

Otter Derogation Licence Application Supporting Information

Planned Substation & Grid
Route Connection, Athlone,
Co. Roscommon





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1.

INTRODUCTION

This report provides information in support of an application for a derogation under Regulation 54(2) (A-E) of the European Communities (Birds and Natural Habitats) Regulations 2011, as amended. Otter is protected under Annex II and Annex IV of the European Habitats Directive. Annex IV in particular protects the species from disturbance and habitat destruction. This application is being sought on a precautionary basis only, specifically for:

- The potential disturbance of a potential (natal) resting place (holt) (approximately 55 metres from the nearest works area) of otter (*Lutra lutra*) in the form of disturbance due to noise and vibrations associated with Horizontal Directional Drilling (HDD) works on the Cross River. Referred to as Holt 2.
- The potential disturbance of a potential (natal) resting place (holt) (approximately 45 metres from the nearest works area) of otter (*Lutra lutra*) associated with the works in the construction phase of the associated substation near the Mihanboy River. Referred to as Holt 3.

A pre-existing derogation licence was obtained (**DER-OTTER-2025-13**) during pre-planning surveys as a potential holt (Holt 1) was identified along the Cross River to the west of the HDD. This holt could not be identified during updated survey effort undertaken by MKO in April 2026, as there was evidence of collapse of the riverbank since the initial baseline surveys. This above licence was returned to the NPWS on the 06/02/2026 and as such, this holt is not considered further in the current application.

This document provides the necessary information to assess the application, in line with guidance provided by the NPWS and the European Commission.

1.1

Objective of the Planned Works

This derogation licence is required to facilitate the permitted installation of a 100kV substation & grid connection as part of the Strategic Infrastructure Development (SID) at TDC Community Solar PV Part at Cuilglass, Creagh, Taduff West, Taduff East, Thomastown E.D., Athlone, Co. Roscommon (hereinafter referred to as the “Permitted Development”).

1.2

Statement of Authority

This derogation license application has been prepared by Ryan McGee (B.Sc. Env) and Caoimhe Myles (M.Sc. Conservation Behaviour). Caoimhe is an Ecologist at MKO and has experience in environmental auditing, ecological field surveying and report writing. Ryan is an Environmental Technician with MKO, with the relevant qualifications in Environmental Science with Ecology. The ecologist who will be named on the license on behalf of the applicant (EDF) is James Sturt (B.Sc. Environmental Technician). This document has been reviewed by Sara Fissolo, who has over six years’ experience in professional ecological consultancy and has undertaken Appropriate Assessments and Ecological Impact Assessments for a wide range of projects including renewable energy and wastewater infrastructure. Sara has applied for and has held a number of derogation licences for bats.

2. BACKGROUND

2.1 Background

The Permitted Development comprises the construction of a 110kV substation located to the southeast of the planned TDC Community Solar Park site (PI Ref. 20/36 & PI Ref.21/350) and adjacent to the permitted Battery Energy Storage Station (BESS) (PI Ref. 23/197). The Permitted Development will also contain enabling infrastructure to allow connection to the national grid via the existing Athlone 110kV substation located on the outskirts of Athlone town.

The new 110kV substation and grid connection was permitted under planning permission (ACP: 322045) in November 2025. A derogation licence covering the works in question was obtained as part of the permitted development (**DER-OTTER-2025-13**). This current application is being sought as part of an update to the pre-existing license following pre-commencement survey results and the discovery of an additional potential holt (Holt 2) within the disturbance area of the works.

The licence mentioned above was issued pre-planning for disturbance of a potential otter holt (Holt 1) to the west of the HDD; this holt could not be identified during pre-commencement surveys undertaken by MKO in April 2026, as there was evidence of collapse since baseline surveys were carried out. Alternatively, two new potential otter holts (Holt 2 and Holt 3) were identified in proximity of the planned works.

A dedicated otter survey involving the deployment and collection of trail cameras was undertaken by MKO on the 23rd of April 2026 encompassing the Cross river and its tributaries along the grid route layout, including the location of the planned HDD crossing at the Cross River. The works at this crossing will involve Horizontal Directional Drilling (HDD) for the cable installation. The HDD works are located approximately 55m from a newly identified potential otter holt (Holt 2). A first order tributary of the Cross River (MIHANBOY_010) flows through the planned underground cabling (UGC) at the point of the planned instream works.

The Mihanboy River flows adjacent to the Substation work zone. The Substation and associated road networks will cross the Mihanboy by means of a clearspan bridge. A second potential holt (Holt 3) was identified in this area during pre-commencement surveys carried out by Malachy Walsh in January/February 2026. This holt is located approximately 45 metres from the layout of roads and the associated construction footprint of the substation.

The Mihanboy and Cross Rivers are hydrologically connected to each other and to the River Shannon Callows SAC by a distance of approximately 4km.

2.2 Planned Activity for Which the Derogation is Sought

During camera trapping carried out as part of pre-commencement surveys otters were confirmed to be active in the area of the two aforementioned holts (Holt 2 and Holt 3) and were recorded using the potential holts for resting and interacting with them while commuting. The otter holts were therefore presumed to be in active use on a precautionary basis.

Due to the proximity of HDD works to the potential holt (Holt 2) recorded (over 55m) within the Cross River, and the proximity of the Substation construction footprint to the potential holt (Holt 3) recorded within the Mihanboy river (approx. 45m) and in line with the relevant guidance (TII 2008), a derogation licence is sought for the Permitted Development to account for the potential for ex-situ disturbance and displacement impacts to otter during the planned construction works.

