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National Parks and Wildlife Service

**Derogation Number
DER-OTTER-2027-02**

**EUROPEAN COMMUNITIES (BIRDS AND NATURAL HABITATS) REGULATIONS, 2011
(S.I. No 477 of 2011)**

DEROGATION

Granted under Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations 2011, hereinafter referred to as “the Habitats Regulations”.

The Minister for Housing, Local Government & Heritage, in exercise of the powers conferred on him by Regulation 54 of the Habitats Regulations hereby grants to **Emily Rick of Teach Breac, Earl's Island, County Galway, H91 E1A2** a derogation. It is stated that this derogation is issued:

- A. 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
- B. As there is no satisfactory alternative, and the action authorised by this derogation will not be detrimental to the maintenance of the population of **otters** referred to below at a favourable conservation status in their natural range.

This derogation authorises the following:

- 1. disturbance
- 2. Actions authorised within the derogation in respect of **otters**



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Terms and Conditions

1. This derogation is granted solely to allow the activities specified in connection with the works located at **Annacotty Weir, Annacotty, County Limerick, for Emily Rick.**
2. All activities authorised by this derogation, and all equipment used in connection herewith, shall be carried out, constructed and maintained (as the case may be) so as to avoid unnecessary injury or distress to any species of **Otter**. Anything done other than in accordance with the terms of this derogation may constitute an offence
3. This derogation may be modified or revoked, for stated reasons, at any time.
4. The mitigation measures outlined in the application report (**I385-OCSC-ZZ-ZZ-RE-YE-811-S4-P04 Derogation Licence**), together with any changes or clarification agreed in correspondence between NPWS and the agent or applicant, are to be carried out. Strict adherence must be paid to all the proposed measures in the application.
5. The actions which this derogation authorise shall be completed between the **1st April to 30th November 2027, inclusive.**
6. The works will be supervised by an ecologist: **Rebecca Duane**
7. If this derogation addresses works that are subject of a planning application, no such works permitted under this derogation can occur until planning permission is granted.
8. If this derogation expires prior to works permitted under this derogation commencing, a new application must be sought in advance, including the provision of any updated data or reports.
9. Works are to comply with **NRA's** [Guidelines for the Treatment of Otters Prior to the Construction of National Road Scheme](#).
10. This derogation shall be produced for inspection on a request being made on that behalf by a member of An Garda Síochána or an authorised NPWS officer appointed under Regulation 4 of the Habitats Regulations.
11. The local **NPWS Regional Manager – Dr. Áine Lynch**, aine.lynch@npws.gov.ie, must be contacted prior to the commencement of any activity, and if otters are detected on site during the course of the work, under the terms of this derogation.
12. On completion of the activities which this derogation authorises, all recordings of otter affected will be made using the standardised data form provided below and must be submitted to the NPWS **within four weeks of the expiry date** of this derogation. Included with the below returns form, a report must be submitted to wildlife.reports@npws.gov.ie detailing results of works and success of mitigation. **Both documents must be submitted to constitute a derogation return.**



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For the Minister for Housing, Local Government & Heritage

Fiona O' Mahony.

(an officer authorised by the Minister to sign on his behalf)

28 August 2026

Any query in relation to this derogation should be sent to reg54derogations@npws.gov.ie



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Derogation Assessment

Name of Applicant: Emily Rick

Location/Name of Project: Annacotty Weir, Annacotty, County Limerick

Tick the following prohibition as chosen on the application:

(a) Deliberately capture or kill any specimen of the relevant species in the wild	☐
(b) Deliberately disturb these species particularly during the period of breeding, rearing, hibernation and migration	☒
(c) Deliberately take or destroy eggs of the relevant species in the wild	☐
(d) Damage or destroy a breeding or resting place of such an animal, or	☒
(e) Keep, transport, sell, exchange, offer for sale or offer for exchange any specimen of the relevant species taken in the wild, other than those taken legally as referred to in Article 12(2) of the Habitats Directive.	☐
(a) Deliberately pick, collect, cut, uproot or destroy any specimen of these species in the wild, or	☐
(b) Keep, transport, sell, exchange, offer for sale or offer for exchange any specimen of these species taken in the wild, other than those taken legally as referred to in Article 13(1)(b) of the Habitats Directive.	☐

