

## **Speaking Note for Joint Committee on Arts, Heritage, Regional, Rural and Gaeltacht Affairs**

Mr. Chairman, Members of the Committee

We would like to thank the Committee for the opportunity to discuss the N59 Road Project today.

At the outset, could I say that as a Department with a broad range of functions including in relation to rural affairs and regional development, the Department is fully cognisant of the importance of this project for the western region and is keen to assist in whatever way it can to ensure that it is delivered in a way that is compliant with national and European Law.

While the N59 in its entirety stretches from the south of Sligo Town, through Mayo and Connemara to Galway City, the project we are interested in today as I understand it is that portion in County Galway stretching from Oughterard to Clifden. This project involves two separately proposed, but obviously related, development projects – the Oughterard to Maam Cross section and the Maam Cross to Clifden section.

### **N59 Oughterard to Maam Cross**

The development of the Oughterard to Maam Cross Section was approved by An Bord Pleanála in December 2013.

The Board made its decision at the time subject to certain conditions. I think it is fair to say that the Department's involvement in this road development at this stage is very unusual. In the normal course of events, where an application is approved by a planning authority - whether it be a county council or the Board itself - following considerations of observations by a range of statutory consultees under Planning Law including the Department (involving its National Parks and Wildlife Service), then such development is free to proceed without any further reference to our Department. In this instance, however, the role of the Department post-consent arises as a result of an unusual condition to the permission which was imposed by An Bord Pleanála.

The condition, provides that *“Prior to commencement of construction, the Construction Stage Erosion and Sediment Control Plan and all method statements will be finalised by the construction stage contractor and will be subject to the approval of Galway County Council and the Agreement of*

*NPWS and IFI*". Such a condition was in fact actually proposed by Galway County Council at the second Oral Hearing during the planning process. It is our understanding that such a condition was included to ensure, inter alia, that the project would proceed in a manner consistent with Ireland's legal obligations under the Habitats Directive, which all public authorities, including Galway County Council, are required to fulfil.

Eight Method Statements have been submitted by the Council thus far. Unfortunately, however, it has not always been possible for the Department to approve method statement submitted for a range of reasons, including because they had not been approved by the Council itself in the first instance prior to submission (which was a requirement of an Bord Pleanála) or as a result of inconsistencies in data presented or because of the omission or uncertainty of key information. On such occasions, the Council was requested to provide the outstanding information or to revise and resubmit the method statements in accordance with the planning permission. Two of these have been approved. To ensure a more unified approach to the development, on this Department's initiative, senior officials from the Department and the then Department of the Environment, Community and Local Government met with the CEO and other senior officials of Galway County Council on 27 April last year to discuss the project. The purpose of the meeting was to see how the project could proceed as quickly as possible in compliance with Irish law, European nature directives, the Council's own obligations and in particular having regard to the freshwater pearl mussel of which there is a significant and important population in the Owenriff River in the area.

The freshwater pearl mussel is protected and is an extremely sensitive species which is dying out in many places. As Ireland has a large proportion of the European population, the Commission has paid particular attention to activities in Ireland that might be harmful. Indeed, following the an Bord Pleanála's decision in December 2013, the Commission contacted Ireland raising concerns about the impact of the project on the pearl mussel. We understand that a number of complaints related to the Board's decision were also made to the Commission. Since 2006, there has been an ongoing legal process with the Commission and so far, Ireland has managed to prevent an escalation to a full case before the European Court of Justice.

Primary responsibility for complying with the European Nature law in this case lies with Galway County Council as the developer and as such the need to ensure compliance with European law was fully endorsed by all at that meeting. At that meeting it was agreed that the Department would work with Galway County Council to see how best the project can proceed. This approach was subsequently endorsed on 15 June last year at a meeting, chaired by Minister of State Sean Kyne, and attended by Oireachtas representatives for west Galway, officials of Galway County Council and officials of our Department.

On 16 September 2016, officials from the Department travelled to Galway to meet with Council officials to see what practical steps could be taken to move the project on. It was agreed that the best approach would be to progress the road project section by section. The idea behind this was to allow the development to advance by progressing the less sensitive sections of the road quickly while in parallel, continuing to explore how best to deal with the more challenging sections. At that meeting, the Department gave a commitment that it will review and respond to method statements submitted to us within 10 days of receipt.

We understand that the local authority is making arrangements for the preparation of a method statement for the Maam Cross to Bunakill Section. This is about 5km from Maam Cross to the edge of the pearl mussel catchment. While this is still awaited from the Council, at this point, the Department does not envisage any significant problems advancing this part of the road.

In the meantime, it is also understood that Galway County Council is looking at upgrading the surface of the other sections of the road. This is not being put forward by the Council as a long term solution but is intended to improve the road on an interim basis while the Council charts the best way forward to develop the entire route of the project. At this point it is largely a matter for the Council to decide how best to progress the remainder of the road project.

### **Maam Cross to Clifden**

The Department has engaged with, and provided advice to, the developer (Galway County Council) throughout the pre-planning stage for this section of the road project.

The receiving environment for this project is of great importance for nature conservation, and extensive areas of the project form part of the Natura 2000 network of European sites (SACs and SPAs) and four such sites are intersected by the projects namely Twelve Bens/Garraun Complex SAC, Maumturk Mountains SAC, Connemara Bog Complex SAC, and Connemara Bog Complex SPA.

On the 20th May last, An Bord Pleanála published its decision to refuse planning permission for this section of road, for Habitats Directive related reasons. The Board's decision appears to have been reached as a result of a lack of information and data presented to it in relation to the habitats in the location of the proposed road development.

The Department understands from recent discussions with Galway County Council that it is considering how to progress this portion of the road in sections also. We understand that the Council believes that it should be possible to advance some sections of this element of the road relatively

quickly whilst finalising the best way forward for the entire route. Again, this is a matter for the Council to bring forward, but the Department will work proactively, within its remit, to assist the Council.

## Conclusion

The Department wishes to assist Galway County Council in whatever way it can with this project and believes that by complying with national and European laws, it should avoid falling foul of legal challenge. While key decisions as to how exactly to move the project forward remain to be made by the Council, our Department will keep in contact with the Council, provide such advice and assistance as it can and deal with any submissions, method statements or proposals received in a timely fashion.

Thank you Mr. Chairman. We will be happy to provide further information and to try to deal with any questions that the Committee may have on the project.