2.3

Location

The planned HDD works area is located across the Cross River in Athlone at the ITM coordinate 600371 X, 740579 Y. The Substation footprint is located at the ITM coordinate 198294 X, 239734 Y. The Site Location is shown in Figure 2-1 below.

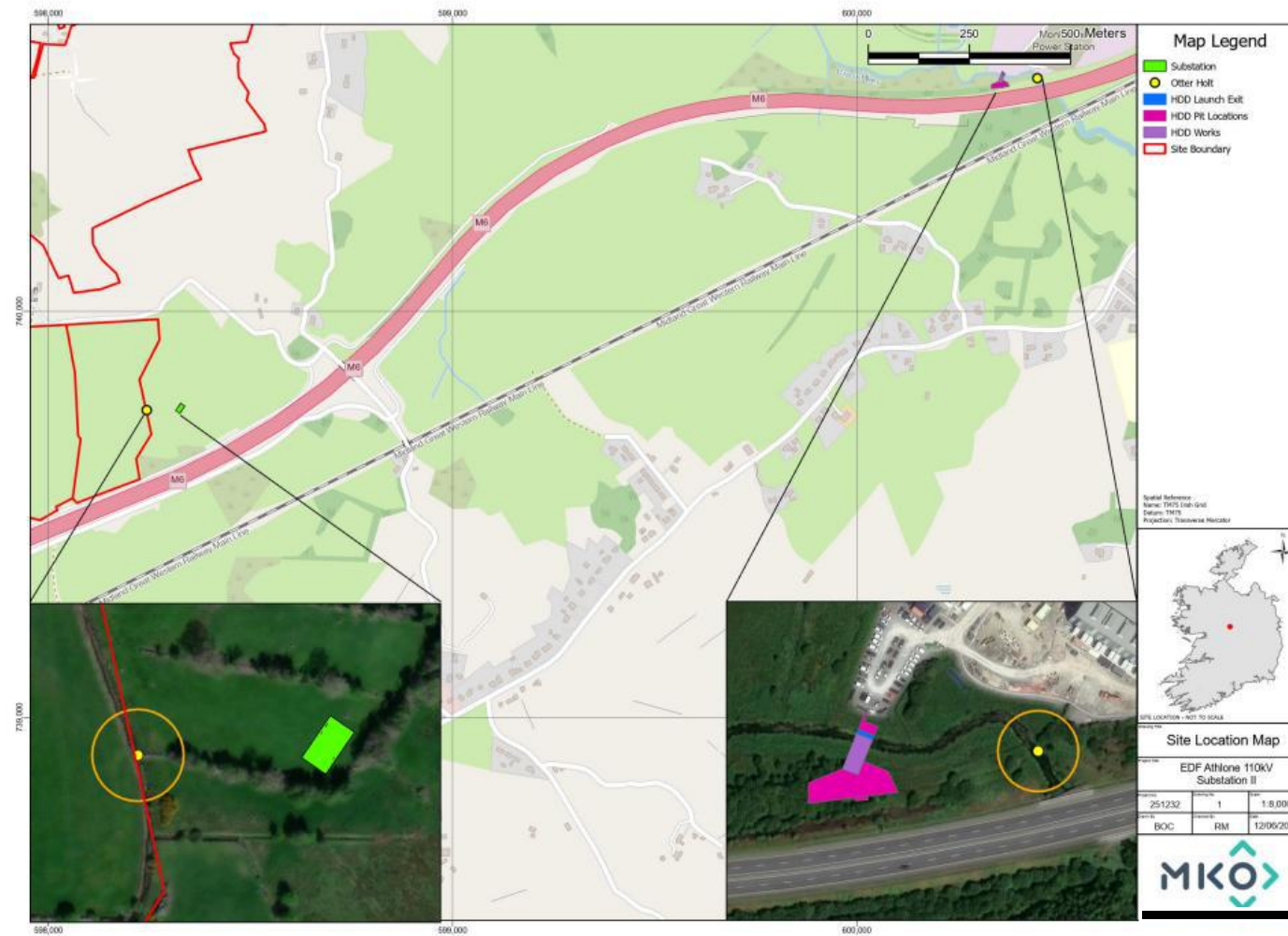


Plate 2-1 Site Location Map

2.4

Requirement for the Permitted Development

The permitted development will provide a source of renewable energy and expand Ireland's power network helping to ensure that the projected population growth will be serviced by sufficient electricity infrastructure, as outlined in the Roscommon County development plan.

This permitted development will progress Ireland towards its renewable energy targets as set out in global pledges of the Paris Agreement (2015). The development of renewable energy is in line with European Policy as set out in the Renewable Energy Directive (as amended, EU/2023/2413), and the European Green Deal, which, among other targets, sets out the requirements for the countries within the European Union to have no net emissions of greenhouse gases by 2050. On a national level, the development of renewable energy is required by the National Planning Framework, the Climate Action Plans, the Climate Action and Low Carbon Development (Amendment) Act 2021, and other plans, and guidelines, which are set out in detail in the relevant planning applications. Regional and County Development Plans further include support for renewable Energy sources and requirements for associated transmission and distribution infrastructure. Relevant policies, zoning and development plans have been reviewed in detail in the planning applications for this permitted development. Currently, Ireland is not on track to meet its renewable energy targets as set out in national and European plans and legislation (SEAI, 2024). The development has been granted to progress targets on energy infrastructure, wind and solar energy.

2.5

Planning History

The planned Horizontal Directional Drilling (HDD) works are required to construct a grid connection as part of a solar development. The grid connection and associated HDD works in question were permitted in November 2025 (PI Ref: 322045) and were also licensed for potential disturbance on other under **DER-OTTER-2025-13**.