Test 1: A reason(s) listed in Regulation 54 (a)-(e) applies to the proposed activity

i. Tick which reason the applicant claims should be applied to the derogation

(a) In the interests of protecting wild flora and fauna and conserving natural habitats,	☐
(b) To prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property	☐
(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,	☒
(d) For the purpose of research and education, of re-populating and re-introducing these species and for the breeding operations necessary for these purposes, including artificial propagation of plants, or	☐
(e) To allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species to the extent specified therein, which are referred to in the First Schedule.	☐

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ii. Test 1: Conclusion

Please tick the following where it applies:

There is a valid reason(s) listed in Regulation 54 (a)-(e) which applies to the proposed activity:	Yes	☒
	No	☐

Please outline your analysis below and state how the applicant has provided evidence to support your conclusion:

The application form and associated documentation provided by the applicant has been reviewed in full. The application relies on regulation 54(2)(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' as the reason chosen for a derogation that they believe applies to the proposed activity.

In the detail provided, it is clear that the applicants are relying on the imperative reasons of overriding public interest, including those of a social or economic nature aspect of Reason C. As outlined on page one of the accompanying report titled "Otter Derogation Licence Report" a derogation is required to facilitate proposed works at the Annacotty Weir on the River Mulkear, Co. Limerick.

The objective of the works involves proposed weir removal works including the "removal of the existing fish pass, channel reprofiling, gravel embankment construction, and associated bank stabilisation." The report further outlines that the proposed works form part of a river continuity and restoration plan which will improve ecological connectivity, enhance fish passage "in accordance with the objectives of the Inland Fisheries Ireland Water Framework Directive and national fisheries management objectives"

The report further outlines on page 29 the works will provide "provide substantial long-term environmental benefits" while supporting national and European environmental objectives such as the habitat's directive and the River Basin Management plan for Ireland. The removal of the weir will contribute to the conservation objectives of the lower Shannon SAC allowing the river to function in a "more natural manner" and support wider aquatic biodiversity.

The applicant has provided evidence as to the nature and scale of the public interest including those of a social or economic nature for the proposed works and the proposed activity is necessary to achieve these overall objectives. Based on the above this application has passed Test 1 and can now proceed to Test 2. |



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Test 2: Absence of a satisfactory alternative

Please tick the following where it applies and add a comment below to support the recommendation:

The applicant has provided satisfactory evidence that alternative solutions have been considered and have given reasons why the proposed approach is the only satisfactory alternative:	Yes	☒
	No	☐

Please outline your analysis below and state how the applicant has provided evidence to support your conclusion (If you wish to add additional conditions please complete pg. 6):

The documentation submitted by the applicant has been reviewed, including the evidence for alternative solutions.

The purpose of the derogation is to allow the following activity to take place: the removal of Annacotty Weir and the associated fish pass structures on the River Mulkear, County Limerick. The project is being undertaken by Inland Fisheries Ireland (IFI) to improve fish passage, restore ecological connectivity, enhance aquatic habitat quality, and reinstate more natural river processes within the River Mulkear.

The specific situation that needs to be addressed is Otter surveys identified an active holt (H2), an upstream couch (C2), and a couch located beneath the existing weir structure (C3). While the couch beneath the weir structure will be lost as a consequence of the proposed works and temporary disturbance may occur during construction.

The alternative solutions suggested by the applicant are:

Option I - Do Nothing

The do-nothing scenario would involve retaining Annacotty Weir and the existing fish pass structures in their current condition and undertaking no intervention within the river channel.

