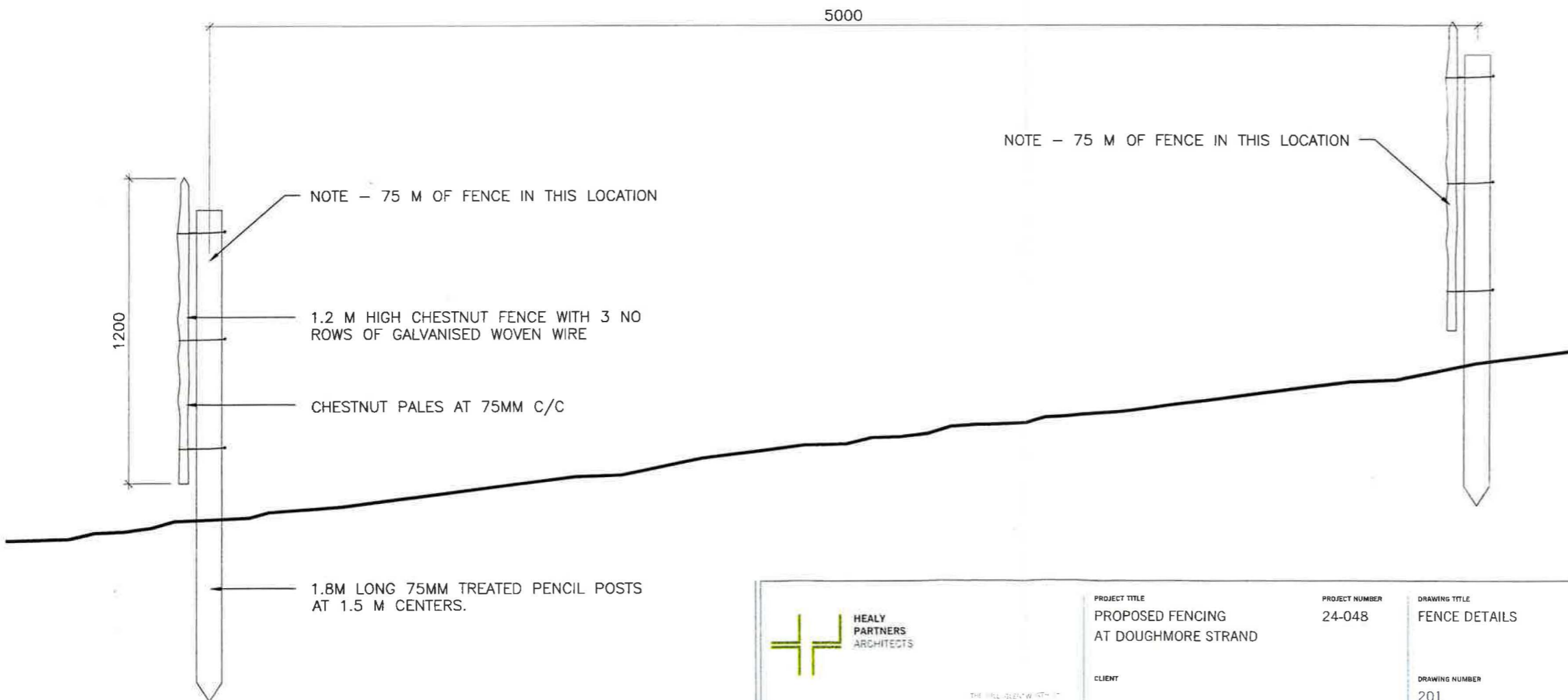
Conor Healy
Senior Planner
Tel: 086 1763708
Email: chealy@csrlandplan.ie
CUNNANE STRATTON REYNOLDS