The grid connection works are associated with the permitted Solar Park site (PI Ref. 20/36 & PI Ref.21/350) and adjacent to the permitted Battery Energy Storage Station (BESS) (PI Ref. 23/197).

2.6

Policy Context

2.6.1

International Policy

The revised Renewable Energy Directive (EU) 2018/2001 establishes a binding EU target of at least 32% of energy produced by renewable resources by 2030 with a review for increasing this figure in 2023. This Directive establishes a common framework for the promotion of energy from renewable sources.

2.6.2

National Policy

The first National Climate Action Plan was published in 2025, and it sets out a detailed roadmap aiming to increase reliance on renewables from 30% to 70% over the period 2021 to 2030. The National Planning Framework (NPF) identifies the importance of climate change in National Strategic Outcome 8, which relates to ensuring a 'Transition to a Low Carbon and Climate Resilient Society'.

2.6.3 Regional Policy

Chapter 8 of the Roscommon County Development Plan 2022-2028 ¹ sets out several Policy Objectives relating to the Climate Action, Energy and Environment. Most relevant for the permitted development are:

- CAEE 8.2 Support the National Climate Change Strategy by actively seeking to implement the policy objectives throughout this Plan which contribute to positive climate actions, including those related to renewable energy, sustainable transport, air quality, flooding and the promotion of urban and rural green initiatives
- CAEE 8.3 Support developments and actions that assist in achieving the national targets for energy from renewable energy, from renewable resources and reducing greenhouse gas emissions associated with energy production
- CAEE 8.4 Encourage and facilitate the various forms of renewable energy development detailed in the Renewable Energy Strategy that accompanies this Plan (as well as any other new forms of renewable energy which may be developed during the lifetime of this Plan), subject to satisfying the principles of proper planning and sustainable development.
- CAEE 8.6 Facilitate proposals for energy storage systems and infrastructure, which support energy efficiency and reusable energy systems, provided such proposals accord with the principles of proper planning and sustainable development of the area.
- CAEE 8.8 Ensure that renewable energy developments do not undermine the preservation and conservation of the natural and built environment and that an appropriate balance is achieved between renewable energy development and preservation of the natural environment.

2.6.4 Zoning in Roscommon Development Plan

The Renewable Energy Strategy which was prepared to accompany the Roscommon County Development Plan states that solar energy developments of all scales are generally encouraged throughout county Roscommon, providing they are in accordance with the principles of proper planning and sustainable development. It also states that solar energy is considered unlikely to significantly affect Natura 2000 sites and there are therefore less locational constraints on such projects provided that it is on compliance with all relevant environmental protection legislation including the Water Framework Directive ².

¹ Roscommon County Development Plan 2022-2028. Available at <https://www.rosdevplan.ie/roscommon-county-development-plan-2022-2028/>

² Water Framework Directive. Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32000L0060&from=EN>

3. **ACTIVITIES TO BE COVERED UNDER DEROGATION**

3.1 **Horizontal Direction Drilling (HDD)**

The permitted grid connection will require Horizontal Directional Drilling (HDD) under the Cross River, with 2 no. temporary drilling pits, 1 no. located to the immediate north and 1 no. located to the immediate south of the Cross River. The HDD area will comprise of a temporary work area with associated equipment and 2m high HERAS fencing.

Horizontal Direction Drilling is a method of drilling under obstacles such as bridges, railways, watercourses, etc. in order to install cable ducts under the obstacle. This method is employed where installing the ducts using standard installation methods is not possible.

The Cross River traverses private land between both the planned substation and the existing substation along the permitted grid connection. The planned HDD envisages a minimum vertical distance of 1.5 m to the bed of the river. This depth is based on locating a suitable clay/silt formation for HDD.

The drilling methodology for planned HDD crossings is as follows:

- A works area of circa. 40 m² will be fenced on both sides of the river crossing.
- The drilling rig and fluid handling units will be located on one side of the bridge.
- Entry and exit pits (1 m x 1 m x 2 m) will be excavated using an excavator, the excavated material will be temporarily stored within the works area and used for reinstatement or disposed of offsite to a licensed facility.
- A 1 m x 1 m x 2 m steel box will be placed in each pit. This box will contain any drilling fluid returns from the borehole.
- The drill bit will be set up by a surveyor, and the driller will push the drill string into the ground and will steer the bore path under the watercourse.
- A surveyor will monitor drilling works to ensure that the modelled stresses and collapse pressures are not exceeded.
- The drilled cuttings will be flushed back by drilling fluid to the steel box in the entry pit.
- Once the first pilot hole has been completed a hole-opener or back reamer will be fitted in the exit pit and will pull a drill pipe back through the bore to the entry side.
- Once all bore holes have been completed, a towing assembly will be set up on the drill and this will pull the ducting into the bore.
- The steel boxes will be removed, with the drilling fluid disposed of to a licensed facility.
- The ducts will be cleaned and proven and their installed location surveyed.
- The entry and exit pits will be reinstated to the specification of ESBN, EirGrid and Roscommon County Council.
- A transition coupler will be installed at either side of the crossing following the horizontal directional drilling as per ESB and EirGrid requirements, this will join the HDD ducts to the standard ducts.

A detailed site plan of the location of the planned activity is shown in Figure 3-1, 3-2 and 3-3.

