



**Department for Infrastructure  
The Roads (Northern Ireland) Order 1993  
The Local Government Act (Northern Ireland) 1972**

**Statement by The Department  
on the Report on the Local Inquiries  
into the Environmental Statement,  
Direction Order, Vesting Orders and  
Private Accesses (Stopping-up) Order**

**for the Proposed**

**A5 Western Transport Corridor Dual  
Carriageway Scheme**

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# 1 CONTENT OF DECISION

- 1.1 The Department for Infrastructure has decided to proceed with the proposed A5 Western Transport Corridor (A5WTC) dual carriageway scheme with implementation being phased to reflect availability of funding. The scheme is as described in the Environmental Statement, draft Direction Order, draft Vesting Orders, and draft Private Accesses Stopping-Up Order published by the Department in February 2016.
- 1.2 The proposed A5WTC dualling works will provide approximately 85 kilometres (km) of new dual two lane rural all-purpose carriageway with a national speed limit of 70mph. It also includes for a wide single 2+1 carriageway bypass of New Buildings, providing a connection with the existing A5 north of New Buildings and a single carriageway south east of Aughnacloy providing a connection between the junction with the A28 (Armagh Road) and the existing A5 just north of the border with County Monaghan at Moy Bridge.
- 1.3 In November 2015 the Northern Ireland Executive and the Irish Government agreed through 'A Fresh Start: The Stormont Agreement and Implementation Plan' that construction of the first section of the A5WTC would commence in 2017 with a view to completion in 2019. The first section was identified as the route between New Buildings and north of Strabane. This section is now referred to as Phase 1a.
- 1.4 Under the above Agreement the Irish Government also reaffirmed its support of the commitment under the St Andrews Agreement to co-fund the construction of the A5 through Northern Ireland.
- 1.5 In April 2016 the Department appointed the Planning Appeals Commission (PAC) to hold a Public Inquiry into the Environmental Statement, Notice of Intention to Make a Direction Order and Notice of Intention to Make Vesting Orders prepared by the Department on the A5WTC together with opinions expressed in relation thereto. In addition the PAC was appointed to hold a Public Inquiry into the Notice of Intention to Make a Stopping-Up of Private Accesses Order and opinions expressed thereto. The PAC was given responsibility for administering these public inquiries (hereinafter referred to as the Public Inquiry<sup>1</sup>) and to provide a Report to the Department with recommendations.
- 1.6 The Public Inquiry commenced on 4 October 2016 and concluded on 14 December 2016. The Department received the PAC Report from the Public Inquiry on 25 May 2017.
- 1.7 Having considered the PAC Report from the Inquiry, all representations made and all other matters relating to the scheme, the Department concurs with the

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<sup>1</sup> Technically while there were two Public Inquiries: one to consider the Direction Order; the Environmental Statement and the Vesting Orders; and one to consider the Stopping Up Orders, for the purposes of this Departmental Statement these are hereinafter referred to as the 'Public Inquiry'

conclusion of the PAC that there are no issues which would weigh decisively against making all of the Orders referred to in paragraph 1.5. The Department also concurs with the PAC in that there is a compelling argument for the scheme to be delivered in the wider public interest and accordingly it has decided to make each of those Orders, but to do so in a phased fashion, in accordance with the timing for the implementation of each phase (as described in Section 7 of the Statement) and as resources permit. In deciding to proceed with the scheme the Department has also decided to accept and to implement all but one of the PAC recommendations. This aspect of the decision is detailed in Section 3 of this Statement. The decision to proceed is also subject to the commitment of the Department to carry out the mitigation measures and the works summarised in Sections 4, 5 and 6 of this Statement and which are described in full in the reports listed below:

- Environmental Statement (2016);
- Draft Construction Environmental Management Plan (CEMP)<sup>2</sup>;
- Draft Silt Management Plan (SMP)<sup>2</sup>;
- Report of Information to Inform an Appropriate Assessment – SAC Watercourses;
- Report of Information to Inform an Appropriate Assessment – SPAs;
- Report of Information to Inform an Appropriate Assessment – Ramsar Sites;
- Report of Information to Inform an Appropriate Assessment – Tully Bog SAC;
- Habitats Regulations Assessment Summary Report; and
- Tyrone Sand and Gravel Report.

1.8 Where modifications to the project which were recommended by the Planning Appeals Commission (PAC) have been accepted, these are reflected in the Orders listed above.

1.9 Sections 2 and 3 of this document set out the considerations on which the decision to proceed with the scheme is based. Section 4 details further issues which have been considered after the Public Inquiry<sup>1</sup> relating to further developments affecting the route of the proposed scheme. Section 5 describes the assessment carried out under Regulation 43(1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) (“the Habitats Regulations”) to consider the implications of the A5WTC on Natura 2000 sites. Section 6 describes the measures that will be incorporated to mitigate the adverse effects of the scheme and the most

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<sup>2</sup> Draft CEMP and SMP is finalised by the contractor prior to construction commencing.

significant impacts arising from the scheme. Section 7 sets out the Department's decision with respect to the Environmental Statement and each of the Orders.

## 2 BASIS OF DECISION

### 2.1 Policy Context

- 2.1.1 The need to upgrade the A5 Western Transport Corridor has been recognised in many Government policy and other documents and is primarily related to the link between improving the infrastructure and its wider impact on competitiveness, the potential to help economic prosperity through improved connectivity, reduced congestion and journey time reliability, increased accessibility and the rebuilding and rebalancing of the economy.
- 2.1.2 In September 2001, the Department for Regional Development formulated **Shaping Our Future: the Regional Development Strategy for Northern Ireland 2025' (RDS 2025)**. This strategy was intended to guide the future development of the region up to 2025. It also provided guidance on a range of social, economic and environmental matters which are implemented through the plans and strategies of Government Departments.
- 2.1.3 An integral feature of the RDS 2025 was the requirement to develop a Regional Transportation Strategy having a vision of *'a modern, integrated and sustainable transportation system which benefits society, the economy and the environment and which actively contributes to social inclusion and everyone's quality of life'*. The RDS 2025 identified a Regional Strategic Transport Network (RSTN) which *'has a fundamental role to play in contributing to the achievement of sustainable progress on social, economic and development goals in Northern Ireland.'* As well as identifying the need to extend travel choice and change travel culture, the RDS 2025 identified the need (SPG-TRAN 1) *'To develop a Regional Strategic Transport Network based on key transport corridors, to enhance accessibility to regional facilities and services.'*
- 2.1.4 In July 2002, the Assembly approved the strategic direction and underlying principles of the **Regional Transportation Strategy for Northern Ireland 2002-2012 (RTS)**. The RTS identified strategic transportation investment priorities and considered potential funding sources over a 10 year period as well as setting down guidance as to how funding would be split between areas and transport modes.
- 2.1.5 **The Regional Strategic Transport Network - Transport Plan 2015 (RSTN-TP)**, published in March 2005, is one of 3 multi-modal transport plans which facilitated the delivery of the RTS. The plan has 8 primary objectives, one of which is the need *'to examine access to regional gateways and cross border links with an emphasis on improving connections from the 5 key transport and 4 link corridor'*. In addition to the 5 key transport corridors and 4 link corridors, the rail network, Belfast Metropolitan Transport Corridors and the remainder of the trunk road network complete the Regional Strategic Transport Network (RSTN).
- 2.1.6 The RSTN-TP identified a number of priority transport schemes to enhance the RSTN. Each scheme within the plan was assessed using standard UK transport appraisal methodology. The appraisal criteria were broadly grouped

in economic, social and environmental considerations aligning closely with the vision of the RDS 2025.

- 2.1.7 In January 2008, the Northern Ireland Executive agreed its first budget and endorsed a 10 year Investment Strategy, covering the period 2008-2018. This strategy included a contribution of £400 million from the Irish Government for investment in improving connectivity with the North-West by upgrading the A5 as well as other key transport corridors including the A8 dualling project.
- 2.1.8 The **Investment Delivery Plan (IDP) for Roads**, published in April 2008, was a delivery document for the Investment Strategy for Northern Ireland 2008 – 2018. It advocated the upgrading of all of the Key Transport Corridors to ‘*at least dual carriageway standard*’ and set out firm capital allocations for the 3 years to 2010-11 and indicative capital allocations for the 7 years thereafter. It also identified the programme of Strategic Road Improvements proposed for the 10 years of the Investment Strategy period to 2017/2018. In relation to the A5WTC scheme the IDP anticipated delivery within the 2013/14 to 2017/18 timeframe.
- 2.1.9 Also in 2008 the ‘Northern Ireland Programme for Government 2008-2011’ was published by the Northern Ireland Executive. This contained a commitment to progress plans to extend the dual carriageway network to the A5.
- 2.1.10 The Budget 2008- 2011 included a commitment to progress a number of strategic road improvements including the A5WTC.
- 2.1.11 A further budget covering the period 2011-2015 was subsequently agreed by the Executive. It included in the region of £1.2 billion of capital road improvements which embraced the continuing commitment from the Irish Government to invest £400 million towards the A5 and A8 dualling projects.
- 2.1.12 In November 2011 the Irish Government deferred its £400 million contribution but committed £25 million per annum towards the project in 2015 and 2016. Following a review of spending priorities the Executive announced a revised budget on 14 February 2012. This revised budget outlined plans to invest £500 million in road infrastructure over the subsequent four year period. A £330 million investment in the A5 would allow two sections to progress: the section from New Buildings to the north of Strabane (now known as Phase 1a) and the section from south of Omagh to Ballygawley (now known as Phase 1b). This was reflected in the updated Investment Strategy for Northern Ireland 2011 – 2021.
- 2.1.13 In recognition of the changing challenges facing the region, the Executive agreed that the RDS 2025 needed to be reviewed. **The Regional Development Strategy 2035 (RDS 2035)** was launched by the then Minister for Regional Development on 15 March 2012. Many of the objectives of the new strategy remain consistent with the previous one and it provides an overarching strategic planning framework to facilitate and guide the public and private sectors. The vision of the RDS 2035 is supported by 8 aims, one of which is to ‘*improve connectivity to enhance the movement of people, goods, energy and information between places*’. It identifies the A5 as a key transport

corridor and an economic corridor. It alludes to improvements planned for the A5 linking Dublin to Londonderry and the need for enhanced strategic transport links in the northwest.

- 2.1.14 **Ensuring a Sustainable Transport Future: A New Approach to Regional Transportation** (later referred to as the “New Approach”) was published on 28 March 2012 and follows on from the RTS. This document sets out three high level aims for transportation along with twelve supporting strategic objectives, covering the economy, society and the environment. The New Approach complements the RDS 2035 and aims to achieve the transportation vision. The document recognises the need to complete the work identified in the current Regional Strategic Transport Network Transport Plan and Strategic Roads Improvement Programme, while new programmes of work are developed for roads and railways.
- 2.1.15 In November 2015, **A Fresh Start: The Stormont Agreement and Implementation Plan** noted that the Irish Government had reaffirmed its commitment to providing funding of £50 million and committed to a further £25 million *‘to ensure that Phase 1 of the project can commence as soon as the necessary planning issues have been resolved’*. The Northern Ireland Executive and the Irish Government agreed that, subject to the successful completion of the necessary statutory procedures, *‘construction on the first section of the A5 will commence in 2017 with a view to completion by 2019. The first section will be the route between New Buildings (outside Derry-Londonderry) to north of Strabane’*.
- 2.1.16 In its budget 2016-2017, the Northern Ireland Executive identified the A5WTC as one of a number of flagship projects, where it recognised the importance of providing funding certainty beyond the immediate budget period. It therefore agreed an indicative funding package of £229 million for the scheme up to financial year 2020/21.

## 2.2 Existing Conditions

- 2.2.1 The existing A5 route (Trunk Roads T3 Londonderry-Ballygawley and T6 Ballygawley-border) runs from Londonderry to the border with County Monaghan just south of Aughnacloy where it links to the N2 route travelling southwards towards Dublin. It passes through or adjacent to the settlements of New Buildings, Magheramason, Bready, Cloghcor, Ballymagorry, Strabane, Sion Mills, Victoria Bridge, Newtownstewart, Omagh, Garvaghy, Ballygawley and Aughnacloy. It extends for a length of approximately 88km between the project boundaries north of New Buildings and south of Aughnacloy.
- 2.2.2 The existing A5 is intersected at Ballygawley by the A4 South Western Corridor which runs from the end of the M1 motorway at Dungannon through Enniskillen to the border at Belcoo. It also links to the A32 Trunk Road (Enniskillen – Omagh) and the A505 (Omagh – Cookstown) Trunk Road within the town of Omagh as well as the A38/N14/N15 Lifford/Strabane cross border link, the A2



Key Transport Corridor (Londonderry – Limavady) and the A6 Key Transport Corridor (Londonderry – Belfast) within Londonderry.

- 2.2.3 The A5 carries a mix of local and strategic traffic and suffers from delays, congestion and driver frustration. It is typically a single carriageway trunk road although a number of overtaking '2 + 1' sections have been added at strategic locations and these cover about 12% of the existing single carriageway A5 route. Bypasses / through-passes at Omagh, Strabane and Newtownstewart are also in place.
- 2.2.4 The existing A5WTC is substandard over approximately 38% of its length, being deficient in terms of carriageway cross section, forward visibility and/or horizontal and vertical alignment. Within each section the lengths that do not comply with current design standards are
- Section 1: New Buildings – Sion Mills: 10km (38%)
  - Section 2: Sion Mills – South of Omagh: 10.5km (35%)
  - Section 3: South of Omagh – Aughnacloy: 11.8km (41%)
- 2.2.5 There are approximately 1370 at grade junctions / private accesses along the existing A5. The private accesses include commercial, residential and agricultural use.
- 2.2.6 There have been many accidents along the existing A5 route in recent years with 9 fatal collisions in the period between 2011 and 2015.
- 2.2.7 The A4 South Western Transport Corridor, which in combination with the A5, carries the vast majority of traffic between Belfast and County Tyrone, was upgraded to dual carriageway status between Ballygawley and Dungannon in 2010 and this serves to highlight further the deficiencies in the existing A5 route.

## 2.3 Scheme Benefits and Objectives

- 2.3.1 The A5WTC is one of 5 key Transport Corridors as identified in the Regional Development Strategy and other policy documents. It runs from the border at Aughnacloy to Londonderry where it links to the A6 North Western Key Transport Corridor. It is also intersected at Ballygawley by the South Western Transport Corridor which runs from Belfast through Enniskillen to the border at Belcoo.
- 2.3.2 It is widely recognised that the various elements of the strategic road network comprise the 'arteries' of the region's economy, linking as they do the major towns and cities to the Belfast Metropolitan Area, the regional gateways as well as the road network in the Republic of Ireland and air and sea ports. Upgrading the Key Transport Corridor network would provide a strategic framework for infrastructure investment and economic development, especially for large scale sites to accommodate industry and commerce as well as assisting tourist travel in the region.

- 2.3.3 Policy documents defining the need and desire to balance regional infrastructure are also recognised as well as the need to protect the environment. Upgrading the A5 Western Transport Corridor to dual carriageway status is positive in relation to growing the economy and balancing regional infrastructure and negative in terms of protecting the environment. The adverse effect on the environment is recognised and was a key part of the route selection process. More detail on effects and mitigation measures are addressed in the 2016 Environmental Statement.
- 2.3.4 Road safety is a key issue on the A5 and dual carriageways are inherently safer than single carriageways. Apart from being substandard over a lot of its length, the existing A5 single carriageway accommodates approximately 1370 junctions/accesses and this factor, along with the lack of overtaking opportunities, contributes to the accident potential.
- 2.3.5 The main objectives of the A5WTC dualling project are:
- to improve road safety;
  - to improve the road network in the province and north-south links;
  - to reduce journey travel times along the A5WTC;
  - to provide increased overtaking opportunities for motorists along the A5WTC; and
  - to develop the final proposals in light of safety, economic, environmental, integration and accessibility considerations.
- 2.3.6 Achieving these objectives would contribute to the higher level objectives of balancing regional infrastructure, improving competitiveness and economic prosperity through improving connectivity and accessibility across the region.
- 2.3.7 The existing A5 passes through many settlements along its length which has implications for road users in terms of journey times and road safety and also for the residents of these settlements in terms of environmental impacts.

## **2.4 Project History**

- 2.4.1 At its meeting on 17th July 2007, the North South Ministerial Council (NSMC) noted the Irish Government's intention to make available a contribution of £400m to help fund the major roads programme within Northern Ireland providing dual carriageway standard on routes serving the North West Gateway and on the Eastern Seaboard Corridor between Belfast and Larne. The Northern Ireland Executive confirmed its acceptance, in principle, to taking forward these two major road projects.
- 2.4.2 Within Northern Ireland the route serving the North West gateway is the A5WTC which runs from Londonderry to the border just south of Aghnacloy. The A5WTC project involves providing 85km of new off line dual carriageway between New Buildings and Aghnacloy with a wide single 2+1 carriageway bypass of New Buildings, providing a connection with the existing A5 north of

New Buildings and a single carriageway south of Aughnacloy between the junction with the A28 (Armagh Road) and the existing A5 just north of the border with County Monaghan at Moy Bridge. Any further development of the dual carriageway south of the A28 and across the border is dependent upon any future upgrade of the N2 by the Irish Government.