This option was considered unsatisfactory as it would fail to address the existing barriers to fish passage and would not improve ecological connectivity within the River Mulkear. The current hydromorphological alteration of the river would remain, together with the associated impacts on sediment transport and habitat quality. The environmental objectives of the project, including restoration of natural river processes and enhancement of aquatic habitats, would therefore not be achieved.

Option C - Refurbishment of Existing Fish Ladder

IFI assessed the potential to repair, modify, or refurbish the existing fish ladder structures associated with Annacotty Weir.

This option was considered unsatisfactory, as the existing fish ladder is understood to be suboptimal in facilitating fish passage due to its overall condition, positioning on the weir, steep gradient, and limited functionality for a range of fish species, particularly lamprey and eel species. Significant structural modifications would likely be required to bring the fish pass in line with modern fish passage standards, resulting in costs and engineering requirements comparable to construction of a new structure. Furthermore, refurbishment would



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not restore natural river processes or address the wider hydromorphological impacts associated with the continued presence of the weir.

Option D - Lowering of the Existing Weir

Lowering the existing weir and combining this with the installation of additional fish passage structures was considered.

While this option would provide some improvement in fish passage and partially restore river processes, a substantial artificial structure would remain within the channel. Consequently, the option would not fully restore ecological connectivity, sediment transport processes, or natural channel morphology. The environmental benefits would therefore be significantly less than those achieved through removal of the structure.

Option E - Downstream Rock Ramp Fish Pass

Construction of a downstream rock-ramp fish pass was assessed as a potential solution to improve fish passage. While rock-ramp fish passes can provide passage opportunities for a range of fish species, the existing weir would remain in situ and continue to influence channel morphology, flow dynamics, and sediment transport. The option would therefore improve fish passage but would not achieve the broader river restoration objectives associated with removal of the barrier.

Option F - Upstream Rock Ramp Fish Pass

Construction of an upstream rock-ramp fish pass involving partial modification of the existing structure was also considered.

As with Option E, this alternative would improve fish passage but would retain the existing barrier within the river system. The option would require substantial engineering intervention while continuing to maintain an artificial structure within the channel. Consequently, the ecological benefits would be lower than those associated with complete barrier removal.

Option G - Bypass Channel

Construction of a bypass channel around the existing weir was assessed.

This option was considered unsatisfactory due to the significant land take requirements, engineering complexity, and requirement for additional structures to maintain suitable flow conditions. The option would also leave the existing weir structure in place and would not fully restore natural channel processes.

Option A - Partial Weir Removal

Partial removal of the weir was identified as a potentially viable river restoration measure and would provide significant improvements to fish passage and ecological connectivity.

However, hydraulic assessment and engineering design development concluded that complete removal of the structure would provide the greatest environmental benefit and would achieve the project objectives more effectively. Partial removal would retain elements of the existing structure within the channel and therefore continue to exert some influence on channel processes and river morphology.

Preferred Option - Complete Weir Removal (Option B)



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Following assessment of all feasible alternatives, complete removal of Annacotty Weir was identified as the preferred option. This option provides the greatest improvement in fish passage, ecological connectivity, sediment transport, channel morphology, and restoration of natural river processes. It also offers the greatest long-term environmental benefit for the River Mulkear and contributes most effectively towards the conservation objectives of the Lower River Shannon SAC.

Alternatives Specifically Relating to Otters

In addition to the engineering and fish passage considerations outlined above, the potential to avoid impacts on otter was considered throughout the options appraisal process. The identified otter resting places, comprising an active holt (H2), an upstream couch (C2), and a couch located beneath the existing weir structure (C3), are located within or immediately adjacent to the area required for construction access and instream works. Consequently, all engineering options involving refurbishment, modification, lowering, partial removal, or complete removal of the weir would result in temporary disturbance within the vicinity of the identified otter resting places during the construction phase. The only option that would completely avoid disturbance to the active holt and couches, and avoid the loss of couch C3, would be the do-nothing option.