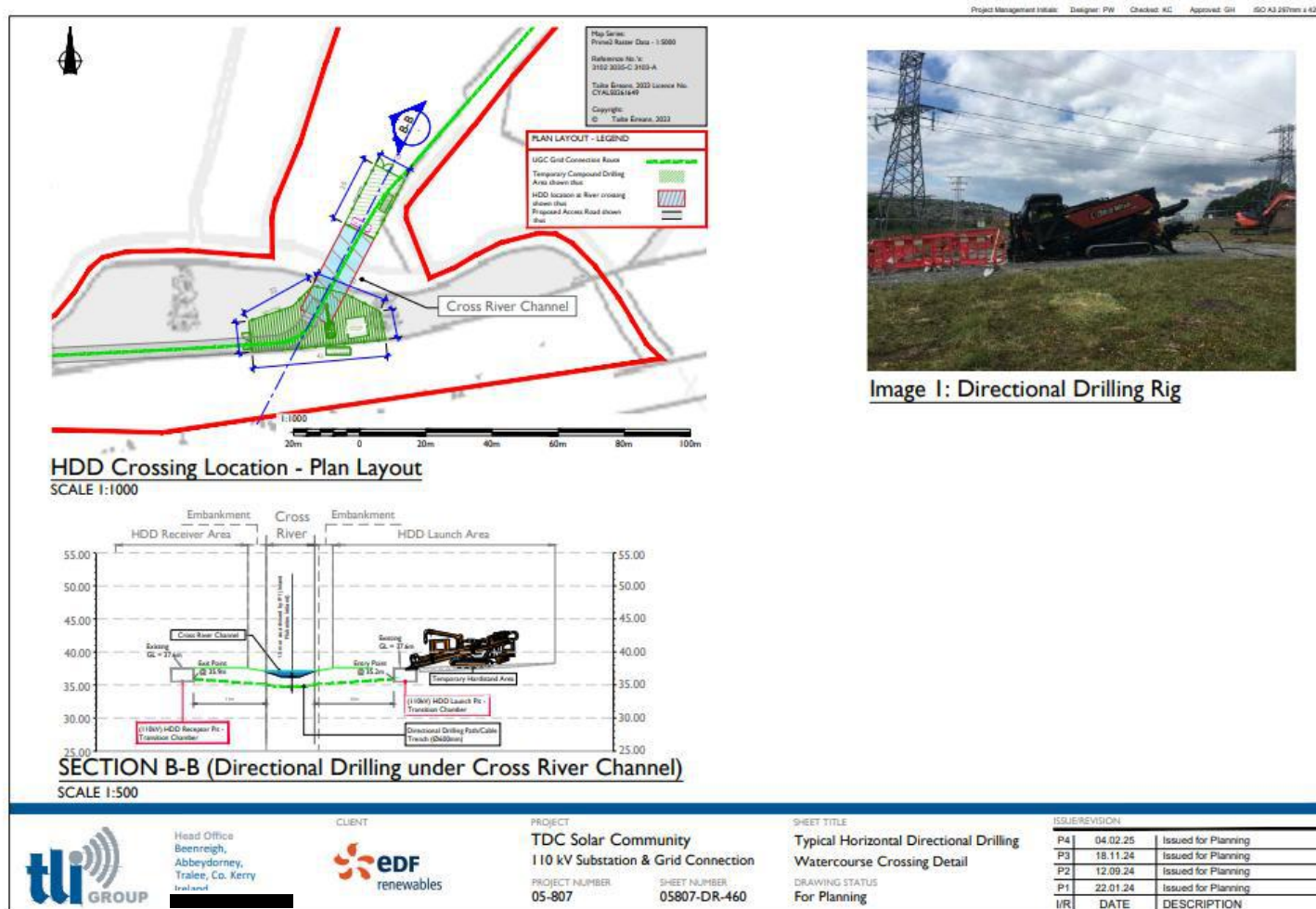
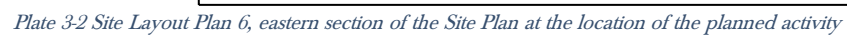


Plate 3-1 Details of the HDD watercourse crossing.





Construction of Substation and Associated Access Roads

The Permitted Development includes for the construction of a 110kV single bay electrical substation of concrete block construct with slate roof, electrical infrastructure, plinths, bunds, lightning masts, surface water and foul drainage works and lighting. The substation compound facility will be secured with fencing to full EirGrid specification.

The following methodology will be adhered to when installing foundations at the Permitted Development site:

- Prior to the pouring of the concrete, some clearance works in the form of excavations may be required.
- Hardcore will be introduced after clearance works have been carried out. This material would then be compacted and levelled to ensure that the concrete is being poured on to a firm stable surface.
- The area of the foundation will be carefully measured and marked out with lines and posts.
- Casing/formwork into which the wet concrete will be poured will then be installed. The concrete will then levelled quickly and allowed to cure for the appropriate time period before the respective components are placed upon it.
- The planned 110 kV electrical substation will be in a compound of circa 125m x 65m plan area secured by a 2.6m high palisade fence.
- The substation compound and drainage will be marked out by a qualified engineer. A drainage system will be excavated and installed around the compound area. Topsoil and subsoil will be removed from the footprint of the compound using an excavator.
- The excavated material will be stockpiled for later use during reinstatement works. A layer of geotextile material will be laid over the footprint of the compound.
- Using an excavator, a base layer of Clause 804 material will be laid followed by a 6F2 capping layer which will provide the finished surface.
- Each layer will be compacted using a vibrating roller.
- Earthing cable will be laid underground around the substation for connection to the various electrical components during the electrical fit out phase.
- The construction of a 8,125 m² substation compound comprising of approx. 450 m² EirGrid 110 kV substation control building, a 216 m² IPP Building and all associated outdoor electrical equipment, including 1 no. 110 kV transformer, associated internal access track and a 2.6 m high perimeter fence.
- Adequate lighting will be installed around the compound on the lighting masts. Lightning protection masts of approximate height 18m will be installed to protect the substation from direct lightning strikes.
- A 110 kV cable sealing end and associated cable equipment will be required to connect the incoming 110 kV underground cables to the 110kV electrical substation. The electrical installation is expected to take 22 weeks and includes the following:
- Delivery and installation of 15 kV/110 kV transformer. These are abnormal loads, and the deliveries will be managed in accordance with regulations governing the movement of large loads.
- Wiring and cabling of HV/LV equipment, protection and control cabinets
- Commissioning of all newly installed equipment.