- 2.4.3 The two governments agreed the following milestones for the A5WTC project:
- Announcement of Preferred Corridor – Late 2008
  - Announcement of Preferred Route – Mid 2009
  - Publication of draft Statutory Orders/Environmental Statement – late 2010
- 2.4.4 Subsequently the North South Ministerial Council (NSMC) agreed a further schedule of milestones and anticipated payments from the Irish Government to the Northern Ireland Consolidated Fund.
- 2.4.5 Subject to satisfactory completion of the statutory processes and availability of necessary funding, it was anticipated that construction would commence in 2012 and be completed in 2015.
- 2.4.6 Following a review of spending priorities, the Executive announced a revised budget on 14 February 2012. A £330 million investment in the A5 would allow two sections to progress: the section from New Buildings to the north of Strabane (now known as Phase 1a) and the section from south of Omagh to Ballygawley (now known as Phase 1b). This was reflected in the updated Investment Strategy for Northern Ireland 2011 – 2021.
- 2.4.7 Paragraphs 2.1.11 to 2.1.15 above set out the scheme history between 2012 and 2016 in the context of the relevant policy documents.
- 2.4.8 In its budget 2016-2017 the Northern Ireland Executive identified a number of flagship projects, including the A5WTC, and agreed an indicative funding package of £229 million for the scheme up to financial year 2020/21.

## **2.5 Project Governance/Delivery**

- 2.5.1 The NSMC agreed an A5WTC project management structure as follows:
- Cross Border Steering Group (DfI Roads/Transport Infrastructure Ireland – TII)
  - A5 Technical Group (DfI Roads/TII)
  - A5 Project Team (DfI Roads/Project Consultants)
- 2.5.2 The Cross Border Steering Group reported to the North South Ministerial Council Transport Sector and Plenary meetings where it was agreed that, for ease of administration, the Irish Government contribution to the A5 and A8 projects would be assigned to the A5 project with interim payments aligned with agreed milestones.

- 2.5.3 The Department continues to work closely with the Department for Transport, Tourism and Sport in the Republic of Ireland, with meetings held at regular intervals to discuss issues of common interest, including the A5 dual carriageway scheme.
- 2.5.4 In November 2007, DfI Roads appointed consultants, Mouchel (now WSP), from its framework contract to take forward the A5WTC dualling project. WSP were supported by cost consultants, ChandlerKBS, as well as procurement experts, Rowsell Wright.
- 2.5.5 The selected procurement process was to adopt an ‘Early Contractor Involvement’ (ECI) approach with contractors appointed earlier in the process than typically would be the case. This brought the contractor procurement phase of the project ahead of the statutory procedures process thus removing about 9 months from the overall project delivery timeframe. It also allowed the contractors to provide valuable input to the design and to provide advice and costs on construction-related issues.
- 2.5.6 To assist delivery the project was split into three sections earlier in the design stage and it was decided to maintain this model for the contractor’s design/advice (Phase 1) and construction (Phase 2) stages. This led to the appointment, in November 2009, of three contracting consortia to the project.
- 2.5.7 The section boundaries and appointed consortia are as follows;
- Section 1: New Buildings – Sion Mills (Balfour Beatty/BAM/FP McCann)
  - Section 2: Sion Mills – South of Omagh (Roadbridge/Sisk/PT McWilliams)
  - Section 3: South of Omagh - Aughnacloy (Graham/Farrans)
- 2.5.8 In February 2010 and June 2012 the A5 project successfully passed through Office of Government Commerce Stage 3 reviews.

## 2.6 Statutory Procedures

- 2.6.1 The project has been developed within the statutory framework of The Roads (Northern Ireland) Order 1993 (hereinafter referred to as ‘the 1993 Order’). Part V<sup>3</sup> of the 1993 Order details the environmental considerations when considering a project for constructing or improving a road.

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<sup>3</sup> Part V was amended by the Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 1999, (S.R. 1999 No. 89) and amended by The Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 2007 (S.R. 2007 No. 346). It was further amended on 16 May 2017 by the Roads (Environmental Impact Assessment) Regulations (NI) 2017 which transposed Directive 2011/92/EU as amended by Directive 2014/52/EU. However, the transitional provisions state that where, in relation to a proposed project, the Department has prepared an environmental statement in

2.6.2 Under Part V of the 1993 Order, it is the duty of the Department to:

- identify significant environmental impacts as far as is reasonably practicable
- prepare and publish an Environmental Statement that sets out the Department's proposals for-
  - avoiding the impacts if possible; or
  - mitigating or remedying them.

2.6.3 There is no obligation on the Department to deal comprehensively with every environmental effect which is identified but, where there is interference with property rights, that interference should be minimised where possible, weighing the public interest against the interests of those affected by the proposal.

2.6.4 Summary of Environmental Statement and Orders history

**Table 2.6.1-1** details the publication dates and extent of the Environmental Statements and various draft Orders.

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accordance with Article 67(4) and (5) of that Order before 16th May 2017, Articles 67,67A and 67B continue to have effect in relation to that project as they did before that date.

Table 2.6.1-1

Date	Environmental Statement	Direction Order	Vesting Order	Private Accesses (Stopping Up)
November 2010	Whole Scheme: New Buildings to Aughnacloy	<i>Notice of Intention</i> for Whole Scheme: New Buildings to Aughnacloy	<i>Notice of Intention for Whole Scheme:</i> New Buildings to Aughnacloy	<i>Notice of Intention for Whole Scheme:</i> New Buildings to Aughnacloy (5 accesses)
April 2012			<i>Supplementary Notice of Intention:</i> (following Public Inquiry) <ul style="list-style-type: none"> <li>• New Buildings to north of Strabane</li> <li>• South of Omagh to Ballygawley</li> </ul>	<i>Notice of Intention:</i> New Buildings to Aughnacloy 2 accesses (as a result of the supplementary NIMVO removing 3 accesses)
July 2012	Notice of Intention to Proceed	<i>Notice of Making:</i> New Buildings to Ballygawley	<i>Notice of Making:</i> <ul style="list-style-type: none"> <li>• New Buildings to north of Strabane, and</li> <li>• South of Omagh to Ballygawley</li> </ul>	<i>Notice of Making:</i> 2 accesses (as a result of the supplementary NIMVO)
February 2016	Whole Scheme: New Buildings to Aughnacloy	<i>Notice of Intention:</i> New Buildings to Ballygawley	3 <i>No. Notices of Intention:</i> <ul style="list-style-type: none"> <li>• New Buildings to north of Strabane (Phase 1a)</li> <li>• South of Omagh to Ballygawley (Phase 1b)</li> <li>• North of Strabane to south of Omagh (Phase 2)</li> </ul>	<i>Notice of Intention:</i> <ul style="list-style-type: none"> <li>• Ph1b. South of Omagh to Ballygawley 3 accesses</li> <li>• Ph2. North of Strabane to south of Omagh 1 access</li> </ul>
November 2017	Notice of Intention to Proceed	<i>Notice of Making:</i> New Buildings to Ballygawley	<i>Notice of Making:</i> <ul style="list-style-type: none"> <li>• New Buildings to north of Strabane (Phase 1a)</li> </ul>	<i>No affected accesses in Phase 1a</i>

***Environmental Statement (November 2010)***

2.6.5 Part V of the Roads (Northern Ireland) Order 1993 ('the 1993 Order') sets out the statutory requirements for assessment of environmental impacts of road schemes and requires the Department to determine using the Annexes to EC Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, as amended by EC Council Directive 97/11/EC and Directive 2003/35/EC of the European Parliament and Council, whether or not a relevant project should be made subject to an Environmental

Impact Assessment, and to publish this determination. The Department determined that the Project fell within Annex I of the Directive and that an Environmental Statement should be prepared.

- 2.6.6 The Environmental Impact Assessment was carried out, and an Environmental Statement (ES) prepared, in accordance with Part V of the 1993 Order. Notice of the ES was published during week commencing 15 November 2010 with the statutory consultation period extending to 21 January 2011. Subsequent addenda to the ES were issued during the consultation period but, because the changes were very minor in nature, it was considered that there was no need to extend the consultation period.
- 2.6.7 A further addendum was published on 22 March 2011 to highlight changes to the noise and air quality sections of the ES as a result of updating the traffic model. While this identified a number of local changes to conditions, in overall regional terms the changes were not significant.
- 2.6.8 The ES presented the findings of an environmental assessment of the scheme and described the measures proposed to mitigate impact on the natural and built environment.

***Notice of Intention to Make a Direction Order (November 2010)***

- 2.6.9 As the A5 is a trunk route, a Direction Order is required in accordance with Article 14 of the 1993 Order for new sections of the route. For this purpose, a draft Order was prepared and published (hereinafter described as the "Direction Order") and was the subject of consideration at the subsequent Public Inquiry.
- 2.6.10 The Direction Order, which covered the whole scheme from New Buildings to Aughnacloy, set out in detail the designation of the new route as a Trunk Road, and the stopping-up of roads. In accordance with Schedule 8 to the 1993 Order, signs were posted on the roads named in the Notice where stopping-up is proposed, to inform local residents.

***Notice of Intention to Make a Vesting Order (November 2010)***

- 2.6.11 The Notice of Intention to Make a Vesting Order (hereinafter described as the "Vesting Order") is a requirement in accordance with Article 113 of the 1993 Order and included provision for acquisition of those lands and interests considered by the Department to be necessary for construction of the full scheme to:
- construct the new route and alterations to side roads;
  - allow for alterations to water courses;
  - allow for flood compensation measures
  - accommodate drainage requirements;
  - allow for the deposition of matter obtained in the course of constructing the new road;

- allow for space to construct associated bridges and culverts; and
- provide access to severed land and property.

***Notice of Intention to Make a Private Accesses (Stopping-Up) Order (November 2010)***

2.6.12 Where it is considered necessary to stop-up private accesses, a Stopping-up Order is required under Article 69 of the 1993 Order. In relation to the A5WTC the December 2010 draft stopping-up Order set out in detail the stopping-up to road traffic of five private accesses where it was considered necessary, for safety reasons, to relocate these particular accesses. As the subject five private accesses were not within the stretches of the A5WTC project being progressed at that time, this Stopping-Up Order was not implemented. However, as a result of the April 2012 supplementary Vesting Order, two additional private accesses required stopping-up and a Notice of Intention to make a Stopping-Up Order of private accesses was published in April 2012.

***Notice of Intention to Make a Supplementary Vesting Order (April 2012)***

2.6.13 The Notice of Intention to Make a Supplementary Vesting Order (hereinafter described as the “Supplementary Vesting Order”) included provision for acquisition of those lands and interests considered by the Department to be necessary to implement some of the recommendations made by the Inspectors at the Public Inquiry. This land was necessary to facilitate alterations to side roads and better access to severed land and property.

***Decision to Proceed with the Environmental Statement and Making Orders 2012***

2.6.14 On 31 July 2012 the Minister for the Department for Regional Development announced his decision to proceed with the Environmental Statement and Make the Direction, Stopping-up and Vesting Orders for the A5WTC as follows:

2.6.15 **Notice of Making the Direction Order** covered from New Buildings to Ballygawley. This reflected the Department’s acceptance of the Inspector’s recommendation to postpone the Ballygawley to Aughnacloy section of the Scheme until the details of the link with the N2 at the border with the Republic of Ireland had been clearly identified.

The Operative date of this Direction Order was 9 October 2012.

2.6.16 Notice of Making the Vesting Order covered from

- New Buildings to north of Strabane (now referred to as Phase 1a)
- South of Omagh to Ballygawley (now referred to as Phase 1b)

The Operative date of this Vesting Order was 11 September 2012.

2.6.17 **Notice of Making a Private Accesses (Stopping-Up) Order.** As the subject five private accesses from the November 2010 Notice of Intention were not



within the stretches of the A5WTC project being progressed at that time, this Stopping-Up Order was not implemented. However, as a result of the May 2012 supplementary Vesting Order, two additional private accesses required stopping-up and a Notice of Intention to make a Stopping-Up Order of private accesses was published in May 2012.

### ***Legal Challenge to 2012 Orders***

- 2.6.18 On 10th September 2012 the Alternative A5 Alliance (AA5A) launched a legal challenge to the scheme, one day before the Vesting Order became operative.
- 2.6.19 Legal proceedings ensued culminating on 12 March 2013 with Judge Stephens advising that he was minded to quash the decision of the Minister on the basis that an appropriate assessment under the Habitats Directive ought to have, but was not carried out on the River Foyle and River Finn Special Areas of Conservation. At a further hearing on 15 April 2013 the Minister's decision to make the Direction Order and Vesting Order was quashed.

### ***Development of new Environmental Statement and draft Orders (2013 to 2017)***

- 2.6.20 Given the lapse in time that would derive from compliance with the appropriate assessment process, the Department considered it prudent to update the Environmental Statement for the scheme (including the updating of key species ecological baseline data), develop a revised approach to phased delivery of the scheme and carry out an assessment of all other issues that had the potential for change such as air quality, traffic and noise.
- 2.6.21 It was also necessary to review the scheme to reflect any changes arising out of the original Public Inquiry process and take account of any interim changes in legislation and design standards.
- 2.6.22 A new Notice of Intention to Make a Direction Order, Notices of Intention to Make Vesting Orders and Stopping-up of Private Accesses Orders were also prepared to reflect any changes arising out of the 2011 Public Inquiry process and to take account of any interim changes in legislation and design standards. The original line of the proposed new dual carriageway was however unaffected.
- 2.6.23 Three new Notices of Intention to Make Vesting Orders were developed as follows:
- Phase 1a - from New Buildings to north of Strabane;
  - Phase 1b - from south of Omagh to Ballygawley; and
  - Phase 2 - from north of Strabane to south of Omagh.
- 2.6.24 The Notice of Intention to Make a Direction Order covered the length between New Buildings and Ballygawley. In line with the recommendations within the Inspectors Report from the 2011 Public Inquiry the Department postponed further development of the Ballygawley to Aughnacloy section of the Scheme

until the details of the link with the N2 at the border with the Republic of Ireland have been clearly identified. This section was however included within the new Environmental Statement as it must take account of the full extents of the overall scheme.

## **2.7 Consultation Period and Public Inquiry**

### ***2008 to 2013***

- 2.7.1 In 2008 a study area for the A5WTC was defined and this was the subject of a public consultation exercise mid-year. Later in 2008 the study area was refined to a Preferred Corridor. In early 2009 a further public consultation exercise was held in relation to the Preferred Corridor and a number of route options that had been developed within it. In mid-2009 the Preferred Route for the scheme was announced and this was followed by a public exhibition of the Preferred Route.
- 2.7.2 All of the above were held at 4 locations along the route – Ballygawley, Omagh, Strabane and Londonderry and had a total of 5484 attendees.
- 2.7.3 Following receipt of additional information in relation to the Preferred Route, in particular in terms of ground investigation studies, flood modelling, cost information, and feedback from landowners, a number of alternatives to the Preferred Route were considered. Alternatives were considered at 31 locations in total and, after further analysis and consideration against the standard assessment criteria, it was decided to adopt 11 of these alternatives. These were published mid 2010 in an ‘Alternatives Discussion Paper’.
- 2.7.4 The combination of the Preferred Route and the adopted alternatives became the ‘Proposed Scheme’ which was then the subject of the draft statutory Orders (Vesting Order, Direction Order and Stopping-Up of Private Accesses Order) and Environmental Statement published in November 2010.
- 2.7.5 A wide range of statutory authorities and organisations were also consulted as part of the studies and assessments undertaken during the preparation of the Orders and Environmental Statement. Face to face meetings were held with key stakeholders including Northern Ireland Environment Agency, the Loughs Agency, the Rivers Agency, the National Parks and Wildlife Service, the Royal Society for the Protection of Birds, the Department of Agriculture and Rural Development, the Department of the Environment, the Planning Service and Local Authorities. A full schedule of authorities, agencies and bodies consulted was provided in Appendix 3A of the Environmental Statement 2010.
- 2.7.6 Following completion of the Public Inquiry, the Department continued to liaise with affected landowners by holding meetings to confirm accommodation works for each landowner.

### ***2013 to 2015***

- 2.7.7 Following the quashing of the Orders in April 2013, the Department reviewed the Environmental Statement and all the Orders. In addition to public

consultation on draft Reports of Information to Inform an Appropriate Assessment carried out during April and November 2014 (see Section 5) correspondence and a series of meetings with all affected landowners took place during late 2013 and 2014 as follows:

- August 2013 - Letter to indicate that a review of the Agricultural Impact Assessments (AIAs) would be carried out and a request to provide updated information for these;
- November 2013 – Further Letter to request any updated information for the AIAs;
- April 2014 – Scheme update letter issued covering: Programme and legal challenge update, Landtake, AIAs (where applicable), the way forward and proposed meetings;
- May to July 2014 – Landowner Confirmation Meetings undertaken;
- July 2014 – Scheme update letters covering:
  - Issues discussed at the Landownership Confirmation Meetings and where applicable, the alternative issue of information packs;
  - forthcoming Engineering Meetings to discuss land-take, confirmation of access arrangements and accommodation works;
  - confirmation of agreements reached at the 2011 Public Inquiry, or the Inspector’s recommendations as they related to individual Landowners; and
  - clarification of scheme phases and AIAs (where applicable).
- September to November 2014 – Where applicable, an AIA update meeting was held with affected landowners. Engineering meetings were also held with landowners on request.

### ***February 2016***

2.7.8 In accordance with Schedules 5 and 8 to the Roads (Northern Ireland) Order 1993 and the Local Government Act (Northern Ireland) 1972 the Department placed the Notices relating to the Environmental Statement, Intention to Make a Direction Order, Intention to Make Vesting Orders and Stopping-Up of Private Accesses Order in the following newspapers during weeks commencing 15 February 2016 and 22 February 2016.