LOCATION 2 SECTION



ELEVATION OF TYPICAL FENCE PANEL



LOCATION 1 SECTION



THE HEALY DESIGN GROUP
 1000 WEST 10TH AVENUE
 SUITE 1000 DENVER, CO 80202
 PHONE: 303.733.4150
 WWW.HEALYPARTNERS.COM

PROJECT TITLE
 PROPOSED FENCING
 AT DOUGHMORE STRAND

PROJECT NUMBER
 24-048

DRAWING TITLE
 FENCE DETAILS

DRAWING NUMBER
 201

DRAWING STATUS
 SECTION 5

SCALE
 1:20

DRAWN BY
 MM

FORMAT
 A3

CHECK/PASS
 MH

DATE
 13-6-24

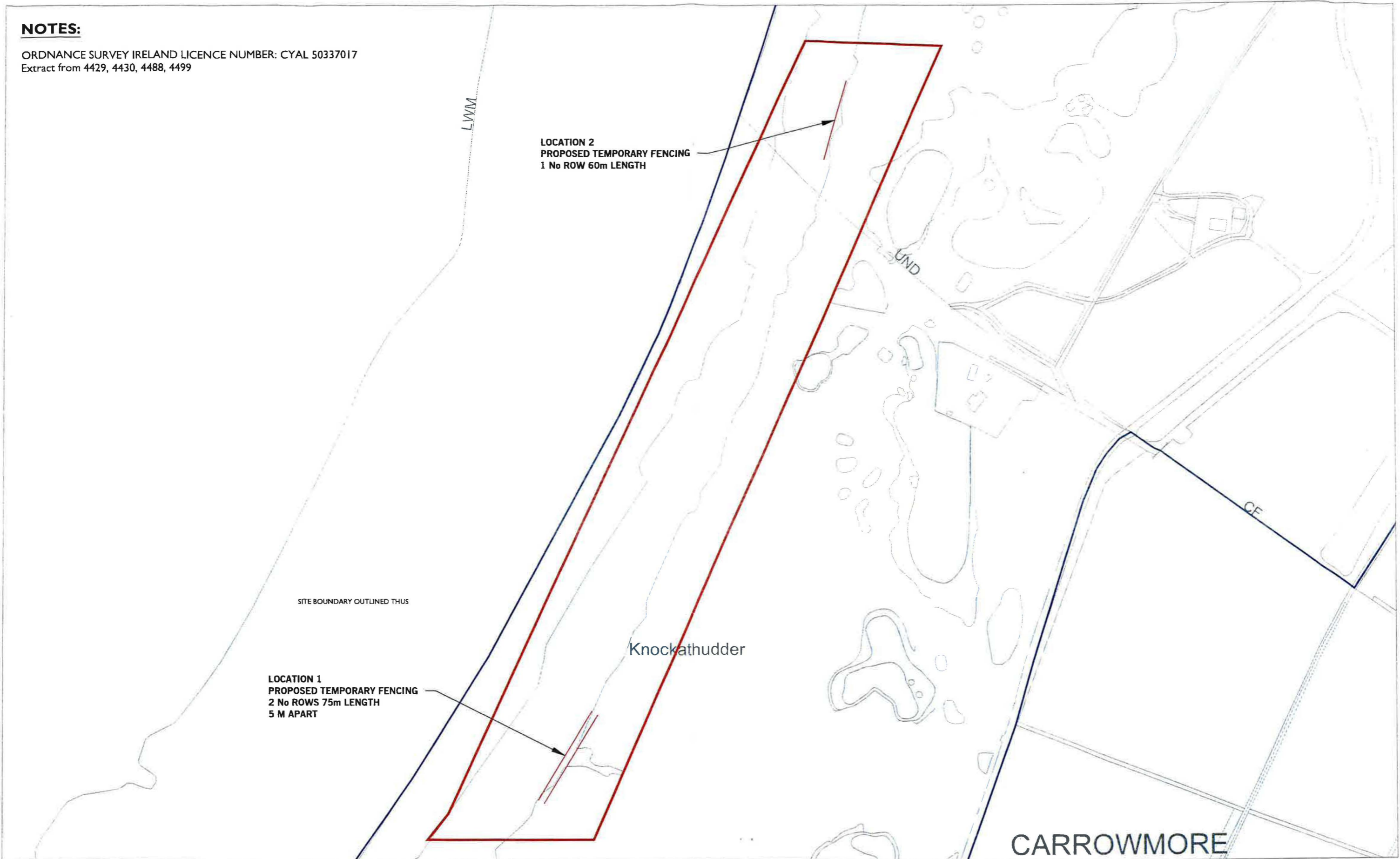
REVISION



FOR USE IN FIELD ONLY TO BE USED
 DO NOT SCALE FROM DRAWING

NOTES:

ORDNANCE SURVEY IRELAND LICENCE NUMBER: CYAL 50337017
 Extract from 4429, 4430, 4488, 4499



SITE BOUNDARY OUTLINED THUS

LOCATION 1
 PROPOSED TEMPORARY FENCING
 2 No ROWS 75m LENGTH
 5 M APART

LOCATION 2
 PROPOSED TEMPORARY FENCING
 1 No ROW 60m LENGTH

Knockathudder

CARROWMORE

SITE BOUNDARY OUTLINED THUS —
 LAND OWNERSHIP OUTLINED THUS —

AREA SCHEDULE	
DESCRIPTION	AREA HECT.
SITE AREA	6.22
RELEVANT SITE AREA	6.22



HEALY PARTNERS ARCHITECTS

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PROJECT TITLE
 PROPOSED FENCING
 AT DOUGHMORE STRAND

CLIENT

PROJECT NUMBER

DRAWING TITLE
 SITE LOCATION MAP

DRAWING NUMBER
 200

DRAWING STATUS
 SECTION 5

SCALE
 1:2500
 DRAWN BY
 MM

FORMAT
 A3
 CHECK/PASS
 MH

DATE
 13-6-24

REVISION



FIGURES AND DIMENSIONS ONLY TO BE USED
 DO NOT SCALE FROM DRAWING