It should be noted that no mixing of concrete will be carried out at the Permitted Development site. All concrete will be delivered and poured from ready mix trucks.

Clear Span Bridge

As part of the construction of the project internal track network, it is planned to construct two new clear span bridge structures to cater for construction and operational traffic crossing the Mihanboy River in the eastern section of the site and a seasonal drainage ditch/ stream in the south-western section of the site. The finalised design of these structures will be agreed with the Office of Public Works (OPW) subject to the Section 50 consenting process.

The general methodology for the installation and upgrade of the planned clear span bridges is as follows:

- The access track on the approach either side of the watercourse will be completed to a formation level which is suitable for the passing of plant and equipment required for the installation of the watercourse crossing.
- All drainage measures along the planned track will be installed in advance of the works.
- A concrete abutment will be installed which will consist of pre-cast concrete panels installed on a concrete lean mix foundation to provide a suitable base. The base will be excavated to rock or competent ground with a mechanical excavator with the foundation formed in-situ using a semi-dry concrete lean mix. The base will be excavated along the stream bank with no instream works required.
- Access to the opposite side of the watercourse for preparatory works including excavation and foundation installation may require the installation of pre-cast concrete slabs across the watercourse to provide temporary access for the excavator. Plant and equipment will not be permitted to track across the watercourse.
- Any existing pre-cast concrete panels and spans will be removed using a crane which will be set up on the bank of the watercourse and will be used to lift the existing slabs and spans from place onto the bank with no contact with the watercourse.
- All pre-cast concrete panels and beams will be installed using a crane which will be set up on the bank of the watercourse and will be lifted into place from the bank with no contact with the watercourse.
- A concrete deck will be poured over the beams which span across the river. This will be shuttered, sealed and water tested before concrete pouring can commence.
- Once the crossing is in position stone backfill will be placed and compacted against the structure up to the required level above foundations.

When the pre-cast concrete beams are cured, the filling and compaction of the tracks will be completed. The track finish level will be decided by the Project Engineer.

Pre-planning Mitigations

The following mitigations are shown as prescribed in the Ecological Impact Assessment (EcIA, 2021) and Natura Impact Statement (NIS, 2021) submitted as part of the application for the permitted development (Planning ref 322045).

Prior to the commencement of construction works associated with the proposed works, the following measures will be undertaken for the avoidance of disturbance to otter and existing holt location [Holt 1], and to ensure no additional holts have been established since the original surveys were undertaken. The following measures are in line with 'Guidelines for the Treatment of Otter prior to the Construction of National Road Schemes (TII 2008³).

- *If evidence is recorded that the holt becomes a breeding holt, the works will be carried out in accordance with TII (2008) Guidelines for the Treatment of Otters prior to the*

³ Transport Infrastructure Ireland (2006) Guidelines for the treatment of otters prior to the construction of National Road Schemes.

Construction of National Road Schemes and the local NPWS Ranger will be informed and works carried out under their guidance.

- *All construction works will be at least 20m away from the holt.*
- *A tool-box talk will be given by the onsite ECoW to notify the contractors of the presence of the holt and outline the mitigation measures that will be followed to prevent disturbance to the species.*
- *All plant and equipment for use will comply with Statutory Instrument No 359 of 1996 “European Communities (Construction Plant and Equipment) (Permissible Noise Levels) Regulations 1996”.*
- *Operating machinery will be restricted to the Permitted Development site boundary.*
- *Work will be completed during daylight hours. However, if lighting is needed for construction during certain periods over winter months, this lighting will be limited and will face downwards, with no lighting focussed onto surrounding habitats or watercourses.*
- *Regular maintenance of plant will be carried out in order to minimise noise emissions. Particular attention will be paid to the lubrication of bearings and the integrity of silencers.*
- *All vehicles and mechanical plant will be fitted with effective exhaust silencers and maintained in good working order for the duration of the works.*
- *Compressors will be of the “sound reduced” models fitted with properly lined and sealed acoustic covers which will be kept closed whenever the machines are in use and all ancillary pneumatic tools shall be fitted with suitable silencers.*
- *Machines, which are used intermittently, will be shut down during those periods when they are not in use.*

With the implementation of the above mitigations and best practice procedures no residual effects on otter are expected as a result of habitat degradation, fragmentation and disturbance, resulting from the construction of the permitted development.

Pre-commencement surveys have since been carried out. Two new holts were found during pre-commencement surveys (Holt 2 & 3) undertaken, and the original holt (Holt 1) was not reconfirmed.

ECOLOGICAL SURVEY AND SITE ASSESSMENT

National Population Status of Otter

The threats and pressures listed for otter (*Lutra lutra*) in the NPWS (2025b) Article 17 report include water pollution, habitat disturbance and accidental deaths (road traffic). In Ireland, otter have an overall favourable conservation status, and the trend in conservation status is listed as 'stable'. There are some concerns about declining water quality nationally as well as ongoing pressures on riparian habitats through drainage works and riparian scrub/woodland clearance, but it is not clear how these changes might impact on otter. The overall status assessment remains 'favourable', and the trend is taken as stable, a change from the improving trend recorded in 2019.