- Belfast Gazette (w/c 15 February 2016 only)
- Belfast Telegraph
- Irish News
- News Letter

- Derry Journal
- Londonderry Sentinel
- Strabane Weekly News
- Strabane Chronicle
- Tyrone Courier
- Ulster Herald
- Tyrone Times
- Tyrone Constitution
- Dungannon Observer

Notices relating to the Environmental Statement were also published in the following Republic of Ireland newspapers during week commencing 15 February 2016:

- Northern Standard
- Donegal News
- Donegal Democrat

2.7.9 Copies of the Environmental Statement, draft Direction Order, draft Vesting Orders and draft Stopping-Up of Private Accesses Order were also made available for inspection at the following offices of the Department:

- Western Division, County Hall, Drumragh Avenue, Omagh;
- Fermanagh & Omagh (East) Section Office, 32 Deverney Road, Arvalee, Omagh;
- Mid Ulster (South) Section Office, Moygashel Depot, Main Street, Moygashel;
- Londonderry & Strabane Section Office, 20 Derry Road, Strabane;
- Londonderry & Strabane Section Office, 1 Crescent Road, Londonderry;
- Headquarters, Room 2-01, Clarence Court, 10-18 Adelaide Street, Belfast;

and at the offices of:

- Mid Ulster District Council, Circular Road, Dungannon.
- Derry City & Strabane District Council, 47 Derry Road, Strabane.
- Derry City & Strabane District Council, 98 Strand Road, Londonderry.
- Fermanagh & Omagh District Council, The Grange, Mountjoy Road, Omagh

In addition the Environmental Statement was also displayed and available for inspection at the offices of:

- Monaghan County Council, Roads Office, MTEK II Office, Armagh Road, Monaghan; and
- Donegal County Council, Public Services, Centre, Drumlonagher, Donegal Town

2.7.10 These documents, which were also available to view on the project website, [www.a5wtc.com](http://www.a5wtc.com), were circulated to statutory consultees seeking their comments on the proposals.

2.7.11 The publication of the draft Orders and Environmental Statement commenced the formal consultation period for the scheme which concluded on 4 April 2016.

2.7.12 Four public exhibitions were held between 1 March 2016 and Friday 4 March 2016 at the Everglades Hotel in Londonderry (1 March); the Silverbirch Hotel, Omagh (Wednesday 2 March); the Fir Trees Hotel, Strabane (Thursday 3 March); and Smyth Memorial Hall, Ballygawley on Friday 4 March 2016. There were a total of 1054 registered attendees at these exhibitions.

2.7.13 During this consultation period the Department became aware that the text of the Non-Technical Summary (which forms part of the Environmental Statement) did not fully reflect the content of the main body of the Environmental Statement. To ensure anyone who may only have read the shorter Non-Technical Summary had been appropriately informed, it was decided to re-consult on the Environmental Statement which included a revised Non-Technical Summary.

2.7.14 Publication of the Environmental Statement including the revised Non-Technical Summary took place week commencing 18 April 2016, followed by a further consultation period extending to 2 June 2016.

2.7.15 A Notice was placed during weeks commencing 18 and 25 April 2016, in the following papers:

- Belfast Gazette (w/c 18 April 2016 only)
- Belfast Telegraph
- Irish News
- News Letter
- Derry Journal
- Londonderry Sentinel
- Strabane Weekly News
- Strabane Chronicle
- Tyrone Courier

- Ulster Herald
- Tyrone Times
- Tyrone Constitution
- Dungannon Observer

In addition notices were published in the Republic of Ireland during week commencing 18 April 2016 as follows:

- Northern Standard,
- Donegal News
- Donegal Democrat

In addition the Environmental Statement including the revised Non-Technical Summary were also displayed and available for inspection at the offices of:

- Monaghan County Council, Roads Office, MTEK II Office, Armagh Road, Monaghan; and
- Donegal County Council, Public Services, Centre, Drumlonagher, Donegal Town

At the same time, the revised Non-Technical Summary was also uploaded to the A5WTC scheme specific website, [www.a5wtc.com](http://www.a5wtc.com), and the statutory consultees were notified and consulted in relation to the revised document.

### ***Transboundary EIA Consultation***

2.7.16 Donegal and Monaghan County Councils in the Republic of Ireland carried out an EIA public consultation exercise in respect of the A5WTC. Both Councils placed notices in the local press during May and June of 2016. They also carried out statutory consultations with a number of public bodies within their jurisdiction. Both Councils responded to the Department during August and September 2016 indicating that they had no relevant comments to make on the proposed scheme.

### ***February 2016 draft Orders - Comments and Objections***

2.7.17 997 written representations were received in relation to the formal consultation period associated with the publication of the draft Orders and Environmental Statement. The figure of 997 contained 38 letters of support. Due to the nature of many of the representations it was not possible to clearly define whether the 997 related specifically to the draft Vesting Orders, draft Direction Order, draft Private Accesses (Stopping Up) Order or Environmental Statement. Representations were received from a variety of interested individuals, families and bodies including affected landowners and Table 2.7.20-1 provides details of the latter.

2.7.18 Upon receiving an acknowledgement letter from the Department, 5 no objections were withdrawn by telephone call to the project team between 14th and 18th April 2016 resulting in a total of 992 representations for further consideration

2.7.19 There was considerable duplication in the representations received in that a number of people made more than one submission (which included submitting letters and signing petitions).

2.7.20 Out of the total of 992 representations there were 766 representations that utilised a variety of standard letter templates. 28 different types of standard representation were identified and the numbers received of each type varied from 2 to 121. There was also one representation regarding Greenlaw Road which contained 400 signatures and there were 226 non-standard representations received.

**Table 2.7.20 - 1** shows the number of affected landowners in each of the 3 Sections who made a representation.

<b>Section</b>	<b>Total number of landowners in Section</b>	<b>Number of landowners making representations</b>	<b>% of all landowners</b>
Section 1	95	56	59%
Section 2	131	50	38%
Section 3	193	39	20%
<b>TOTAL</b>	<b>419</b>	<b>145</b>	<b>35%</b>

**Table 2.7.20 – 1**

2.7.21 Each representation received generally raised more than one point of concern or objection, all of which were categorised as either strategic or local. This analysis identified that there were 901 representations that raised issues of a strategic nature.

2.7.22 Comments were also received from 8 statutory consultees to the 15<sup>th</sup> February 2016 consultation and 18 from the 18<sup>th</sup> April 2016 consultation. These submissions were typically neutral but highlighted issues to be considered during delivery of the scheme.

2.7.23 Owing to the number and nature of the objections received, the Department considered that a Public Inquiry should be held and this was announced by the Minister on 14 April 2016. At the same time the Department appointed the Planning Appeals Commission (PAC) to hold the Public Inquiry including the associated administrative processes. The PAC subsequently published guidelines on it's website on the process to be followed by all interested parties. These set out the time periods and requirements for submissions by interested

parties as well as the procedures to be followed at the Public Inquiry. Proceedings were further explained in detail at a Pre-Inquiry meeting, chaired by the PAC, on 29 June 2016 in the Strule Arts Centre, Omagh.

2.7.24 The Department provided an initial written response to the PAC on the 992 representations made. The PAC forwarded these on to and subsequently received a further 76 second submissions. Of these, 62 were scheduled to attend the Public Inquiry.

2.7.25 The PAC opened the Public Inquiry on 4 October 2016 and sat for a total of 17 days in the period up to and including 14<sup>th</sup> December 2016. For ease of administration the site specific sessions were planned around the 3 sections of the Proposed Scheme rather than its proposed phasing. Consequently, the Inquiry comprised 5 main elements. **Table 2.7.25-1** details the dates and locations.

<b>Topic</b>	<b>Start Date</b>	<b>Finish Date</b>	<b>Location</b>
<b>General Issues</b>	04.10. 2016 10.10. 2016	07.10. 2016 12.10. 2016	Strule Arts Centre, Omagh
<b>Section 1</b> New Buildings to Sion Mills	18.10. 2016	19.10. 2016	Everglades Hotel, Londonderry
<b>Section 2</b> Sion Mills to South of Omagh	25.10. 2016	26.10. 2016	Fir Trees Hotel, Strabane
<b>Section 3</b> South of Omagh to Aughnacloy	08.11. 2016	11.11. 2016	Strule Arts Centre, Omagh
<b>Strategic Issues</b> <ul style="list-style-type: none"> <li>• Need</li> <li>• Justification</li> <li>• Alternatives to a dual carriageway</li> <li>• Economic impacts/</li> </ul>	12.12. 2016	14.12. 2016	Corick House Hotel, Clogher

**Table 2.7.25-1**

The PAC submitted its Report from the Public Inquiry to the Department on 25<sup>th</sup> May 2017.



## 2.8 Human Rights Impact Assessment (HRIA)

2.8.1 Article 8 of the European Convention on Human Rights protects the right to enjoyment of private and family life and Article 1 of the First Protocol protects the right to enjoyment of one's property. The Department recognises that the A5WTC dualling project has the potential to conflict with these rights. However, the Human Rights Act acknowledges that in the interest of greater public need, in some instances, certain rights of individuals can be set aside.

2.8.2 The Department completed a Human Rights Impact Assessment on the scheme in July 2016. Human rights were subsequently raised at the Public Inquiry on a number of occasions. Below are the extracted paragraphs from the PAC Report addressing the issue, with its conclusion in paragraph 3.1.6.

*3.1.1 Many objectors contended that there was no compelling case in the public interest to allow the Scheme, and that there was insufficient justification for the interference with the human rights of those with an interest in affected land. The AA5A judged that the Department's Human Rights Impact Assessment (HRIA) was inadequate in showing both that the Proposed Scheme was necessary and proportionate, and that no more land would be vested than was required to achieve the objectives of the project. It was also contended that no consideration had been given to some impacts such as the effect of severance on individuals' home and family life.*

*3.1.2 Section 6 of the Human Rights Act 1998 (HRA) makes it unlawful for a public authority to act in a way which is incompatible with a convention right. Of relevance in the context of this inquiry are Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol to the Convention (Entitlement to peaceful enjoyment of possessions). These are qualified rights and in essence it is necessary to consider whether the Proposed Scheme is proportionate, that is, does it strike a fair balance between public and private interests. In considering this a measure can be proportionate even if it is not the least intrusive means possible of achieving the measure's aims.*

*3.1.3 The Department's HRIA essentially sought to identify what, if any, human rights are impacted upon by the proposal. While perhaps the assessment could have been fuller on matters such as severance, it has correctly identified the above mentioned convention rights. The Minister, in considering the issue will have both the HRIA before him and our consideration which continues below.*

*3.1.4 We point to the policy context setting out the benefits of upgrading the A5 Corridor, including the inter-governmental impetus behind a dual carriageway solution to that upgrade. The Scheme's benefits are a sound fit with the aforementioned context and the stated objectives for the Scheme. The benefits are of major public significance. While alternatives might, for example, have a lesser land take than the*

*Proposed Scheme, we are not persuaded that they are reasonably capable of achieving the same scale of benefits.*

- 3.1.5 *Weighing the above against the negative impacts of the Scheme, and bearing in mind foregoing recommendations, we concluded that there are no issues which would weigh decisively against the various Orders being made. Accordingly, there is a compelling argument for the Scheme to be delivered in the wider public interest. Also, Phases 1 and 2 appear deliverable within a reasonable timescale. On the basis of the information before us, and subject to foregoing recommendations, the land proposed to be acquired for these Phases is judged to be reasonably necessary for the construction, mitigation and maintenance of the Scheme.*
- 3.1.6 *Against this the considerable impacts of the Scheme upon individuals' family and private life, and the peaceful enjoyment of their possessions is acknowledged. The issue of severance is but one that would feed into the impacts upon individual's rights. The stress and anxiety caused to individuals, with the associated potential for impacts upon health is also recognised – indeed some participants in the inquiry contended that their health had already been affected by the Scheme. We have considered these matters and the whole range of issues and concerns placed before us in evidence. However, in balancing the individual rights and the wider public interest it is concluded that the making of the Orders linked to the Proposed Scheme are a proportionate interference with the human rights of those with interests in the affected lands.*

The Department concurs with the conclusions of the PAC on this matter.

### **3 RECOMMENDATIONS OF THE PAC REPORT (WITH DEPARTMENTAL COMMENTS)**

The text quoted in the following recommendations of the PAC is extracted directly from the PAC Public Inquiry Report for the A5 Western Transport Corridor Road Scheme, New Buildings to Aughnacloy (Commission document Reference: 2015/D003-D006). In each case the recommendation is followed by the response of the Department.

#### **3.1 General and Strategic Issues**

##### **3.1.1 Scheme Phasing**

***Planning Appeals Commission Report, Part 1, Chapter 1.5.***

- That the Phase 3 segment (Ballygawley to the Border at Aughnacloy) should be removed from the Proposed Scheme altogether.

***Department's Response – Not Accepted***

Department's Comment - Both the NI Executive and the Irish government committed to upgrading the A5WTC in full and the Department considers that it continues to be appropriate to implement that commitment, including delivery of Phase 3 of the scheme. However, in keeping with the outcome of the conclusions of the 2011 Public Inquiry, the Department has deferred progression of Phase 3 and consequently it is not included in the current Direction Order or Vesting Order processes.

##### **3.1.2 Cultural Heritage**

***Planning Appeals Commission Report, Part 1, Chapter 1.9.***

- That the Department's commitments to the Department for Communities – Historic Environment Division (HED) in relation to cultural heritage matters be fulfilled.

***Department's Response – Accepted***

- That the balancing ponds be redesigned to avoid impacting upon the Lurgan Boy Wedge Tomb.

***Department's Response – Accepted***

- That the Scheme's fenceline be repositioned to avoid Lisdoart Rath.

***Department's Response – Accepted***

### 3.1.3 Ecology & Nature Conservation

#### ***Planning Appeals Commission Report, Part 1, Chapter 1.11.***

- That the Department fulfil the commitments made to NIEA's Natural Environment Division  
***Department's Response – Accepted***
- That the Department ensure that the correct plans, tables and figures in relation to Whooper Swans are included in, and appropriately considered in any final Appropriate Assessment report.  
***Department's Response – Accepted***
- That prior to construction commencing an Environmental Liaison Group be established to include all relevant environmental stakeholders.  
***Department's Response – Accepted***
- That the detailed design of the Scheme includes Low Flow Culverts at the locations agreed with Inland Fisheries DAERA.  
***Department's Response – Accepted***
- That the Department seek agreement with the landowners to restore the raised bog at chainage 62000-62400.  
***Department's Response – Accepted***
- That as the detailed design of planting schemes progress the Department use native species and seek to improve biodiversity along the route of the Proposed Scheme.  
***Department's Response – Accepted***

### 3.1.4 Geology & Soils

#### ***Planning Appeals Commission Report, Part 1, Chapter 1.12.***

- That all risk assessments follow the Model Procedures for the Management of Land Contamination (CLR11). Where unacceptable risks are identified a remediation strategy shall be developed as required by NIEA Waste Management.  
***Department's Response – Accepted***
- That where it is intended to retain contaminated ground within the Scheme measures for the reuse of potentially contaminating materials should be considered through the remedial strategy.  
***Department's Response – Accepted***
- That the Department liaise with DAERA in relation to the safe disposal and replacing of soils affected with Potato Cyst Nematode, and the prevention of its spread.  
***Department's Response – Accepted***

### 3.1.5 Noise and Vibration

#### ***Planning Appeals Commission Report, Part 1, Chapter 1.13.***

The PAC considers the matter of noise impacts on properties under Section 1.13 of its Report. Under paragraph 1.13.6 it concludes that “*in site specific circumstances where the increased noise impacts are judged to be unduly severe we have recommended noise insulation measures even if anticipated noise levels are below the 68dB level in the 1995 Noise Insulation Regulations. Broadly this has been used in circumstances where existing traffic generated noise levels at a dwelling, or other sensitive building, are anticipated to increase by over 15dB.*”

Under the site specific recommendations within Chapter 3 of its Report the PAC goes on to make recommendations for the introduction of noise insulation measures at 15 properties.

***Department’s Response: The Department accepts the PAC recommendations in relation to these 15 properties.***

***In addition, the Department has extended the offer of noise insulation measures to a total of 64 properties identified as having a modelled increase in noise of greater than 15db(A) and a predicted noise level of greater than 58db(A) at design year. The offer of noise insulation measures will be in line with those offered under the Noise Insulation Regulations (Northern Ireland) 1995.***

***The Proposed Scheme had already included noise mitigation in the form of low-noise surfacing throughout the mainline of the scheme. This has the effect of reducing noise levels by between 2 and 3 dB(A). Further measures include the provision of lengths of environmental barrier at 9 different locations, these providing a minimum reduction of 3dB(A). In addition, and as noted by the PAC, under the Noise Insulation Regulations (Northern Ireland) 1995, the Department has a duty to offer specific noise insulation measures to properties meeting certain criteria laid down in that legislation.***

### 3.1.6 Effects on all Travellers

#### ***Planning Appeals Commission Report, Part 1, Chapter 1.14.***

- That the Department produce a strategic master-plan for cycling and walking along the A5 Corridor.

***Department’s Response – Accepted. The Department has carried out a study and produced a strategic Masterplan for Active & Sustainable Transport Assessment report (A5ASTA) that identifies opportunities for possible Non-Motorised User (NMU) improvements to pedestrian, cycling and transport infrastructure along the existing A5 route from New Buildings to Aughnacloy. It is envisaged that the A5ASTA Masterplan***

*report, which promotes a collaborative working approach amongst stakeholders, will be used as a reference document to aid delivery of various NMU opportunities on the existing A5 during the proposed A5WTC Dual Carriageway phased construction period. The Report can be accessed on the scheme website ([www.a5wtc.com](http://www.a5wtc.com)).*

### **3.1.7 Community & Private Assets (including Agriculture)**

#### ***Planning Appeals Commission Report, Part 1, Chapter 1.15.***

- That Land and Property Services be advised that the use of the Agricultural Impact Assessments prepared for the purposes of an Environmental Impact Assessment have limited value, if any, outwith that purpose.