Survey Objective

Otters are protected under Annex II and IV of the EU Habitats Directive, as well as protected under the Wildlife Act (Wildlife Acts 1976 (As amended)). Otters are known to occur within the wider area of the TDC Community Solar PV Farm and is part of an occasionally used route.

The presence of otter was confirmed at pre-planning stage within the Cross river during pre-commencement surveys carried out by MWP in January/February 2026 as per the previously submitted EcIA. As such, part of prescribed mitigations was to conduct a pre-commencement otter survey to confirm the results of baseline surveys, which was undertaken on the 23rd of April 2026 by MKO, at the location of the planned HDD crossing of the Cross River.

The location of the planned HDD underpass of the Cross River (ITM Ref: 600367 X, 740581 Y) was classified as Lowland depositing river (FW2), and the bankside vegetation was categorised as Wet grasslands (GS4), Wet willow- Alder – Ash woodland (WN6) and Reed and large sedge swamp (FS1). The southern HDD pit is located in an area of Wet willow- Alder- Ash woodland (WN6), with trees being 4-5m in height. Species comprised grey willow (*Salix cinerea*), bramble (*Rubus fruticosus* agg.), nettle (*Urtica dioica*), cock's-foot (*Dactylis glomerata*), bindweed (*Convolvulus* spp.), creeping buttercup (*Ranunculus repens*), smooth meadow grass (*Poa pratensis*), annual meadow grass (*Poa annua*) and wood sedge (*Carex sylvatica*). The habitat where the northern HDD pit will be located was classified as Reed and large sedge swamp (FS1) at the southern extent and Buildings and artificial habitats (BL3) at the north. The northern area is currently utilised as a temporary car park for a large industrial construction site. Species recorded south of the pit included nettle (*Urtica dioica*), reed canary grass (*Phalaris arundinacea*), bindweed (*Convolvulus* spp.), false oat grass (*Arrhenatherum elatius*), ground ivy (*Glechoma hederacea*) and greater willowherb (*Epilobium hirsutum*).

Survey methodology

Targeted otter surveys carried out by MWP in 2026 which included systematic walkover surveys of suitable habitats within the planned development, with particular focus on the Mihanboy river and associated drainage channels. Watercourse banks, culverts, bridges, embankments, and other suitable resting locations were inspected for evidence of otter activity. Camera trap monitoring was undertaken across two separate periods: 26th - 4th January 2026 and 6th – 11th February 2026. Cameras were positioned to monitor the holt entrance (Holt 3) along the Mihanboy river and adjacent areas of suitable activity. Footage was reviewed to determine mammal presence and assess usage of the holt.

The Cross River is connected to the River Shannon Callows SAC and was surveyed by MKO in April 2026 for the presence of otter upstream and downstream of all planned HDD works. This habitat was considered optimal and a search of the surrounding areas for evidence of otter activity carried out in adherence to the following guidelines:

- CIEEM. (2013). *Competencies for Species Surveys: Eurasian Otter*.
- TII (2008). *Ecological Surveying Techniques for Protected Flora and Fauna during the Planning of National Road Schemes*.
- TII. (2008). *Guidelines for the Treatment of Otters prior to the construction of National Road Schemes*.

Both surveys incorporated searches for otter activity and signs e.g. spraints, scat, prints, slides, trails, couches and holt. Searches were carried out along suitable riparian habitat within 10m of the watercourse, which is generally considered to comprise part of the otter habitat when surveying rivers. During the MKO survey on the 28th of April 2026 a camera trap was deployed at the location of a potential otter holt (Holt 2) along the River Cross. This camera trap was collected on the 7th of May and the footage was reviewed.

4.1.4 Survey Results and Discussion

A potential burrow (Holt 2) on the northern bank of the River Cross was recorded approximately 55 m from the planned HDD works. Camera trap footage showed one otter active within the vicinity of the holt (Plate 4-1 below). On a precautionary measure, the holt was therefore presumed to be a potentially active holt. Signs in the form of scat, spraint, prints, slides and couches were recorded along the Cross River during the surveys. Otters are known to occur within the wider area of the TDC Community Solar PV Farm and is part of an occasionally used route.

A second potential holt (Holt 3) was identified during previous pre-commencement survey by MWP on the Mihanboy river (Plate 4-2 below). This potential holt was located adjacent to the Substation construction area, and approximately 45 metres from the nearest works area. Camera trap monitoring recorded otter on several occasions passing and resting in the vicinity of the potential holt, however, were not recorded entering/exiting the holt. The holt was therefore presumed to be an active holt on a precautionary basis. Other signs in the form of scat, spraint, prints, slides and couches were recorded within proximity to the Mihanboy River at the time of surveying.



Plate 4-1: Potential Holt 2 near HDD Crossing



Plate 4-2: Potential Holt 3 near Substation Works zone

4.1.5 Population size class assessment

Hydrological connectivity has been identified via the Mihanboy_010, which flows into the Cross (Roscommon)_030, between the planned solar PV farm and the River Shannon Callows SAC (000216), located 4km to the south-east of the Permitted Development. The population size of otter associated with the River Callows SAC has not been quantified, and areas of suitable habitat for the species within the SAC have not been mapped; however, the 10m terrestrial buffer along shoreline (above high-water mark and along riverbanks) has been identified as critical for otters (NPWS, 2022). Evidence also suggests that otters tend to forage within 80m of the shoreline (high water mark) and will utilise freshwater habitats from estuary to headwaters (NPWS, 2022). Based on the direct connectivity to the SAC and its distance to the potential holts identified being within the known foraging ranges for the species (Ó Néill *et al*, 2009), it cannot be excluded that the otter population encountered within the Permitted Development site is associated with the SAC.