***Department's Response – Accepted. Land and Property Services has been advised accordingly.***

## 3.2 Site Specific Recommendations

### ***Planning Appeals Commission Report, Part 2, Chapter 2.1.***

#### **Introduction**

- That even where we have made no site specific recommendations the Department continues to have discussions with all affected landowners with a view to resolving outstanding individual problems and that all agreed accommodation and mitigation works be implemented.

***Department's Response – Accepted***

### 3.2.1 Section 1 – New Buildings to Sion Mills

#### **Planning Appeals Commission Report, Part 2, Chapter 2.2**

##### **3.2.1.1 Representation by Michael, Molly, Eve & Alice Patton also, residents of Ash Avenue, Drumenny Road and Dennett View Inquiry Reference A5WTC-2016-0002**

- That in the interests of road safety adequate visibility splays are provided at the existing and proposed 90° bends along Drumenny Road.

***Department's Response – Accepted. The Department has reviewed the alignment of Drumenny Road with a view to improving visibility and will include an improved alignment in the construction contract.***

- That the Department reach agreement with residents regarding appropriate planting along the new stretch of road.

***Department's Response – Accepted, further liaison to take place with affected residents.***

- That the Department reach agreement with residents regarding.....the replacing of any lost turning head at Ash Avenue.

***Department's Response – Accepted, further liaison to take place with affected residents. Turning head can be provided within land take.***

##### **3.2.1.2 Representation by Brighter Ballymagorry Development Group Inquiry Reference A5WTC-2016-0006**

- That the Department provide a pedestrian and cyclist underpass at Greenlaw Road.

***Department's Response - Accepted***

- That the Department.....investigate the provision of associated car parking.

***Department's Response – Accepted, provision for limited car parking now included in scheme within land take.***

**3.2.1.3 Representation by AGL Developments  
Inquiry Reference A5WTC-2016-0007**

- That the Department continue to liaise with the Thompsons in order to resolve the remaining outstanding issues relating to the stability of the quarry and the access to the concrete works.

***Department's Response - Accepted***

**3.2.1.4 Representation by Sean Molloy and Shauna Molloy  
Inquiry Reference A5WTC-2016-0035**

- That in the interests of road safety adequate visibility splays are provided at the existing and proposed 90°bends along Drumenny Road.

***Department's Response – Accepted. The Department has reviewed the alignment of Drumenny Road with a view to improving visibility and will include an improved alignment in the construction contract.***

- That the Department reach agreement with residents regarding appropriate planting along the new stretch of road.

***Department's Response – Accepted, further liaison to take place with affected residents.***

- That the Department reach agreement with residents regarding.....the replacing of any lost turning head at Ash Avenue.

***Department's Response – Accepted, further liaison to take place with affected residents. Turning head can be provided within land take.***

**3.2.1.5 Representation by Gabrielle and John Dooher  
Inquiry Reference A5WTC-2016-0038**

- That the Department provide a pedestrian and cyclist underpass at Greenlaw Road.

***Department's Response - Accepted***

- That the Department.....investigate the provision of associated car parking.

***Department's Response – Accepted provision for limited car parking now included in scheme within land take.***

**3.2.1.6 Representation by Northstone  
Inquiry Reference A5WTC-2016-0041**

- That the Department continue to liaise with the Thompsons in order to resolve the remaining outstanding issues relating to the stability of the quarry and the access to the concrete works.

***Department's Response – Accepted***



**3.2.1.7 Representation by Mr Geoffrey Rankin  
Inquiry Reference A5WTC-2016-0044**

- That the Department consider the provision of passing bays along the Tamnabraday Road.

***Department's Response – Accepted, 2 passing bays included, 1 within land take and 1 on land within the highway boundary.***

**3.2.1.8 Representation by Barbara Lowry  
Inquiry Reference A5WTC-2016-0048**

- That the Department facilitate the Lowrys' use of the SuDS pond access.

***Department's Response – Accepted***

**3.2.1.9 Representation by Edna Friel  
Inquiry Reference A5WTC-2016-0055**

- That the Department provide a pedestrian and cyclist underpass at Greenlaw Road.

***Department's Response - Accepted***

- That the Department.....investigate the provision of associated car parking.

***Department's Response – Accepted, provision for limited car parking included in scheme within land take.***

**3.2.1.10 Representation by Joe Melarkey  
Inquiry Reference A5WTC-2016-0107 and 0805**

- That the Department provide a pedestrian and cyclist underpass at Greenlaw Road.

***Department's Response - Accepted***

- That the Department.....investigate the provision of associated car parking.

***Department's Response – Accepted, provision for limited car parking included in scheme within land take.***

**3.2.1.11 Representation by Carol Early  
Inquiry Reference A5WTC-2016-0108**

- That the Department provide a pedestrian and cyclist underpass at Greenlaw Road.

***Department's Response - Accepted***

- That the Department.....investigate the provision of associated car parking.

***Department's Response – Accepted, provision for limited car parking included in scheme within land take.***

### **3.2.1.12 Representation by A. Gallagher**

#### **Inquiry Reference A5WTC-2016-0112**

- That the Department provide a pedestrian and cyclist underpass at Greenlaw Road.

***Department's Response - Accepted***

- That the Department.....investigate the provision of associated car parking.

***Department's Response – Accepted, provision for limited car parking included in scheme within land take.***

### **3.2.1.13 Representation by Linda Allen**

#### **Inquiry Reference A5WTC–2016-0564**

- That the Department consider the appropriateness of providing signage indicating the whereabouts of the Allen's business at Junction 2 of the Scheme.

***Department's Response – Accepted: this will be considered against the Department's traffic signs policy at construction stage.***

### **3.2.1.14 Representation by Audrey Robinson**

**also residents of 285 and 285a and Victoria Road, Bready**

#### **Inquiry Reference A5WTC-2016-0625**

- That the Department implement enhanced screen planting on the western embankment adjacent to these properties.

***Department's Response – Accepted***

### **3.2.1.15 Representation by Sylvia, Karl & Ashley Rankin**

#### **Inquiry Reference A5WTC-2016-0634**

- That the Department implement enhanced screen planting on the western embankment adjacent to these properties.

***Department's Response – Accepted***

### **3.2.1.16 Representation by Jennifer Bruce**

#### **Inquiry Reference A5WTC-2016-0636**

- That the Department carry out clearance works within the wooded area to the south west of the Bruces' property.

***Department's Response – Accepted. The Department will clear out any vegetation within the existing watercourse to maintain free flow conditions.***

### **3.2.1.17 Representation by Stephen & Janita Murray**

#### **Inquiry Reference A5WTC-2016-0661**

- That the Department implement enhanced screen planting on the western embankment adjacent to these properties.

***Department's Response – Accepted***

### **3.2.1.18 Representation by Cathal Blee**

#### **Inquiry Reference A5WTC-2016-0664**

- That the Department maintain the existing trees located along this stretch of the River Finn.

***Department's Response – Accepted***

### **3.2.1.19 Representation by Kathleen Blee**

#### **Inquiry Reference A5WTC-2016-0665**

- That the Department maintain the existing trees located along this stretch of the River Finn.

***Department's Response – Accepted***

### **3.2.1.20 Representation by David Lowry**

#### **Inquiry Reference A5WTC-2016-0667**

- That the Department facilitate the Lowrys' use of the SuDS pond access.

***Department's Response – Accepted***

### **3.2.1.21 Representation by Robin & Jean Bruce**

#### **Inquiry Reference A5WTC-2016-0685**

- That the Department carry out clearance works within the wooded area to the south west of the Bruces' property.

***Department's Response – Accepted. The Department will clear out any vegetation within the existing watercourse to maintain free flow conditions.***

### **3.2.1.22 Representation by Paul Foley**

#### **Inquiry Reference A5WTC-2016-0764**

- That in the interests of road safety adequate visibility splays are provided at the existing and proposed 90°bends along Drumenny Road.

***Department's Response – Accepted. The Department has reviewed the alignment of Drumenny Road with a view to improving visibility and will include an improved alignment in the construction contract.***

- That the Department reach agreement with residents regarding appropriate planting along the new stretch of road.

***Department's Response – Accepted, further liaison to take place with affected residents.***

- That the Department reach agreement with residents regarding.....the replacing of any lost turning head at Ash Avenue.

***Department's Response – Accepted, further liaison to take place with affected residents. Turning head can be provided within land take.***

**3.2.1.23 Representation by Louise McGettigan  
Inquiry Reference A5WTC-2016-0765**

- That in the interests of road safety adequate visibility splays are provided at the existing and proposed 90°bends along Drumenny Road.  
***Department's Response – Accepted. The Department has reviewed the alignment of Drumenny Road with a view to improving visibility and will include an improved alignment in the construction contract.***
- That the Department reach agreement with residents regarding appropriate planting along the new stretch of road.  
***Department's Response – Accepted, further liaison to take place with affected residents.***
- That the Department reach agreement with residents regarding.....the replacing of any lost turning head at Ash Avenue.  
***Department's Response – Accepted, further liaison to take place with affected residents. Turning head can be provided within land take.***

**3.2.1.24 Representation by G McGettigan  
Inquiry Reference A5WTC-2016-0767**

- That in the interests of road safety adequate visibility splays are provided at the existing and proposed 90°bends along Drumenny Road.  
***Department's Response – Accepted. The Department has reviewed the alignment of Drumenny Road with a view to improving visibility and will include an improved alignment in the construction contract.***
- That the Department reach agreement with residents regarding appropriate planting along the new stretch of road.  
***Department's Response – Accepted, further liaison to take place with affected residents.***
- That the Department reach agreement with residents regarding.....the replacing of any lost turning head at Ash Avenue.  
***Department's Response – Accepted, further liaison to take place with affected residents. Turning head can be provided within land take.***

**3.2.1.25 Representation by Rory Brennan  
Inquiry Reference A5WTC-2016-0768**

- That in the interests of road safety adequate visibility splays are provided at the existing and proposed 90°bends along Drumenny Road.  
***Department's Response – Accepted. The Department has reviewed the alignment of Drumenny Road with a view to improving visibility and will include an improved alignment in the construction contract.***
- That the Department reach agreement with residents regarding appropriate planting along the new stretch of road.  
***Department's Response – Accepted, further liaison to take place with affected residents.***
- That the Department reach agreement with residents regarding.....the replacing of any lost turning head at Ash Avenue.  
***Department's Response – Accepted, further liaison to take place with affected residents. Turning head can be provided within land take.***

**3.2.1.26 Representation by Patricia Porter  
Inquiry Reference A5WTC-2016-0769**

- That in the interests of road safety adequate visibility splays are provided at the existing and proposed 90°bends along Drumenny Road.  
***Department's Response – Accepted. The Department has reviewed the alignment of Drumenny Road with a view to improving visibility and will include an improved alignment in the construction contract.***
- That the Department reach agreement with residents regarding appropriate planting along the new stretch of road.  
***Department's Response – Accepted, further liaison to take place with affected residents.***
- That the Department reach agreement with residents regarding.....the replacing of any lost turning head at Ash Avenue.  
***Department's Response – Accepted, further liaison to take place with affected residents. Turning head can be provided within land take.***

**3.2.1.27 Representation by C McCauly  
Inquiry Reference A5WTC-2016-0770**

- That in the interests of road safety adequate visibility splays are provided at the existing and proposed 90°bends along Drumenny Road.  
***Department's Response – Accepted. The Department has reviewed the alignment of Drumenny Road with a view to improving visibility and will include an improved alignment in the construction contract.***
- That the Department reach agreement with residents regarding appropriate planting along the new stretch of road.  
***Department's Response – Accepted, further liaison to take place with affected residents.***
- That the Department reach agreement with residents regarding.....the replacing of any lost turning head at Ash Avenue.  
***Department's Response – Accepted, further liaison to take place with affected residents. Turning head can be provided within land take.***

**3.2.1.28 Representation by Pamela McCauly  
Inquiry Reference A5WTC-2016-0771**

- That in the interests of road safety adequate visibility splays are provided at the existing and proposed 90°bends along Drumenny Road.  
***Department's Response – Accepted. The Department has reviewed the alignment of Drumenny Road with a view to improving visibility and will include an improved alignment in the construction contract.***
- That the Department reach agreement with residents regarding appropriate planting along the new stretch of road.  
***Department's Response – Accepted, further liaison to take place with affected residents.***
- That the Department reach agreement with residents regarding.....the replacing of any lost turning head at Ash Avenue.  
***Department's Response – Accepted, further liaison to take place with affected residents. Turning head can be provided within land take.***

**3.2.1.29 Representation by Mr R. O’Neill  
Inquiry Reference A5WTC-2016-0772**

- That in the interests of road safety adequate visibility splays are provided at the existing and proposed 90°bends along Drumenny Road.  
***Department’s Response – Accepted. The Department has reviewed the alignment of Drumenny Road with a view to improving visibility and will include an improved alignment in the construction contract.***
- That the Department reach agreement with residents regarding appropriate planting along the new stretch of road.  
***Department’s Response – Accepted, further liaison to take place with affected residents.***
- That the Department reach agreement with residents regarding.....the replacing of any lost turning head at Ash Avenue.  
***Department’s Response – Accepted, further liaison to take place with affected residents. Turning head can be provided within land take.***

**3.2.1.30 Representation by Barry Porter  
Inquiry Reference A5WTC-2016-0773**

- That in the interests of road safety adequate visibility splays are provided at the existing and proposed 90°bends along Drumenny Road.  
***Department’s Response – Accepted. The Department has reviewed the alignment of Drumenny Road with a view to improving visibility and will include an improved alignment in the construction contract.***
- That the Department reach agreement with residents regarding appropriate planting along the new stretch of road.  
***Department’s Response – Accepted, further liaison to take place with affected residents.***
- That the Department reach agreement with residents regarding.....the replacing of any lost turning head at Ash Avenue.  
***Department’s Response – Accepted, further liaison to take place with affected residents. Turning head can be provided within land take.***

**3.2.1.31 Representation by J. Douglas  
Inquiry Reference A5WTC-2016-0774**

- That in the interests of road safety adequate visibility splays are provided at the existing and proposed 90°bends along Drumenny Road.  
***Department's Response – Accepted. The Department has reviewed the alignment of Drumenny Road with a view to improving visibility and will include an improved alignment in the construction contract.***
- That the Department reach agreement with residents regarding appropriate planting along the new stretch of road.  
***Department's Response – Accepted, further liaison to take place with affected residents.***
- That the Department reach agreement with residents regarding.....the replacing of any lost turning head at Ash Avenue.  
***Department's Response – Accepted, further liaison to take place with affected residents. Turning head can be provided within land take.***

**3.2.1.32 Representation by Anne O'Neill  
Inquiry Reference A5WTC-2016-0775**

- That in the interests of road safety adequate visibility splays are provided at the existing and proposed 90°bends along Drumenny Road.  
***Department's Response – Accepted. The Department has reviewed the alignment of Drumenny Road with a view to improving visibility and will include an improved alignment in the construction contract.***
- That the Department reach agreement with residents regarding appropriate planting along the new stretch of road.  
***Department's Response – Accepted, further liaison to take place with affected residents.***
- That the Department reach agreement with residents regarding.....the replacing of any lost turning head at Ash Avenue.  
***Department's Response – Accepted, further liaison to take place with affected residents. Turning head can be provided within land take.***



### 3.2.1.33 Representation by Mary Potts

#### Inquiry Reference A5WTC-2016-0776

- That in the interests of road safety adequate visibility splays are provided at the existing and proposed 90°bends along Drumenny Road.

***Department's Response – Accepted. The Department has reviewed the alignment of Drumenny Road with a view to improving visibility and will include an improved alignment in the construction contract.***

- That the Department reach agreement with residents regarding appropriate planting along the new stretch of road.

***Department's Response – Accepted, further liaison to take place with affected residents.***

- That the Department reach agreement with residents regarding.....the replacing of any lost turning head at Ash Avenue.

***Department's Response – Accepted, further liaison to take place with affected residents. Turning head can be provided within land take.***

### 3.2.1.34 Representation by George Potts

#### Inquiry Reference A5WTC-2016-0777

- That in the interests of road safety adequate visibility splays are provided at the existing and proposed 90°bends along Drumenny Road.

***Department's Response – Accepted***

- That the Department reach agreement with residents regarding appropriate planting along the new stretch of road.

***Department's Response – Accepted, further liaison to take place with affected residents.***

- That the Department reach agreement with residents regarding.....the replacing of any lost turning head at Ash Avenue.

***Department's Response – Accepted, further liaison to take place with affected residents. Turning head can be provided within land take.***

### 3.2.1.35 Representation by Stephen Barry Brown

#### Inquiry Reference A5WTC-2016-0778

- That in the interests of road safety adequate visibility splays are provided at the existing and proposed 90°bends along Drumenny Road.