Whilst the size of the otter population using the site is unknown, their presence was confirmed within the vicinity through NBDC data records. The National Biodiversity Data Centre (NBDC, 2026) was searched for records of otter for the hectad pertaining to the Permitted Development (N04 and M94). Otter was recorded within both hectads and more specifically in the 1km grid square N0040 where the planned activity is located.

Furthermore, two new holts (Holt 2 & 3) and otter signs were found during recent pre-commencement surveys in 2026, suggesting that this area continues to provide suitable commuting and foraging habitat for otter. Potential disturbance effects on otter were considered in the previously submitted EcIA (MKO, 2021) and NIS (MKO, 2021). Mitigation measures as outlined in Section 3.4 have been set out to reduce any potential negative disturbance effects during the short-term construction works.

EVIDENCE TO SUPPORT THE DEROGATION TESTS

The (NPWS, 2021) document, *Guidance on the Strict Protection of Certain Animal and Plant Species under the Habitats Directive in Ireland* - National Parks and Wildlife Service Guidance Series 1, the guidance on *Applications for Regulation 54 Derogations for Annex IV species* (NPWS, 2026) the European Commission Guidance (2011), and the (NatureScot, 2020) was reviewed before undertaking this derogation application.

Article 16 of the Habitats Directive sets out three pre-conditions, all of which must be met before a derogation from the requirements of Article 12 or Article 13 of the Directive can be granted. These pre-conditions are also set out in Regulation 54 of the Regulations.

The preconditions are:

- A reason(s) listed in Regulation 54 (a)-(e) applies;
- No satisfactory alternatives exist;
- Derogation would not be detrimental to the maintenance of a population(s) at a favourable conservation status;

It is believed that the pre-conditions for granting a derogation licence have been met, as follows:

Test 1 – Reasons for Seeking Derogation

Regulation 54(2) (a)–(e) states that a derogation licence may be granted for any of the reasons listed (a) to (e). We are of the opinion that the following reason applies:

(c) In the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.

The EC guidance (2011) states (3-32) ‘*Secondly, the ‘overriding’ nature of this public interest must be underlined. This implies that not every form of public interest of a social or economic nature is sufficient, in particular when set against the particular weight of the interests protected by the Directive. Careful balancing of interests is needed here. It is also reasonable to assume that **in most cases, the public interest is likely to be overriding only if it is a long-term interest**: short-term interests that only yield short-term benefits would not be sufficient to outweigh the long-term interest of species conservation.*’

Furthermore, (NatureScot, 2020) offers advice in determining what might constitute ‘other imperative reasons of overriding public interest’. In the context of this derogation application, the following examples from the (NatureScot, 2020) guidance would apply:

- “where there is clear and demonstrable direct environmental benefit on a national or international scale;
- where it is shown that there is a vital contribution to strategic economic development or regeneration;
- where failure to proceed would have unacceptable social and/or economic consequences
- where the project is of national importance, or, possibly, regional importance”

The guidance further states that when a development is required to meet or contribute to meeting a specific need, ‘imperative reasons of overriding public interest’ (IROPI) can be applied. The guidance states the following points as activities or developments as suitable:

1. *“Maintaining the health, safety, education or environment (sustainable development, renewable or green energy, green transport);*
2. *“complying with national planning policies;*
3. *“supporting economic or social development (nationally important infrastructure development projects, employment, regeneration, mineral extraction, housing etc.)”*

The planned activity comprises enabling infrastructure to allow connection to the national grid via the existing Athlone 110kV substation located in the outskirts of Athlone town.

The derogation licence is required by way of an update to a previously held derogation licence in 2025 for the permitted development (PI Ref: 322045, DER No. DER-OTTER-2025-13), to connect a permitted renewable energy development (Point 1 above) to the national grid, comply with national planning policies as per Point 2 (set out in Section 2.6 of this report), and support economic or social developments in the form of a nationally important infrastructure development project.

In July 2021, the Climate Action, and Low Carbon Development (Amendment) Act 2021 was signed into law, committing Ireland to reach a legally binding target of net-zero emissions no later than 2050. Subsequently, the Government published the Climate Action Plan 2024 announcing a renewable electricity target of 80% by 2030. The Permitted Development will assist in achieving the Government’s and EU’s stated goals of ensuring safe and secure energy supplies, promoting an energy future that is sustainable. The Permitted Development will improve public health and safety by reducing GHG emissions, helping tackle climate change. The Permitted Development will provide economic benefits to Ireland by enabling renewable energy produced from the solar farm to be entered into the national grid via the substation and grid connection route, providing safer and cheaper renewable energy throughout Ireland, reducing Ireland’s reliance on fossil fuels.

As per the reasoning provided above, the condition in test 1 has been met.

5.2

Test 2 – There is no Satisfactory Alternative

The “do-nothing” alternative would imply that the development as permitted cannot go ahead without a derogation licence; the opportunity to contribute to Ireland’s EU and national climate targets would be missed. The permitted renewable development would not be able to contribute to the national grid. It would not be able to assist in the production of renewable energy to achieve the governments and European stated goals of ensuring safe and secure energy supplies, promoting an energy future that is sustainable and competitively priced to consumers whilst combating energy price volatility and the effects of climate change.

No satisfactory alternative for the planned substation development footprint is feasible at this stage. Conditional planning permission has been granted for the substation in this location and at this stage it is unfeasible to relocate due to constraints in grid options. Given that this application is on a precautionary basis should the holt become a natal holt then it remains outside the zone of influence from construction works.