***Department's Response – Accepted. The Department has reviewed the alignment of Drumenny Road with a view to***

***improving visibility and will include an improved alignment in the construction contract.***

- That the Department reach agreement with residents regarding appropriate planting along the new stretch of road.  
***Department's Response – Accepted, further liaison to take place with affected residents.***
- That the Department reach agreement with residents regarding.....the replacing of any lost turning head at Ash Avenue.  
***Department's Response – Accepted, further liaison to take place with affected residents. Turning head can be provided within land take.***

**3.2.1.36 Representation by John Brennan  
Inquiry Reference A5WTC-2016-0779**

- That in the interests of road safety adequate visibility splays are provided at the existing and proposed 90°bends along Drumenny Road.  
***Department's Response – Accepted. The Department has reviewed the alignment of Drumenny Road with a view to improving visibility and will include an improved alignment in the construction contract.***
- That the Department reach agreement with residents regarding appropriate planting along the new stretch of road.  
***Department's Response – Accepted, further liaison to take place with affected residents.***
- That the Department reach agreement with residents regarding.....the replacing of any lost turning head at Ash Avenue.  
***Department's Response – Accepted, further liaison to take place with affected residents. Turning head can be provided within land take.***

**3.2.1.37 Representation by Deborah McCrory  
also other Glenfinn Park residents  
Inquiry Reference A5WTC-2016-0780**

- That the residents of Glenfinn Park adjacent to the road Scheme are given the option to have their properties voluntarily vested by the Department.  
***Department's Response – Accepted in Principle. The Department will devise an appropriate implementation scheme in consultation with Land and Property Services.***

**3.2.1.38 Representation by Wendy Tourish**  
**Inquiry Reference A5WTC-2016-0781**

- That the residents of Glenfinn Park adjacent to the road Scheme are given the option to have their properties voluntarily vested by the Department.

***Department's Response – Accepted in Principle. The Department will devise an appropriate implementation scheme in consultation with Land and Property Services.***

**3.2.1.39 Representation by Ann Marie Neeson**  
**Inquiry Reference A5WTC-2016-0782**

- That No.17 Glenfinn Park is structurally monitored by an independent surveyor before and after the completion of the Scheme and the residents are provided with a copy of the reports once they are completed.

***Department's Response – Accepted.***

**3.2.1.40 Representation by Orla and Eugene Gallen**  
**Inquiry Reference A5WTC-2016-0783**

- That the residents of Glenfinn Park adjacent to the road Scheme are given the option to have their properties voluntarily vested by the Department.

***Department's Response – Accepted in Principle. The Department will devise an appropriate implementation scheme in consultation with Land and Property Services.***

**3.2.1.41 Representation by Mandy and Liam Hume**  
**Inquiry Reference A5WTC-2016-0784**

- That the residents of Glenfinn Park adjacent to the road Scheme are given the option to have their properties voluntarily vested by the Department.

***Department's Response – Accepted in Principle. The Department will devise an appropriate implementation scheme in consultation with Land and Property Services.***

**3.2.1.42 Representation by Linda and Masoud Baghi**  
**Inquiry Reference A5WTC-2016-0785**

- That the residents of Glenfinn Park adjacent to the road Scheme are given the option to have their properties voluntarily vested by the Department.

***Department's Response – Accepted in Principle. The Department will devise an appropriate implementation scheme in consultation with Land and Property Services.***

**3.2.1.43 Representation by Jacqueline and Liam Cleery  
Inquiry Reference A5WTC-2016-0786**

- That the residents of Glenfinn Park adjacent to the road Scheme are given the option to have their properties voluntarily vested by the Department.

***Department's Response – Accepted in Principle. The Department will devise an appropriate implementation scheme in consultation with Land and Property Services.***

**3.2.1.44 Representation by the residents of Greenlaw Road, Ballymagorry  
Inquiry Reference A5WTC-2016-0787**

- That the Department provide a pedestrian and cyclist underpass at Greenlaw Road.

***Department's Response - Accepted***

- That the Department.....investigate the provision of associated car parking.

***Department's Response – Accepted, provision for limited car parking included in scheme within land take.***

**3.2.1.45 Representation by Derek Robinson  
Inquiry Reference A5WTC-2016-0806**

- That the Department provide a pedestrian and cyclist underpass at Greenlaw Road.

***Department's Response - Accepted***

- That the Department.....investigate the provision of associated car parking.

***Department's Response – Accepted, provision for limited car parking included in scheme within land take.***

**3.2.1.46 Representation by Noelle Donnell  
Inquiry Reference A5WTC-2016-0807**

- That the Department provide a pedestrian and cyclist underpass at Greenlaw Road.

***Department's Response - Accepted***

- That the Department.....investigate the provision of associated car parking.

***Department's Response – Accepted, provision for limited car parking included in scheme within land take.***

**3.2.1.47 Representation by Edward Robinson  
Inquiry Reference A5WTC-2016-0814**

- That the Department provide a pedestrian and cyclist underpass at Greenlaw Road.

***Department's Response - Accepted***

- That the Department.....investigate the provision of associated car parking.  
***Department's Response – Accepted, provision for limited car parking included in scheme within land take.***

**3.2.1.48 Representation by Gerard and Tracy McLaughlin  
Inquiry Reference A5WTC-2016-0815**

- That the Department provide a pedestrian and cyclist underpass at Greenlaw Road.  
***Department's Response - Accepted***
- That the Department.....investigate the provision of associated car parking.  
***Department's Response – Accepted, provision for limited car parking included in scheme within land take.***

**3.2.1.49 Representation by Mervyn and Olive Baird  
Inquiry Reference A5WTC-2016-0883**

- That the Department ensure that pre and post condition surveys of the Bairds' property are carried out, and that Mr and Mrs Baird are provided with a copy of the reports once they are completed.  
***Department's Response – Accepted***

## **3.2.2 Section 2 – Sion Mills to South of Omagh** Planning Appeals Commission Report, Part 2, Chapter 2.3.

### **3.2.2.1 Representation by Teresa Donnelly also others concerned with Peacock Road, Sion Mills Inquiry Reference A5WTC-2016-0033**

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

### **3.2.2.2 Representation by Brian Donnelly Inquiry reference A5WTC-2016-0034**

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

### **3.2.2.3 Representation by Patrick McNamee Inquiry Reference A5WTC-2016-0039**

- That the Department liaise with Mr McNamee in relation to the necessity of the access track between Glen Road and Gortgranagh Road, the proposed drainage works, and what happens to his affected lands post construction.

***Department's Response – Accepted, the Department will liaise with Mr McNamee on these issues during the accommodation works meetings which will be held when funding is secured for Phase 2.***

**3.2.2.4 Representation by Gordon and Aubrey Smyth  
Inquiry Reference A5WTC-2016-0040**

- That the Department assess the suitability of providing a segregated underpass, or a double width underpass for its users.  
***Department's Response – Accepted, the Department will liaise with the Smyths on the details of the underpass provision at this location during the accommodation works meetings which will be held when funding is secured for Phase 2.***

**3.2.2.5 Representation by David, William and Arthur Dunbar  
Inquiry Reference A5WTC-2016-0045**

- That the Department investigate the anticipated noise levels at No.34 Castletown Road. Should the predicted noise level change exceed 15dB a suitable domestic noise insulation scheme should be agreed with the Dunbars and be implemented prior to any construction works commencing at this location.  
***Department's Response – Accepted. The Department has investigated the anticipated noise levels at No. 34 Castletown Road and it is noted that the predicted change in noise level, at 14db, does not exceed the 15db threshold set by the PAC. No further action is therefore proposed.***
- That the area to be vested at Plot 22.06 be reduced in order to protect the silage pit ramps.  
***Department's Response – Accepted***

**3.2.2.6 Representation by Christopher and Andrew Adams  
Inquiry Reference A5WTC-2016-0053**

- That the Adams family are provided with one underpass at a location and of dimensions to be agreed amongst the parties.  
***Department's Response – Accepted***

**3.2.2.7 Representation by E Lynch  
Inquiry Reference A5WTC-2016-0066**

- That the Department reassess the closure of Peacock Road, Sion Mills.  
***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

### 3.2.2.8 Representation by A Lynch

#### Inquiry Reference A5WTC-2016-0067

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

### 3.2.2.9 Representation by Sarah Patton

#### Inquiry Reference A5WTC-2016-0068

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

### 3.2.2.10 Representation by Andy Patton

#### Inquiry Reference A5WTC-2016-0069

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***



### 3.2.2.11 Representation by J Caldwell

#### Inquiry Reference A5WTC-2016-0072

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

### 3.2.2.12 Representation by James O'Kane

#### Inquiry Reference A5WTC-2016-0073

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

### 3.2.2.13 Representation by E O'Kane

#### Inquiry Reference A5WTC-2016-0074

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

### 3.2.2.14 Representation by Rosie O’Kane

#### Inquiry Reference A5WTC-2016-0075

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department’s Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

### 3.2.2.15 Representation by Noreen Robinson

#### Inquiry Reference A5WTC-2016-0076

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department’s Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

### 3.2.2.16 Representation by Gary Robinson

#### Inquiry Reference A5WTC-2016-0077

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department’s Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

**3.2.2.17 Representation by Mary Donaghey  
Inquiry Reference A5WTC-2016-0078**

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

**3.2.2.18 Representation by Eamon Donaghey  
Inquiry Reference A5WTC-2016-0079**

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

**3.2.2.19 Representation by Mary Donaghey  
Inquiry Reference A5WTC-2016-0080**

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

**3.2.2.20 Representation by Andrew Connolly  
Inquiry Reference A5WTC-2016-0081**

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

**3.2.2.21 Representation by Catherine Connolly  
Inquiry Reference A5WTC-2016-0082**

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

**3.2.2.22 Representation by M Godfrey  
Inquiry Reference A5WTC-2016-0083**

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

**3.2.2.23 Representation by WG Godfrey**  
**Inquiry Reference A5WTC-2016-0084**

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

**3.2.2.24 Representation by Myles Donnelly**  
**Inquiry Reference A5WTC-2016-0085**

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

**3.2.2.25 Representation by Thomas Mutch**  
**Inquiry Reference A5WTC-2016-0086**

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

### 3.2.2.26 Representation by Pamela Mutch

#### Inquiry Reference A5WTC-2016-0087

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

### 3.2.2.27 Representation by J Barr

#### Inquiry Reference A5WTC-2016-0088

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

### 3.2.2.28 Representation by A Barr

#### Inquiry Reference A5WTC-2016-0089

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

**3.2.2.29 Representation by Marguerite McGonigle  
Inquiry Reference A5WTC-2016-0090**

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

**3.2.2.30 Representation by the Armstrong Family  
Inquiry Reference A5WTC-2016-0100 to 0103**

- That the Department follow through with their commitment to buy out the entire Armstrong holding should the blight legislation process prove to be unsuccessful.

***Department's Response – Accepted***

**3.2.2.31 Representation by Gerald and Evelyn Heaney  
Inquiry Reference A5WTC-2016-0105**

- That a suitable domestic noise insulation scheme be agreed with the Heaneys and that this be implemented prior to construction works commencing at this location.

***Department's Response – Accepted. This is one of the 15 properties identified for noise insulation measures as detailed under Section 3.1.5 of this document and as such the property owner will be offered insulation measures in accordance with the Noise Insulation Regulations (NI) 1995.***

- That prior to the road opening at this location the Department provide an environmental barrier and planting on either side of the proposed vesting line positioned along the front elevation of the Heaneys' dwelling.

***Department's Response – Accepted***

- That the Department liaise with adjacent landowners in order to establish if the land take from the Heaney family could be reduced.

***Department's Response – Accepted, the Department will liaise with the landowners regarding access to the lands that could be removed from vesting.***

**3.2.2.32 Representation by Charles Quinn  
Inquiry Reference A5WTC-2016-0110**

- That a suitable domestic noise insulation scheme be agreed with Mr Quinn and that this be implemented prior to construction works commencing at this location.

***Department's Response – Accepted. This is one of the 15 properties identified for noise insulation measures as detailed under Section 3.1.5 of this document and as such the property owner will be offered insulation measures in accordance with the Noise Insulation Regulations (NI) 1995.***

**3.2.2.33 Representation by Alfie and Janet Cooper  
also, representation by Ross Hussey MLA on their behalf  
Inquiry Reference A5WTC-2016-0111 & 0144**

- That a suitable domestic noise insulation scheme be agreed with the Coopers and that this be implemented prior to construction works commencing at this location.

***Department's Response – Accepted. This is one of the 15 properties identified for noise insulation measures as detailed under Section 3.1.5 of this document and as such the property owner will be offered insulation measures in accordance with the Noise Insulation Regulations (NI) 1995.***

**3.2.2.34 Representation by Shane and Nuala O'Neill  
Inquiry Reference A5WTC-2016-0114**

- That discussion occur between Mr O'Neill and the Department in relation to the feasibility of providing an underpass and to establish its optimum location for both parties.

***Department's Response – Accepted***

- The Department ensure that land take is kept to a minimum including in relation to the northern SuDS pond.

***Department's Response – Accepted***

- That a suitable domestic noise insulation scheme be agreed with the O'Neills and that this be implemented prior to construction works commencing at this location.

***Department's Response – Accepted. This is one of the 15 properties identified for noise insulation measures as detailed under Section 3.1.5 of this document and as such the property owner will be offered insulation measures in accordance with the Noise Insulation Regulations (NI) 1995.***

- That additional planting take place south of the Beagh Road overbridge along the Scheme's embankment.

***Department's Response – Accepted***



**3.2.2.35 Representation by Raymond and Attracta Curran  
Inquiry reference A5WTC-2016-0116 and 0152**

- That the Department establish if the proposed 160m fencing along the verge of the dual carriageway would help to overcome Mr and Mrs Curran's visual concerns. If so, then the fencing should be implemented and have appropriate planting on either side in order to soften its impact.

***Department's Response – Accepted. The need for screening between chainage 42520 and 42700 will be incorporated into the design for this section of the proposed road.***

- That the Currans be given early notification in relation to any works programmed in this locality.

***Department's Response – Accepted***

**3.2.2.36 Representation by O D Colhoun  
Inquiry Reference A5WTC-2016-0126**

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

**3.2.2.37 Representation by Bryan and Ronald Campbell  
Inquiry Reference A5WTC-2016-0147**

- That the Department discuss the future of Mellon Park Drive with local landowners.

***Department's Response – Accepted, the Department will discuss proposals for Mellon Park Drive with local landowners prior to confirming the Vesting Order for Phase 2 of the scheme.***

**3.2.2.38 Representation by Roy and Ian Hamilton  
Inquiry Reference A5WTC-2016-0165**

- That a suitable domestic noise insulation scheme be agreed for No.34 Baronscourt Road and that this be implemented prior to construction works commencing at this location.

***Department's Response – Accepted. This is one of the 15 properties identified for noise insulation measures as detailed under Section 3.1.5 of this document and as such***

*the property owner will be offered insulation measures in accordance with the Noise Insulation Regulations (NI) 1995.*

#### **3.2.2.39 Representation by Peter James Robert Smyth**

##### **Inquiry Reference A5-WTC-2016-0683**

- That the re-aligned Derg Road be positioned 20m north of Mr Smyth's property and the intervening area be landscaped.  
***Department's Response – Accepted, the Department confirms that the re-aligned Derg Road will be 20m north of the existing Derg Road and the new side slopes will receive suitable environmental mitigation.***
- That the Department liaise with Mr Smyth to establish if the amended access to the SuDS pond would address his concerns.  
***Department's Response – Accepted. This will be reviewed and discussed with Mr Smyth at detailed design stage when funding has been secured for Phase 2***

#### **3.2.2.40 Representation by Desmond McLaughlin**

##### **Inquiry Reference: A5WTC-2016-0686**

- That a suitable domestic noise insulation scheme be agreed with the Mr McLaughlin and that this be implemented prior to construction works commencing at this location.  
***Department's Response – Accepted. This is one of the 15 properties identified for noise insulation measures as detailed under Section 3.1.5 of this document and as such the property owner will be offered insulation measures in accordance with the Noise Insulation Regulations (NI) 1995.***

#### **3.2.2.41 Representation by James and Florence McFarland**

##### **Inquiry Reference: A5WTC-2016-0692**

- That the Department liaise with Mr and Mrs McFarland in order to establish if the impact of the proposed deposition area could be reduced.  
***Department's Response – Accepted: This will be reviewed and discussed with the McFarlands at detailed design stage when funding has been secured for Phase 2***

#### **3.2.2.42 Representation by John Smyth**

##### **Inquiry Reference: A5WTC-2016-0693**

- That the Department carry out further archaeological investigations of Mulvin Wood;  
***Department's Response – Accepted. The Department will carry out further investigatory works in Mulvin Wood when the archaeological contractor is next employed on site on the scheme. The Department will liaise with the landowner regarding access to the Wood at that time.***

- That the Department .... ensure that the land take at this feature is kept to a minimum;  
**Department's Response – Accepted: This will be reviewed at detailed design stage when funding has been secured for Phase 2**
- That the Department....carry out additional planting as demonstrated in their specimen design drawings.  
**Department's Response – Accepted**

#### 3.2.2.43 Representation by Emma Davis

##### Inquiry Reference: A5WTC-2016-0740

- That the Department carry out further archaeological investigations of Mulvin Wood;  
**Department's Response – Accepted. The Department will carry out further investigatory works in Mulvin Wood when the archaeological contractor is next employed on site on the scheme. The Department will liaise with the landowner regarding access to the Wood at that time.**
- That the Department .... ensure that the land take at this feature is kept to a minimum;  
**Department's Response – Accepted: This will be reviewed at detailed design stage when funding has been secured for Phase 2**
- That the Department....carry out additional planting as demonstrated in their specimen design drawings.  
**Department's Response – Accepted**

#### 3.2.2.44 Representation by Fergus McAleer

##### Inquiry Reference A5WTC-2016-0758

- That the Department reassess the closure of Peacock Road, Sion Mills.  
**Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.**

### 3.2.2.45 Representation by Pat McAleer

#### Inquiry Reference A5WTC-2016-0759

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

### 3.2.2.46 Representation by Thomas McAleer

#### Inquiry Reference A5WTC-2016-0760

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

### 3.2.2.47 Representation by Eileen McAleer

#### Inquiry Reference A5WTC-2016-0761

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

### 3.2.2.48 Representation by Mary McAleer

#### Inquiry Reference A5WTC-2016-0762

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

### 3.2.2.49 Representation by M Stewart

#### Inquiry Reference A5WTC-2016-0866

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

### 3.2.2.50 Representation by James and David Crosbie

#### Inquiry Reference: A5WTC-2016-0882

- That the Department liaise with the Crosbies in relation to the details of the drainage infrastructure.