No suitable satisfactory alternatives for the planned water crossings are feasible. The first draft planned that the water crossing on the Cross River was to be constructed approximately 190m upstream of the current river crossing location. Discussions and various meetings were held with Roscommon County Council, who are the landholders of a field to the north of the Cross River, where the grid connection route was planned to traverse through. However, access and use of this land to facilitate and locate the site infrastructure was not permitted by the council. Therefore, the location of the water crossing had to change as a result of this decision. Alternative Horizontal Directional Drill HDD locations within this area of the Permitted Development boundary were limited by inaccessibility for vehicles. The area within the Permitted Development is essentially an ‘island’ as the Cross River cuts this site off to the east, west and north and the M6 motorway isolates this landholding to the south of the Permitted Development boundary. The area is heavily constrained as to where machinery can ingress and where

there is enough suitable land coverage to enable the HDD to facilitate the HDD pit locations and associated works. The chosen HDD crossing location is the only suitable option, as only this section of the 'island' that has an access track along the northern boundary for the grid connection construction works to adjoin to. Using this route minimises the loss of habitats during the construction phase of the permitted development HDD works required for the delivery of the project. There is no satisfactory alternative.

Regarding the otter holt on the Mihanboy river the nearest works area is located approximately 55m to the east. The nearest works on the Mihanboy river (clearspan bridge to be installed) is located 60m south of the holt. The redirection of the roads footprint would require extensive planning adjustments, new landowner agreements, and be constrained by proximity to the M6 motorway. The chosen route minimises loss of surrounding habitats during the construction phase of the permitted development. Given that this application is on a precautionary basis we are of the opinion that the desired route minimises the loss of habitat for flora and fauna including Otter.

5.3

Test 3 - Impact of a Derogation on Conservation Status

Annex IV species must be maintained at Favourable Conservation Status or restored to favourable status if this is not the case at present. The net result of granting a derogation licence must be neutral or positive for the species in question.

Dedicated otter surveys carried out by MKO on the 23rd of April 2026 concluded on a precautionary basis that the otter holt identified along the Cross River (Holt 2) has the potential to be an active holt, as two otters were recorded swimming upstream to the entrance of the holt.

Recent surveys of the Mihanboy carried out by Malachy Walsh Ltd and camera trapped by MKO during January 2026 and on April 23rd concluded on a precautionary basis that the potential holt identified previously (Holt 1) had since collapsed, however an additional potential holt was located in the area (Holt 3). The mitigation measures listed in Section 3.4 will be in place to minimise the potential disturbance and displacement to otters during the short-term construction works. The permitted development is located within a larger landscape with suitable alternative habitat for otter and recent record of otter in the vicinity indicates a larger population. Provided that the permitted development is carried out in accordance with the design, best practice and mitigation that is described within this report, significant effects on otters are not anticipated at any geographic scale.

As per the reasoning provided above, the condition in test 3 has been met.

MONITORING THE IMPACTS OF DEROGATION

Monitoring is planned during and following the construction activity:

- A pre-commencement otter survey will be carried out by a suitably qualified Ecologist to assess the assumed holt locations and to confirm that at the time of construction, the holts are still not being used as a natal holt. This will be carried out in advance of any potentially disturbing works at the planned HDD crossing (no more than 10-12 months in advance of construction, in line with best practice guidance (TII, 2008) to ensure that there will be sufficient time to allow actions to be undertaken to protect otter populations prior to the commencement of construction.
- If, during the pre-commencement otter survey, it is determined that the holt is being used as a natal holt at the time of construction, the NPWS will be notified and works within 150m of the holt will be monitored by the Ecological Clerk of Works (ECoW) to ensure mitigations laid out in (TII, 2008) *Guidelines for the Treatment of Otters prior to the Construction of National Road Schemes* NPWS and any further mitigations required by NPWS are implemented fully.
- An updated otter survey will be carried out by a suitably qualified ecologist during and post-construction, and further camera monitoring to inform the license return

An EU Returns Form and a derogation report will be completed by the applicant and returned to Wildlife Licencing Unit of the NPWS, detailing the results of the pre-commencement and construction phase survey efforts, and address any corrective measures that might have been employed to address unforeseen circumstances.

CONCLUSION

This report details information to support the derogation license application as set out in the guidance on Applications for Regulation 54 Derogations for Annex IV species by the (NPWS, 2026)

In conclusion, this report supports the application for a derogation license for potential disturbance of two potential (non-natal) resting places (holts) of otter (*Lutra lutra*), required due to the permitted installation of 100kV substation & grid connection as part of the Strategic Infrastructure Development (SID) at TDC Community Solar PV Part in Co. Roscommon. A previous derogation licence covering the same works was held in 2025 (DER-OTTER-2025-13) for the disturbance of a holt (Holt 1) which has since collapsed. This above licence was returned to the NPWS on the 06/02/2026 and as such, this holt is not considered further in the current application.

As required as part of the application process, the report addresses the following:

- Explanation as to why the derogation licence sought is the only available option for works and no suitable alternative exists as per Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations.
- Evidence that actions permitted by a derogation licence will not be detrimental to the maintenance of the populations of the species to which the Habitats Directive relates at a favourable conservation status in their natural range as is required under Section 54(2) of the European Communities (Birds and Natural Habitats) Regulations.
- Details of any mitigation measures planned for the species affected by the derogation at the location, along with evidence that such mitigation has been successful elsewhere.
- Evidence to support the derogation tests.
- As much information as possible to allow a decision to be made on this application.

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APPENDIX 1

***MKO PRE-CONSTRUCTION
ECOLOGICAL SURVEY REPORT
2026***



APPENDIX 2

**MWP PRE-CONSTRUCTION
OTTER AND BADGER SURVEY
REPORT 2026**