***Department's Response – Accepted***

### 3.2.2.51 Representation by Paula Blake

#### Inquiry Reference A5WTC-2016-0888

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the***

***low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

**3.2.2.52 Representation by Carmel McGrath  
Inquiry Reference A5WTC-2016-0889**

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

**3.2.2.53 Representation by Michael McGrath  
Inquiry Reference A5WTC-2016-0899**

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

**3.2.2.54 Representation by John Blake  
Inquiry Reference A5WTC-2016-0900**

- That the Department reassess the closure of Peacock Road, Sion Mills.

***Department's Response – Accepted. The Department has carried out a reassessment of the proposed closure of Peacock Road and the alternatives for keeping it open through provision of a new bridge and road realignment. As before however, it is concluded that the cost of providing a new bridge and road realignment to keep Peacock Road open is disproportionate to the benefits that would derive given the low volume of traffic that would use the road and the close***

***proximity of Primrose Park which provides the necessary connectivity for all road users in the area.***

### **3.2.3 Section 3 – South of Omagh to Aughnacloy** Planning Appeals Commission Report, Part 2, Chapter 2.4.

#### **3.2.3.1 Representation by Sean and Helene O'Neill** Inquiry Reference A5WTC-2016-0003

- That the Department implement enhanced screen planting on the Glenhoy Road embankment.

***Department's Response – Accepted***

- That a suitable noise insulation scheme be agreed for the residential and commercial buildings comprising no. 54 Errigal Road and that this be implemented prior to construction works commencing at this location.

***Department's Response – Accepted. This is one of the 15 properties identified for noise insulation measures as detailed under Section 3.1.5 of this document and as such the property owner will be offered insulation measures in accordance with the Noise Insulation Regulations (NI) 1995.***

#### **3.2.3.2 Representation by John, Anna & Ian Wilson** Inquiry Reference A5WTC-2016-0049

- That a replacement slurry tank be provided prior to removal of the existing one.

***Department's Response – Accepted***

#### **3.2.3.3 Representation by Paul Hackett** Inquiry Reference A5WTC-2016-0106

- That a suitable domestic noise insulation scheme be agreed for No. 220 Newtownsaville Road and that this be implemented prior to construction works commencing at this location.

***Department's Response – Accepted. This is one of the 15 properties identified for noise insulation measures as detailed under Section 3.1.5 of this document and as such the property owner will be offered insulation measures in accordance with the Noise Insulation Regulations (NI) 1995.***

#### **3.2.3.4 Representation by Patrick and Elizabeth O'Hagan** Inquiry Reference A5WTC-2016-0109

- That a safety margin/maintenance strip and associated boundary treatment, designed in accordance with the Road Safety Audit process be provided along the top of the steep embankment at Tycanny Road.

***Department's Response – Accepted in Principle. Further liaison required with the landowner regarding the nature of the measures to be provided when funding for Phase 1b is confirmed and prior to construction.***



**3.2.3.5 Representation by Hugh Ward and Kathleen Ward  
Inquiry Reference A5WTC-2016-0115**

- That alternative provision or replacement of lost septic tank and percolation area facilities be provided.

***Department's Response – Accepted***

**3.2.3.6 Representation by Pauline O'Hagan  
Inquiry Reference A5WTC-2016-0124**

- That the Department reassess the access from the Rarone Road overbridge to McAleers' field and implement a safe design solution incorporating the most direct route and involving minimum use of the O'Hagans' land.

***Department's Response – Accepted***

**3.2.3.7 Representation by Seamus McCarron  
Inquiry Reference A5WTC-2016-0146**

- That appropriate safety measures incorporating either a crash barrier or bund with associated landscaping be installed at the realigned road in proximity to the McCarron family home.

***Department's Response – Accepted***

**3.2.3.8 Representation by Emmet McGrady  
Inquiry Reference A5WTC-2016-0149**

- That any lost septic tank and percolation area be replaced.

***Department's Response – Accepted***

**3.2.3.9 Representation by Kieran and Amanda O'Neill  
Inquiry Reference A5WTC-2016-0150**

- That a suitable domestic noise insulation scheme be agreed with the O'Neills and that this be implemented prior to construction works commencing at this location.

***Department's Response – Accepted. This is one of the 15 properties identified for noise insulation measures as detailed under Section 3.1.5 of this document and as such the property owner will be offered insulation measures in accordance with the Noise Insulation Regulations (NI) 1995.***

- That the Glenhoy Road overbridge is realigned to leave adequate circulation space around the existing agricultural building to enable retention of its full use.

***Department's Response – Accepted. The Department will liaise with the O'Neills on a solution to this matter.***

**3.2.3.10 Representation by Geraldine McKenna  
Inquiry Reference A5WTC-2016-0151**

- That a suitable domestic noise insulation scheme be agreed for Nos. 5 and 7 Tullanafoyle Road and that this be implemented prior to construction works commencing at this location.

***Department's Response – Accepted. This is one of the 15 properties identified for noise insulation measures as detailed under Section 3.1.5 of this document and as such the property owner will be offered insulation measures in accordance with the Noise Insulation Regulations (NI) 1995.***

- That any lost septic tank and percolation area for either dwelling is replaced as accommodation works.

***Department's Response – Accepted***

**3.2.3.11 Representation by Stephen Kee and Melanie Kee  
Inquiry Reference A5WTC-2016-0154**

- That the Department agree with adjoining landowners, an appropriate boundary treatment to the attenuation pond.

***Department's Response – Accepted***

**3.2.3.12 Representation by Brian and Pauline Starrs  
also Daniel and Claire McKane  
Inquiry Reference A5WTC-2016-0163**

- That access to the bog is gated to prevent public access.

***Department's Response – Accepted***

**3.2.3.13 Representation by Barney Starrs  
Inquiry Reference A5WTC-2016-0164**

- That access to the bog is gated to prevent public access.

***Department's Response – Accepted***

**3.2.3.14 Representation by Emmet O'Neill  
Inquiry Reference A5WTC-2016-0831**

- That the severed land to the north west of the plot be vested.

***Department's Response – Accepted***

- That the Department retain or provide an appropriate replacement for any natural spring or well.

***Department's Response – Accepted***

### **3.2.3.15 Representation by Gladys Emily Bingham**

#### **Inquiry Reference: A5WTC-2016-00832**

- That the screening mechanism/s along the frontage of No. 25 Feddan Road should be agreed with Ms Bingham prior to the commencement of any construction works at this location.

***Department's Response – Accepted***

### **3.2.3.16 Representation by Lawrence, Joseph, Shiona & Garry Heslip**

#### **Inquiry Reference A5WTC-2016-0833 & 848 to 0850**

- That the Department measure the noise impact of the Scheme on No. 40 Tullywinney Road post construction and provide any required additional noise mitigation measures should the noise levels increase by 15dB or more above existing levels.

***Department's Response – Accepted in Principle. When funding has been secured for Phase 3, a further assessment on predicted noise levels will be carried out to determine if the levels exceed 15 dB. Should the predicted noise level change exceed 15 dB the property owner will be offered insulation in accordance with the Noise Insulation Regulations (NI) 1995 (See Section 3.1.5 of this document).***

- That the Transport Management Plan specify that the contractor shall not bring material from the east along the Tullywinney Road.

***Department's Response – Accepted***

### **3.2.3.17 Representation by Shirley Swenarton**

#### **Inquiry Reference A5WTC-2016-0839**

- That a suitable domestic noise insulation scheme be agreed with Ms Swenarton and that this be implemented prior to construction works commencing at this location.

***Department's Response – Accepted. This is one of the 15 properties identified for noise insulation measures as detailed under Section 3.1.5 of this document and as such the property owner will be offered insulation measures in accordance with the Noise Insulation Regulations (NI) 1995.***

### **3.2.3.18 Representation by Colin Robinson**

#### **Inquiry Reference A5WTC-2016-0841**

- That a suitable domestic noise insulation scheme be agreed for No 77 Glenhoy Road and that this be implemented prior to construction works commencing at this location.

***Department's Response – Accepted. This is one of the 15 properties identified for noise insulation measures as detailed under Section 3.1.5 of this document and as such the property owner will be offered insulation measures in accordance with the Noise Insulation Regulations (NI) 1995.***

- That the Department and the landowner reach an agreement regarding the precise location of accommodation tracks and the impact thereof on the retention of existing trees.

***Department's Response – Accepted***

### **3.2.3.19 Representation by Noel Brush**

**Inquiry Reference A5WTC-2016-0843**

- That the well on the property be monitored both pre and post construction and any negative impacts appropriately mitigated.

***Department's Response – Accepted***

### **3.2.3.20 Representation by Seamus and Paula Woods**

**Inquiry Reference A5WTC-2016-0845**

- That a suitable domestic noise insulation scheme be agreed for No. 5 Routingburn Road and that this be implemented prior to construction works commencing at this location.

***Department's Response – Accepted. This is one of the 15 properties identified for noise insulation measures as detailed under Section 3.1.5 of this document and as such the property owner will be offered insulation measures in accordance with the Noise Insulation Regulations (NI) 1995.***

### **3.2.3.21 Representation by Raymond and Dorothy Busby**

**Inquiry Reference: A5WTC-2016-0855**

- That the deposition area located to the south of Mr and Mrs Busby's chicken house be kept approximately 3m away from the structure.

***Department's Response – Accepted***

- That the Department and the appointed contractor liaise with Mr and Mrs Busby in relation to the phasing of the filling of the deposition area.

***Department's Response – Accepted***

### **3.2.3.22 Representation by Paul & Elaine Barrett**

**Inquiry Reference A5WTC-2016-0859, 0860 & 0880**

- That a structural survey of the silo be carried out pre and post construction and any negative impacts mitigated at the Department's expense.

***Department's Response – Accepted***

- That an underpass structure be provided under the Annaghilla Road.

***Department's Response – Accepted in Principle. The Department agrees to the provision of an underpass subject to the landowner's acceptance of its limitations at this restricted location.***

### 3.2.3.23 Representation by Albert Barrett

#### Inquiry Reference A5WTC-2016-0861

- That a structural survey of the silo be carried out pre and post construction and any negative impacts mitigated at the Department's expense.

***Department's Response – Accepted***

- That an underpass structure be provided under the Annaghilla Road.

***Department's Response – Accepted in Principle. The Department agrees to the provision of an underpass at this location subject to the landowner's acceptance of its limitations at this restricted location.***

### 3.2.3.24 Representation by David & Mary Allen

#### Inquiry Reference: A5WTC-2016-0879

- That a suitable domestic noise insulation scheme be agreed for No. 60 Tullanafoyle Road and that this be implemented prior to construction works commencing at this location.

***Department's Response – Accepted. This is one of the 15 properties identified for noise insulation measures as detailed under Section 3.1.5 of this document and as such the property owner will be offered insulation measures in accordance with the Noise Insulation Regulations (NI) 1995.***

- That the Department consider the merits of an acoustic barrier at this location.

***Department's Response – Accepted, the Department will review the noise assessment at this location prior to confirming the Vesting Order for Phase 1b of the scheme.***

### 3.2.3.25 Representation by William T Armstrong

#### Inquiry Reference A5WTC-2016-0880

- That the engineering specification of the diverted watercourse incorporates an appropriate geotextile membrane to prevent bank slippage.

***Department's Response – Accepted***

### 3.2.3.26 Representation by Claire McGarvey and Barry O'Donnell

#### Inquiry Reference A5WTC-2016-0903

- That the Department liaise with Ms McGarvey and Mr O'Donnell and other relevant parties in relation to the access lane and the provision of a footpath on the overbridge.

***Department's Response – Accepted***

- That the bank along the carriageway to the south of their dwelling be replanted as part of the Scheme.

***Department's Response – Accepted***

**3.2.3.27 Representation by Daniel and Claire McKane  
Inquiry Reference A5WTC-2016-2010**

- That access to the bog is gated to prevent public access.  
***Department's Response – Accepted***

### 3.3 PAC Conclusions (with Departmental comments)

#### ***Planning Appeals Commission Report, Part 2, Chapter 3.1.***

- That the Department implements all the recommendations made in relation to the General and Strategic matters considered in Part 1 of this Report.

***Department's Response - The Department accepts the recommendations in Part 1 of the Report with the exception of the recommendation to remove Phase 3 from the scheme (Para 3.1.1)***

- That the Department implements all the recommendations made in relation to the Site Specific representations considered in Part 2 of this Report.

***Department's Response - The Department accepts the recommendations in Part 2 of the Report including all recommendations to review and reassess a range of issues. In some cases this involves further liaison and reaching agreement with landowners. In such instances the Department commits to making every reasonable effort to resolve issues while having due regard to the policies of the Department, environmental impact and value for money to the public purse.***

***In addition, in relation to the recommendation for noise mitigation at certain properties, the Department commits to offering noise insulation measures to additional properties as detailed under Section 3.1.5.***

- That the Direction Order, The Trunk Road T3 (Western Transport Corridor) Order (Northern Ireland) 2016, be made subject to any amendments arising from the foregoing recommendations.

***Department's Response - The Department proposes to make the Direction Order, as published in the Notice of Intention, between New Buildings and Ballygawley.***

- That the Vesting Order for Phase 1a, Phase 1b and Phase 2 be made subject to (a) any amendments arising from the foregoing recommendations and (b) any other amendments agreed by the Department during the course of the Inquiry.

***Department's Response - The Department proposes to make the Vesting Orders in Phases as funding is allocated to the scheme, with the initial Vesting Order covering Phase 1a (New Buildings to north of Strabane).***

- That the Private Accesses on the A5 Western Transport Corridor (Stopping up) Order (Northern Ireland) 2016 be made.

***Department's Response - The Department proposes to make the Stopping up of Private Accesses Orders concurrently with the corresponding Vesting Order for lands affected by the said private accesses.***



## **4 FURTHER CONSIDERATIONS SINCE THE PUBLIC INQUIRY IN 2016**

4.1 Since the Public Inquiry finished in December 2016, the Department has continued to monitor evolving developments along the length of the scheme and in particular any changes in land use which may affect the Proposed Scheme and specifically the land to be vested and the vesting boundary. Whilst some landowners have proactively liaised with the Department regarding improvements to their properties and investing in their businesses such that the lands to be vested and consequently the scheme are not affected, a small number of developments have taken place which intrude into the draft vested areas or affect the ground levels at the vesting boundary. Of these the majority can be accommodated by minor adjustments to the associated works and Vesting Orders within the Proposed Scheme.

### **4.2 Tyrone Sand and Gravel**

4.2.1 The one notable exception is the unauthorised operation of sand and gravel extraction under the footprint of the proposed A5WTC in the townland of Urbalreagh to the northwest of Newtownstewart on Old Bridge Road. The earlier extraction of sand and gravel in this vicinity was authorised through the planning process and the extents of the approved quarrying was investigated and taken into account during the development of the Preferred Route Specimen Design and the Statutory Procedures (including the ES and Notice of Intention to Make a Vesting Order – NIMVO). At that time it was known that Tyrone Sand and Gravel was a working quarry with planning permission and until the required land area was vested, and therefore no longer in the ownership of the quarry, there was the potential for the extraction of the material in the area to continue. The delivery programme in 2011 was that all the scheme would be constructed although this changed in 2012 when funding was reduced and construction of this section was delayed.

4.2.2 During consultation with the landowners in question in 2011/12, information on the proposed A5WTC scheme was provided including road levels and earthworks profiles (between November 2011 and May 2012). This was provided to aid the landowners/operators with future planning permission applications in this vicinity.

4.2.3 Retrospective planning permission (J/2011/0272/F) for the extended area had been applied for on 5th July 2011 and DfI Roads were consulted on this planning application on 10<sup>th</sup> August 2011. On 20<sup>th</sup> September 2011, DfI Roads recommended refusal on the application due to the impact on the A5WTC.

4.2.4 Following an initial investigation on 25 June 2012, a Temporary Stop Notice was served by the Department's Strategic Planning Division on 24 August 2012, with further warning letters issued on 24 September 2012 and 22 September 2014. The Department issued an Enforcement Notice on 26 March 2015 and a subsequent Stop Notice on 16 July 2015. The Enforcement Notice

(due to potential defective service caused by omissions in land registry) was withdrawn on 10 November 2015.

- 4.2.5 Planning application J/2011/0272/F was refused on 12th February 2015, and the subsequent appeal by the developer was heard by the PAC on 31st January 2017 and dismissed on 13th March 2017 (Appeal reference 2015/A0029). DfI Roads and WSP prepared documents for the appeal.
- 4.2.6 With the decision to quash the orders in April 2013, it was deemed necessary to update the baseline information contained in the ES. Desktop and on-site surveys identified extraction works outside the permitted extents of Tyrone Sand and Gravel quarry, extending beyond the area identified within the NIMVO between approximate Ch33,700m and Ch34,000m, north of Derg Road.
- 4.2.7 Due to the unpredictability in terms of timing of future Orders becoming operative, and the unknown quantity of both permitted and unauthorised extraction works in the location of the quarry, the proposed area to be vested for the dual carriageway was extended in this location and reflected in the Notice of Intention to Make a Vesting Order (NIMVO) published in February 2016.
- 4.2.8 Following notification of the continuing unauthorised extraction and its encroachment into the lands within the draft Vesting Order, the Department has continued to monitor the situation using Ordnance Survey Northern Ireland orthophotography as well as site observations (the last visit being on 26 September 2017). This last site visit identified that excavation works had continued to within approximately 5m of the Derg Road boundary fence. Using information provided by Derry and Strabane District Council on the quarry levels (as of 21st April 2015), it appears that the depth of excavation is approximately 27.8m AOD, coinciding with the ground water table in this location.
- 4.2.9 Following the transfer of most planning powers to local Councils, Derry City and Strabane District Council is now responsible for investigating planning breaches. It is currently uncertain what specific enforcement action will be imposed by the Council. The Department has however prepared specific documentation in relation to reinstating the ground and this may assist the Council in the development of an enforcement strategy. The two main scenarios being considered are:
- The quarry operator reinstates the land under the scheme footprint to a high quality roads specification (DMRB) up to the level of the proposed A5WTC and road construction by the A5WTC contractor occurs over this; or
  - Reinstatement forms part of the A5WTC works.
- 4.2.10 The Council has currently not decided what action to take on this matter. The unauthorised development includes the removal of materials to a depth of up to 8m below the level of the proposed road and as the land sits at this time the

Department will have to carry out a minor amendment to the scheme through this area, designing embankments to cross the quarried area rather than excavating into virgin materials.

- 4.2.11 The unauthorised quarrying has reduced ground levels by up to 12.0m along the line of the proposed road as well as under the footprint of the Derg Road realignment. The result is that instead of excavating a cutting approximately 4.0m deep to construct the A5WTC, an embankment of between 5.0m and 8.0m height will need to be constructed for the main carriageway with the west side of the embankment extended and increased in height by 2.0m to provide a screen mound. The embankment for the Derg Road realignment will be up to 14.0m high. The unauthorised quarrying has also resulted in standing water in the base of the quarry at a level where groundwater has been recorded in a borehole. None of these issues pose significant construction difficulties but the scheme cost will increase at this location, with the actual cost depending upon the degree of reinstatement carried out under any enforcement notice.
- 4.2.12 The Department has carried out a study of the impacts of the amended road cross section in this area arising from the unauthorised excavations that have taken place on the site. A report entitled 'Tyrone Sand and Gravel Quarry – Unauthorised Extraction Impact Report' has been prepared. This report examines what was included in the 2016 ES on the site, compared this to the current position on the site and assessed the resultant change in impacts. The changes primarily relate to the fact that the new carriageway will now be positioned on an embankment through the extent of the quarrying operation as opposed to cutting through the natural ground as originally designed. The Report examines the impacts under the 10 headings of the ES and identifies the mitigation measures required. The identified effects and proposed mitigation accord with the effects and mitigation measures for the entire project and which are proposed elsewhere and throughout the 2016 Environmental Statement.
- 4.2.13 The review of data and assessments undertaken for the 2016 ES at this location has identified the following disciplines where additional mitigation measures are required.

### ***Ecology***

- 4.2.14 An ecological walkover was undertaken at this site in August 2017. The quarry has extended into semi-improved grassland and agricultural land since the last set of Phase 1 habitat surveys were performed (April – July 2014) with a previous worked area in the quarry to the north of Derg Road reinstated as species-poor improved grassland.
- 4.2.15 The baseline surveys identified a number of species of fauna in the area, of which the smooth newt at its habitat is the most likely species to be affected by the unauthorised quarrying, though the loss of some hedgerows has also reduced foraging opportunities for a number of bat species.
- 4.2.16 The smooth newt ponds within the quarry, previously recorded in the ES, are still present, though their status as newt breeding ponds could not be confirmed

at the time of survey. The quarry works have resulted in a series of ponds which are linked to the groundwater level. If left undisturbed once quarry works cease these would have potential to support breeding smooth newts.

- 4.2.17 If at the time of construction, smooth newt are recorded within any ponds within the vesting line of the Proposed Scheme the approach adopted will be similar to that already outlined in the ES 2016. This will require a licence from NIEA to allow destruction of the breeding habitat for this species. As part of the licence application a suitable mitigation strategy will be agreed with NIEA, which will include replacement pond creation in an alternative suitable location, trapping and translocation of newts and suitable terrestrial habitat creation, including creation of suitable resting/shelter/hibernation features.
- 4.2.18 As part of the Adaptive Monitoring Programme the area will be monitored to determine presence/absence of smooth newt within the settlement ponds.
- 4.2.19 The extensive planting strategy for the road scheme includes hedgerows and tree planting which will replace lost habitat and provide greater foraging opportunities for the bats.

### ***Visual***

- 4.2.20 Predicted effects for 5 property receptors within the vicinity are likely to change where the route changes from cut to embankment. In the ES 2016, the visual assessment identified that views to the north and east were broadly contained by landform with little change when the Proposed Scheme was in cutting. Impacts varied between moderate adverse and neutral. In the current situation with the Proposed Road on embankment through the quarry area, these 5 receptors will be exposed to open views. Impacts will be moderate to slight adverse in the opening year reducing to slight or neutral by the design year. Mitigation proposals shall follow the same form as those described in the 2016 ES, and will include additional planting on open embankments and the construction of an environmental bund as a visual screen or other integrated earthworks solution. During construction, the exposed nature of the quarry means that the short term impacts will increase from moderate adverse to large adverse and the contractor will take this into account in planning the works and reducing these impacts as required in the contract documents.

### ***Landscape***

- 4.2.21 Similar to the visual impacts, the scheme would be slightly more exposed locally being on embankment instead of partially obscured by being in a cutting. However the summary assessment of predicted landscape effects does not change, with the overall effect on landscape character presenting a perceived widening and increase in the influence of the strategic road corridor as part of the wider river valley landscape. Mitigation proposals shall follow the same form as those described in the 2016 ES, and will include additional planting on open embankments, creation of a false cutting / environmental bund as a visual screen or other integrated earthworks solution.

## **Groundwater**

- 4.2.22 With the removal of the cutting in this location, the potential for interaction between the scheme and the Castlederg Water Framework Directive (WFD) Groundwater Body has changed. In the Proposed Scheme the impact was a moderate risk because of the cutting intercepting any groundwater pathway towards Urbalreagh Lough. However, the recent quarrying activity has significantly changed the groundwater pathways which may feed Urbalreagh Lough (a small standing waterbody which is likely to be groundwater fed), reducing the groundwater flow regime and thereby reducing the surface extents. As identified in Geo-Environmental Preliminary Risk assessment in June 2016, the greater risk now relates to the loss of the natural protection to the ground water afforded by the overlying sand and gravel that has been removed and the exposed surface water and the aquifer is now more susceptible to pollution.
- 4.2.23 Liaison with the DAERA Water Quality Unit has identified that any materials selected to construct the proposed road embankments would need to have a similar chemical composition to the material that have been removed, or be inert, to avoid any run off from the embankment changing the groundwater composition.
- 4.2.24 Measures to protect groundwater pathways and water quality are specified in the Construction Environmental Management Plan (CEMP) which includes the decommissioning of the quarrying activities and the assessment and treatment of any contaminated land areas.

## **Noise**

- 4.2.25 The noise assessment in the ES identified 7 properties along Derg Road and on Old Bridge Road with predicted increase in noise levels up to a maximum of 12.7dB resulting in a predicted maximum noise level at one receptor of 59.2dB. Now that the natural screening by landform has been removed for the receptors to the west of the dual carriageway further increases in noise level will occur. The Proposed Scheme now includes for a visual screen mound on the west side of the dual carriageway which will also provide acoustic screening to the affected properties and minimising any further noise increases. The proposals adopted will follow the same form as those described in the 2016 ES; the exact measures being determined at detailed design stage but may include an increase in height of the environmental bund or installation of an acoustic barrier or a combination of both to reduce the revised predicted noise level down to the level stated in the ES. If necessary, the treatment of the receptors will be in line with the approach being adopted by the Department as identified in paragraph 3.1.5 above.

## **Conclusions**

- 4.2.26 In relation to the assessments of the other aspects of the ES, none were identified as having changed to a degree that would change the assessment of the effects in this area.

4.2.27 The Report concludes that the impact of localised amendment to the scheme arising from the unauthorised excavations does not constitute a main effect in accordance with Article 67(6) of the Roads Order.

4.2.28 Given this review of the impacts and proposed mitigation associated with the unauthorised sand and gravel extraction, it is considered that the effects arising from the adjustments in the scheme's design and proposed mitigation measures are all sufficiently similar or identical to those arising from the road scheme as a whole and which are reflected within the 2016 ES which was the subject of the public inquiry. It is also considered that conclusions of the 2016 ES remain valid and are unaltered as a result of the design adjustments required at this location.

#### ***Habitats Regulations Assessment***

4.2.29 The River Derg just south of the unauthorised quarry is part of the River Foyle and Tributaries SAC. A review of the effects of the proposed A5WTC as it is constructed through this changed topography has led to the view that there are no effects that would impact on the integrity of the Natura 2000 site. The appropriate assessment for the whole scheme has been reviewed in light of the findings at this location and its conclusions remain valid and unaffected.

## 5 HABITATS REGULATIONS ASSESSMENT

- 5.1 Regulation 43(1) of The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) (“the Habitats Regulations”) (which implement in Northern Ireland Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (the Habitats Directive)) requires that a “competent authority”, before deciding to undertake, or give consent, permission or other authorisation for a plan or project which:
- a) is likely to have a significant effect on a Natura 2000 site in Northern Ireland (either alone or in combination with other plans or projects); and
  - b) is not directly connected with or necessary to the management of the site

shall make an appropriate assessment of the implications for the site in view of the site’s conservation objectives in line with Article 6(3) of the Habitats Directive.

- 5.2 The appropriate assessment must be undertaken by the “competent authority” as defined in Regulation 5 of the Habitats Regulations. The Department for Infrastructure is the “competent authority” for strategic road improvement schemes in Northern Ireland and has therefore undertaken an appropriate assessment for the purposes of the A5WTC project.
- 5.3 In order to discharge this obligation, the Department has commissioned the preparation of a number of Reports relating to the likely impacts of the A5WTC upon a series of Special Protection Areas (“SPA<sup>4</sup>”), Special Areas of Conservation (“SAC”) and Ramsar Sites<sup>5</sup>. The final version of these reports, together with a Habitats Regulations Assessment Summary Report, set out an assessment of those impacts. They have been considered by the Department and form the basis of its appropriate assessment for the purposes of the Habitats Regulations and its decision on whether to authorise the A5WTC. Previous drafts of the reports have been the subject of consultation with statutory bodies, other interested parties and the general public. The reports have been updated in light of any changes in circumstances, any additional information available to the Department and also consultation

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<sup>4</sup> SPAs are designated under Council Directive 79/409/EEC(5) on the conservation of wild birds (the Wild Birds Directive).

<sup>5</sup> Ramsar Sites are designated under the Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention or Wetlands Convention). Ramsar sites are not referred to under the Directives or their transposition into UK and ROI Regulations. However, Planning Policy Statement 2 (PPS2) in Northern Ireland applies the same level of consideration and protection to them as to Natura 2000 sites.

responses. More details on the reports which have been prepared and the process followed by the Department are described below.

- 5.4 The need for an appropriate assessment of the effects of the A5WTC was previously screened out on the ground that the project was not likely to give rise to any significant adverse effects upon any Natura 2000 sites. In a legal challenge to the Department's decision to authorise the A5WTC, the Court decided in April 2013, that the Department had erred in law in not carrying out an appropriate assessment of the impact upon the River Foyle and River Finn SACs.
- 5.5 A cautious approach has therefore been adopted on this occasion and an appropriate assessment of likely significant adverse effects of the project has been carried out, without any of those effects being screened out. In addition to carrying out an appropriate assessment in relation to the River Foyle and River Finn Special SACs, the Department considered it prudent also to conduct an assessment of the likely significant adverse effects upon other SACs, SPAs and Ramsar Sites in the vicinity of the scheme.
- 5.6 As a result, the Department has commissioned four draft reports in relation to each of the SPAs, SACs and Ramsar Sites in order to inform its appropriate assessment. The draft reports have each been the subject of consultation and later updated to reflect consultation responses and any other additional information made available to the Department. A list of the public bodies and other interested bodies to which the reports were provided for the purposes of consultation are listed below. The reports commissioned by the Department to inform its appropriate assessment are:

**A5 WTC Report of Information to Inform an Appropriate Assessment SAC Watercourses** covering:

- River Foyle & Tributaries Special Area of Conservation
- Owenkillev River Special Area of Conservation
- River Finn Special Area of Conservation

**A5 WTC Report of Information to Inform an Appropriate Assessment Tully Bog SAC** covering:

- Tully Bog Special Area of Conservation

**A5 WTC Report of Information to Inform an Appropriate Assessment SPAs** covering:

- Lough Foyle Special Protection Area
- Lough Swilly Special Protection Area
- Lough Neagh & Lough Beg Special Protection Area

**A5 WTC Report of Information to Inform an Appropriate Assessment Ramsar Sites** covering:

- Lough Foyle Ramsar Site
- Lough Neagh & Lough Beg Ramsar Site



## 5.7 Public Consultation on RIAs

5.7.1 The consultation exercise on the draft reports was undertaken in 2014 and the bodies directly consulted were:-

Statutory Consultees: NIEA, National Parks and Wildlife Service (NPWS) and Loughs Agency; and Non-Statutory Consultees: RSPB and DAERA Inland Fisheries.

14 responses were received from:-

Statutory Consultees: NIEA, NPWS and Loughs Agency;

Non-Statutory Consultees: RSPB and DAERA Inland Fisheries; and

Others: ICBAN (Irish Central Border Area Network); A5 Working Group; Alternative A5 Alliance (AA5A) (via C&J Black Solicitors); AA5A (via Dr K Perry); Ulster Angling Federation; D Love; Action for A5 (via Pat Darcy); P McCarron and K Christie.

These responses were taken into consideration in the preparation of a second draft of each of the reports, which were published for further public consultation in May 2017. All respondents from the 1<sup>st</sup> consultation were notified directly.

5.7.2 Seven responses were received to the second consultation exercise, namely:-

Statutory Consultees: NIEA, NPWS and Loughs Agency;

Non-Statutory Consultees: RSPB and DAERA Inland Fisheries; and

Others: Alternative A5 Alliance (AA5A) (via C&J Black Solicitors) and K Christie.

5.7.3 These responses prompted further amendments to the reports and a third round of consultations which commenced on 22 August 2017 and ended on 4 October 2017. The 7 respondents from the 2<sup>nd</sup> consultation were directly notified and all 7 responses subsequently received came from these same 7 bodies/individuals. The National Parks & Wildlife Service (Republic of Ireland) and DAERA Inland Fisheries had no comment to make. NIEA Natural Environment Division, Loughs Agency and RSPB provided comments, with 2 further representations being made by the general public, the AA5A via C&J Black Solicitors and K Christie.

5.7.4 All the responses received have been taken into consideration in the preparation of the final Reports of Information to Inform an Appropriate Assessment and the Habitats Regulations Assessment Summary Report.

5.7.5 In addition to the decision of the Department under Article 14 Roads (NI) Order 1993 to authorise construction of the road, there are a number of other public authorities whose powers include providing consent for aspects of the scheme which have the potential to impact on the Natura 2000 sites. Decisions on

whether to grant consent for those aspects of the scheme are likely to be made at a later stage of the implementation of the project and the relevant bodies may have separate obligations under the Habitats Regulations prior to deciding whether to grant consent. The relevant public authorities, with whom the Department has been working closely, and the applicable consents are:-

- Loughs Agency (a cross-border implementation body established following the Good Friday Agreement) is responsible for granting consents under Section 46 Foyle Fisheries (NI) Act 1952 for works requiring taking material from freshwater riverbeds in the catchment covered by the 1952 Act. Loughs Agency have completed Appropriate Assessment reports for all designated watercourses which require works associated with the A5WTC scheme;
- DfI Rivers, (a division of the Department for Infrastructure) is responsible for granting any necessary consents under Schedule 6 Drainage (Northern Ireland) Order (1973) in relation to works which would impact upon the free flow of a watercourse. DfI Rivers has been consulted during development of the scheme and provided detailed information upon the requirements of any Schedule 6 approvals and consents. This information has been taken into account by the Department in both its design for the scheme and also its appropriate assessment and environmental assessment.
- NIEA Water Management Unit (WMU) is responsible for granting consent to discharge water from the construction site to watercourses, under the Water (Northern Ireland) Order 1999. The WMU consents are required prior to construction commencing and once the contractor has designed and assessed his temporary works requirements in relation to any temporary discharges from the works. These consents can only be applied for once the contractor has developed the construction programme and following consultation with WMU.

As the scheme progresses towards construction of each phase The Department will continue to monitor the environmental effects of the scheme in accordance with the Environmental Statement and Appropriate Assessment and will liaise with the relevant statutory consultees as necessary.

## **5.8 Mitigation Measures**

- 5.8.1 From the commencement of the project the Department has committed to ensuring the integrity of the Natura 2000 sites is not affected by the proposals. All the mitigation measures required to reduce and remove impacts on the habitats and species within the Natura 2000 sites are included in the scheme. The majority of these measures are contained within best practice that has been adopted throughout the development of the Proposed Scheme; from

route selection through design and into construction methodologies contained in the contract documents (including the CEMP and SMP).

5.8.2 There are, however, a number of Scheme specific mitigation measures that the Department, through consultation with the statutory and non-statutory consultees, has identified as being essential and these have been incorporated in the proposals as follows:-

- In relation to all Natura 2000 sites: an Adaptive Monitoring Programme (AMP) will be put in place both during the construction phase and over an agreed period post-construction; which will also consider the implication of any update in climate change forecasts;
- In relation to the Watercourse SACs: the inclusion of a limit to all Scheme outfall discharge velocities depending upon the sensitivity of the habitat within the receiving watercourse within the design parameters for all outfalls on the Scheme;
- In relation to the SPAs/Ramsar Sites: continued monitoring of the core wintering birds foraging areas potentially disturbed during construction of the Scheme, to examine the possible effects of wetter winters due to climate change. A proactive monitoring regime of these core areas by an Environmental Clerk of Works during construction and restrictions on certain construction tasks during the winter period to avoid disruption of the swans and geese if necessary; and
- In relation to Tully Bog SAC: although the A5WTC has a *de minimis* effect on nitrogen deposition (N-deposition) on the Bog, the Department, in light of the current condition of the bog as a result of agricultural and farming activities in the area, has committed to re-wetting the bog to improve its condition and to mitigate any potential effects of this small increase in N-deposition. The Department will work with DAERA - NIEA and the landowners in raising the water level in the bog thus reducing the sensitivity of the bog to N-deposition and improving the conservation status of the site. The measures necessary to carry out this work will be undertaken either by agreement with relevant landowners or, in default by vesting the relevant lands.

## 5.9 Conclusion

5.9.1 Accordingly, in light of the assessment undertaken and the information presented within the Reports of Information to Inform an Appropriate Assessment and the Environmental Statement, the Department (as the competent authority) is satisfied that, taking account of the proposed mitigation measures, the construction and operation of the A5 Western Transport Corridor dual carriageway would not, by itself or in combination with other known plans or projects, adversely affect the integrity of the River Foyle & Tributaries SAC, the Owenkillew River SAC, the River Finn SAC, the Tully Bog SAC, the Lough Foyle SPA, the Lough Swilly SPA, the Lough Neagh & Lough Beg SPA, the

Lough Foyle Ramsar Site or the Lough Neagh & Lough Beg Ramsar Site, in view of their conservation objectives.

## **6 MEASURES TO MITIGATE ADVERSE EFFECTS**

6.1 The Environmental Statement sets out the impacts identified by the Proposed Scheme and the measures to mitigate those effects in accordance with Part V of the Roads (Northern Ireland) Order 1993 as amended by the Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 1999 and amended by The Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 2007. Further measures in relation to Tyrone Sand and Gravel (Section 4) and the Habitats Regulations Assessment (Section 5) are identified in the respective sections.

### **6.2 Local Air Quality and Regional Emission Impacts**

6.2.1 There will be no significant effects on local air quality. Overall, more receptors will experience an improvement in air quality than will experience an adverse impact.

6.2.2 The regional emissions assessment for carbon dioxide (CO<sub>2</sub>) has demonstrated that, when viewed in isolation, emissions associated with changes in regional traffic flows and characteristics, as a result of implementation of the Proposed Scheme, will result in a significant environmental effect. However, within a regional context, the additional emissions of CO<sub>2</sub> associated with the Proposed Scheme are predicted to equate to less than 1% of national road transport sector emissions.

6.2.3 There will be a loss of bog habitat from land take and dewatering as a result of the Proposed Scheme. This is estimated to release 80,000 tonnes of CO<sub>2</sub> into the atmosphere.

### **6.3 Local Air Quality and Regional Emission Mitigation**

6.3.1 During the construction phase dust control measures will be enforced/implemented. Channels for registering concerns, when dust is perceived as a nuisance by properties in the vicinity of the working area, will be developed. These measures will be enforced on site through a Construction Environmental Management Plan (CEMP).

6.3.2 Measures are proposed to utilise the peat excavated within the land take in the creation of wetland which may serve to reduce the volume of CO<sub>2</sub> released as a result of the scheme. Measures to re-wet areas of drying bog adjacent to the Proposed Scheme will also prevent further CO<sub>2</sub> release.

### **6.4 Cultural Heritage Impacts**

6.4.1 There will be localised significant impacts, particularly in relation to Castletown House (which will be demolished), Harry Avery's Castle and Errigal Keerogue Church and Graveyard (whose settings will be adversely impacted upon by the Scheme).

6.4.2 There is a presumption against development which will affect these three assets by virtue of Policy BH1 and Policy BH10 of Planning Policy Statement 6 (PPS6) – Planning, Archaeology and the Built Heritage unless there are

exceptional circumstances. The policy defines 'exceptional circumstances' as development proposals of overriding importance in the Northern Ireland context.

- 6.4.3 As the proposed A5WTC is one of the Northern Ireland Executive's flagship projects it qualifies under these exceptional circumstances and will not therefore be in conflict with the two policies in PPS6.

## **6.5 Cultural Heritage Mitigation**

- 6.5.1 Areas of the Proposed Scheme not already subjected to archaeological evaluation/excavation will be subject to a new agreed evaluation methodology recommended by the Historic Environment Division of the Department for Communities.
- 6.5.2 Landscape proposals will aid the integration of the Proposed Scheme into the surrounding countryside by screening heritage receptors and thus mitigate the scheme's impact on their setting.

## **6.6 Landscape and Visual Impacts**

- 6.6.1 The Proposed Scheme will have a significant effect on the landscape associated with some 7% of the 85km road corridor. Such effects are specific to three localised sections within the Scheme Corridor, which will suffer large adverse effects without suitable mitigation measures, namely:
- the southern margin of the River Finn, to west of Strabane;
  - Deerpark in the vicinity of Harry Avery's castle; and
  - the Brougher Ridge Landscape between Tycanny Hill and Errigal.
- 6.6.2 Along the entire scheme length there will be large and moderate visual impacts on some 158 and 285 residential properties respectively.

## **6.7 Landscape and Visual mitigation**

- 6.7.1 The crest and the toe of embankments and cutting slopes have been designed to be sympathetically profiled to create a gradual transition to reflect the character of the landscape.
- 6.7.2 Landscape proposals will aid the integration of the Proposed Scheme into the surrounding countryside by screening sensitive receptors that might otherwise be subject to significant visual impacts.
- 6.7.3 Existing vegetation in close proximity to the A5WTC will be protected and retained where possible. Boundary hedgerows lost during construction will be replaced. Whilst approximately 7km of species rich hedgerows and 170km of species poor hedgerows would be removed during construction of the Proposed Scheme, the impact will be offset by the planting of some 190km of new hedgerow along the Proposed Scheme boundary.

## **6.8 Sensitive Habitats and Protected Species Impacts**

6.8.1 With two exceptions, there will be no significant effect on the nature conservation status of sensitive habitats, including Northern Ireland Biodiversity Action Plan habitats. The exceptions comprise of the loss of ancient/ long established woodland at Mulvin Park and Routing Burn and the loss of localised bog habitat which constitute a significant effect on the environment.

6.8.2 There will be no significant effect on the nature conservation status of most protected species and proposed design and mitigation measures will ensure that statutory obligations relative to protected species will be met. The exception is the effect on established populations of barn owl. Whilst there was no evidence of their presence found during the site surveys, the species is known to be active throughout parts of the Proposed Scheme corridor. It has been concluded that impacts on barn owl will constitute a significant environmental effect.

## **6.9 Sensitive Habitats and Protected Species Mitigation**

6.9.1 Measures to preserve habitat connectivity for bats, otter, badger and other species have been incorporated into the scheme design. These measures include suitable tunnels/ledges and fencing, bat hops and appropriate culvert design to allow fish passage.

6.9.2 Minimising habitat loss and carrying out landscape planting, which will incorporate species of local provenance, are principle measures to reduce impacts on habitats and species. Habitat creation will be undertaken where appropriate and will include areas of woodland, species rich grassland, hedgerows, reed beds and ponds. Artificial badger setts and bat roosts will be constructed at specific locations.

6.9.3 Preconstruction surveys will be undertaken for key species which will inform targeted mitigation and licensing with the NIEA.

## **6.10 Geology and Soils Impacts**

6.10.1 There will be no significant effect on geology as a result of the proposed scheme.

6.10.2 Several sites have been identified where the ground is known to be contaminated, mostly in brownfield areas around Strabane. Background testing has identified areas of elevated levels of contaminants where soils cannot be incorporated into the works.

## **6.11 Geology and Soils Mitigation**

6.11.1 During the construction phase contractors will undertake sampling and testing of soils in potentially contaminated areas and prepare detailed plans for avoiding handling, removal and disposal to ensure that site staff and the public will not be exposed to any potential hazard. Soils found to be acceptable will be reused in the works.

## **6.12 Surface Water & Quality and Flood Risk Impacts**

6.12.1 There will be no significant effect relating to surface water or groundwater quality, floodplains or flood risk.

## **6.13 Surface Water & Quality and Flood Risk mitigation**

6.13.1 Best practice techniques will be employed for the management of surface water runoff and groundwater collecting on the site prior to discharging to any watercourses; such discharge points requiring temporary discharge licenses from NIEA Water Management Unit.

6.13.2 Attenuation ponds, Sustainable Drainage Systems (SuDS) and pollution control measures are proposed within the scheme design. The ponds will be sympathetically designed to integrate the pond into the landscape to reflect the contours of the adjoining topography. The water quality of discharges, from the operating drainage system and during construction, will adhere to strict discharge limits agreed with NIEA and Lough's Agency.

6.13.3 A draft CEMP and draft Silt Management Plan have been provided. These plans outline measures which contractors must comply with, or better, during the construction phase. These measures will aim to mitigate emissions including water pollutants and silt.

6.13.4 Well and surface water quality monitoring programmes will be implemented in advance of and during the construction phase to monitor the condition of waterbodies.

## **6.14 Noise and Vibration Impacts**

6.14.1 The assessment of traffic related noise during operation has demonstrated that, taking mitigation into account, there will be 765 and 1835 receptors subject to major and moderate long-term increases in traffic-related noise. These will be distributed throughout a substantial proportion of the proposed scheme corridor. This is considered a significant environmental effect.

6.14.2 There will be no significant effect associated with vibration.

## **6.15 Noise and Vibration Mitigation**

6.15.1 Measures to control and reduce construction phase noise and vibration will be implemented by the contractor. The contractor shall comply with the recommendations as set out in BS 5228: 2009 (Code of practice for noise and vibration control on construction and open sites). These measures will be detailed in the contractors CEMP which will be subject to approval by the Department prior to works commencing.

6.15.2 Use of low-noise surfacing along the main carriageway will reduce the level of traffic noise when compared to traditional forms of road surface.

6.15.3 Environmental barriers in the form of 2m high acoustic fencing will be installed at qualifying locations to mitigate traffic-related noise.



6.15.4 Select applicant properties would qualify for noise insulation under the Noise Insulations Regulations as detailed under Section 3.1.5 of this document.

## **6.16 Community Severance Impacts**

6.16.1 The proposed closure, diversion and re-alignment of local roads and relief of severance on the existing A5 will not constitute a significant effect. There will be no significant effects on long distance walking routes, cycle routes or scenic routes.

## **6.17 Community Severance Mitigation**

6.17.1 The proposed road would affect approximately 100 side roads which would mostly be accommodated by the provision of under or overbridges or by realigning the side road into another minor road. A small number of roads would be stopped up, with turning heads provided as appropriate. A number of factors formed part of the decision making process on whether to stop up a side road, these included the existing traffic volume, landowner access requirements (both affected and unaffected) and the length of alternative route. Where appropriate, access tracks have included to mitigate diversion routes for affected landowners. In total 39 overbridges and 36 underbridges are proposed as part of the works. This number excludes additional accommodation structures to provide access to severed lands.

## **6.18 Community and Private Assets**

6.18.1 Approximately 1150 hectares of land is required for the scheme with property and landowners affected either through loss of buildings, landtake or a change in access arrangement. In total, eight residential properties will be demolished by necessity. Land from an additional 41 residential properties will be required and a traveller's site will be discontinued. It has been concluded that the loss of these residencies will constitute a significant environmental effect.

6.18.2 Seven commercial businesses will be affected by land-take or loss of buildings. The farming businesses of 314 landowners will be affected to varying degrees as a result of land take or severance. 185 will endure a slight adverse impact, with 70 enduring moderate and 59 significant adverse impacts. Taking into account the number of farms that will be subject to substantial and moderate adverse impact, it has been concluded these impacts will constitute a significant environmental effect.

6.18.3 A number of existing planning permissions will be affected to varying degrees and may be subject to compensation.

## **6.19 Community and Private Assets Mitigation**

6.19.1 Landowners affected by land vested for the Proposed Scheme would qualify for compensation through Land and Property Services.

6.19.2 Where considered appropriate accommodation structures, both over and under bridges have been included to connect land parcels and agricultural areas, otherwise severed by the Proposed Scheme. Access tracks have also been

included at a number of locations to further assist movement by landowners affected by the scheme.

## **7 THE DEPARTMENT'S DECISION**

### **7.1 Habitats Regulations Assessment**

- 7.1.1 Having regard to the relevant portions of the Environmental Statement, the Reports to Inform an Appropriate Assessment, and the consultation responses to these assessments, the likely significant environmental effects of the proposed scheme have been assessed and information presented is sufficient to inform judgements to be reached with regard to the project.
- 7.1.2 In addition, it is recognised that other relevant consenting authorities may be required to undertake assessments under the Habitats Regulations prior to deciding whether to grant consent for aspects of the scheme which are controlled by separate legislation. Where required, at this stage in the process, these authorities have been consulted or have given the necessary approvals and consents.
- 7.1.3 In light of the content of the appropriate assessment which has been undertaken and the content of the reports, it is considered that the construction and operation of the A5 Western Transport Corridor dual carriageway scheme would not by itself, or in combination with other known plans or projects, adversely affect the integrity of Natura 2000 sites in view of their conservation objectives. Having given careful consideration to the PAC Report and all other representations made, the appropriate assessment process and the contents of Section 4 on further considerations since the public inquiry, the Department concurs with the PAC's recommendation that it should proceed with the proposed A5 Western Transport Corridor dualling scheme. While both Governments remain committed to the entire project, the timing of construction is dependent on the availability of funding.
- 7.1.4 In November 2015, the Irish Government reaffirmed its commitment through 'A Fresh Start: The Stormont Agreement and Implementation Plan' to providing funding of £50 million and also committed to a further £25 million to ensure that Phase 1 of the A5WTC scheme could commence as soon as practical. The Northern Ireland Executive and the Irish Government agreed that, subject to successful completion of the necessary statutory procedures, construction of the first section of the route, i.e. New Buildings to north of Strabane, would commence in 2017 with a view to completion by 2019.
- 7.1.5 In its budget 2016-2017, the Northern Ireland Executive identified a number of flagship projects, one of which was the A5WTC. It recognised the importance of providing funding certainty beyond the immediate budget period and therefore agreed an indicative funding package of £229 million for the scheme up to financial year 2020/21.

### **7.2 Decision on the Environmental Statement**

- 7.2.1 The Department is satisfied that the requirements of Council Directive No. 85/337/EEC (on the assessment of the effects of certain public and private projects on the environment), (as amended) ("the Directive"), as implemented

by Part V of the 1993 Order have been fully complied with in respect of the published scheme (“the project” for the purpose of the Directive).

- 7.2.2 The Department is satisfied that the Environmental Impact Assessment undertaken for the project and the Environmental Statement, have properly identified, assessed and addressed all significant environmental effect, and considered and given reasons for dismissing the main alternatives, as well as assessing the proposed measures to minimise these impacts.
- 7.2.3 The Department is satisfied that members of the public and others concerned have been given reasonable opportunity to express their opinion before deciding to proceed with the project to which the assessment relates.
- 7.2.4 Therefore, having considered the Environmental Statement and any opinions expressed on it by the public and others, the Department has decided to proceed with the project to which the assessment relates. Publication of the Department’s decision to proceed with the scheme will be given by public notice as required by Part V of the 1993 Order.
- 7.2.5 The decisions and Orders set out in this Section will be subject to the Department’s commitment to carry out the mitigation and other works referred to in Sections 3 (in relation to the PAC recommendations), Section 4 (in relation to the unauthorised quarrying in the townland of Urbarreagh); Section 5 (in relation to Habitats Regulations Assessment) and Section 6 (in relation to measure to mitigate adverse effects).

### **7.3 Decision on the Direction Order**

- 7.3.1 The Department has decided to make the Direction Order for the scheme, i.e. between New Buildings and Ballygawley.
- 7.3.2 The Department is satisfied that members of the public and others concerned have been given reasonable opportunity to express their opinion before deciding to proceed with the project to which the assessment relates.

### **7.4 Decision on the Stopping-Up Order**

- 7.4.1 There is no Stopping-Up Order in relation to Phase 1a of the scheme. Future Stopping-Up Orders will be made to coincide with the making of future Vesting Orders.
- 7.4.2 The Department is satisfied that members of the public and others concerned have been given reasonable opportunity to express their opinion before deciding to proceed with the project to which the assessment relates.

### **7.5 Decision on the Vesting Orders**

- 7.5.1 The Department proposes to make the Vesting Order for Phase 1a of the scheme at this point in time. Further Vesting Orders for the scheme will be made as additional funding becomes available.

7.5.2 The Department is satisfied that members of the public and others concerned have been given reasonable opportunity to express their opinion before deciding to proceed with the project to which the assessment relates.