Alternative construction access arrangements were also considered during project design. However, due to the physical constraints of the site, including the location of the existing weir, the adjacent mill race and sluice gate, existing riverbanks, surrounding infrastructure, health and safety requirements, and the need to provide safe access for plant and machinery undertaking instream works, no feasible alternative access route was identified that would avoid the vicinity of the identified otter resting places. The selected access route utilises the existing access path on lands owned by Avista Ltd. and represents the most practical and least environmentally damaging means of accessing the works area. Consequently, temporary disturbance to the active holt (H2) and couches (C2 and C3) could not be completely avoided under any feasible construction access scenario.

Retention of the structure through implementation of the do-nothing option was not considered feasible as it would prevent achievement of the primary objectives of the project, including restoration of fish passage, improvement of ecological connectivity, restoration of natural river processes, and delivery of the associated conservation benefits for the Lower River Shannon SAC.

Temporary exclusion of otters from the couch beneath the weir structure (C3) was also considered but would not avoid the eventual loss of the couch, as the structure supporting it must be removed as part of the preferred restoration option.

Alternative construction methodologies were also reviewed. However, because couch C3 is located directly beneath the existing weir structure and within the area required for demolition and restoration works, no practicable construction methodology was identified that would allow the project objectives to be achieved while avoiding the permanent loss of this couch. Similarly, although alternative access and construction approaches were considered, no feasible option was identified that would completely avoid temporary disturbance to the active holt (H2) and upstream couch (C2) during the construction period.

Accordingly, while all feasible alternatives were considered, no satisfactory alternative solution was identified that would achieve the objectives of the project while completely avoiding impacts on otter resting places.

Conclusion



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Following assessment of all feasible engineering, ecological and construction alternatives, it was concluded that there is no satisfactory alternative solution capable of delivering the objectives of the Annacotty Weir Removal Works while completely avoiding impacts on otter resting places. All feasible options involving modification, refurbishment, partial removal or complete removal of the weir would result in temporary disturbance to the active holt (H2) and couches (C2 and C3) during the construction phase, while the do nothing option was the only alternative capable of avoiding such impacts. However, the do-nothing option was discounted as it would fail to achieve the primary objectives of the project, including restoration of fish passage, ecological connectivity, natural river processes, and delivery of the associated conservation benefits for the Lower River Shannon SAC. Furthermore, no practicable construction methodology was identified that would allow the project Objectives to be achieved while avoiding the permanent loss of the couch located beneath the existing weir structure (C3), as the couch is situated within the footprint of the structure that must be removed. The selected option therefore represents the solution that provides the greatest environmental benefit while minimising impacts on otter through the implementation of a project-specific Otter Mitigation, ecological supervision by an Ecological Clerk of Works (ECoW), and post-construction monitoring.

Accordingly, it is concluded that there is no satisfactory alternative solution capable of delivering the objectives of the proposed works while completely avoiding impacts on otter resting places.

The applicant has provided satisfactory evidence that alternative solutions have clearly been considered. As outlined on pages 31-34 of the accompanying report: a number of alternative solutions, including the “do-nothing alternative” were examined by the applicant.

Based on the assessment of the application documentation, it is regarded that the applicant has considered all available alternative solutions and at this time no other alternative solutions are apparent.

Having weighed the possible solutions to solve the applicant’s problem against the effects of a derogation on the species concerned, it is concluded that the application has passed Test 2 and can proceed to Test 3.

Upon completion of your assessment, please return this Recommendation to WLU to continue the application process.

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National Parks and Wildlife Service**Test 3: Impact of a derogation on conservation status of the species**

Please tick the following where it applies and add a comment below to support the recommendation:

The derogation would NOT be detrimental to the maintenance of the populations of the species in question at a favourable conservation status in their natural range.	Yes	☒
	No	☐

Please outline your analysis below and state how the applicant has provided evidence to support your conclusion. (If you wish to add additional conditions please complete pg. 6)

The proposed works will result in the loss of an identified resting place for otters (not a holt, but a couch (C3)) and temporary disturbance to otters in the vicinity of the construction activity. An active holt (H2), approximately 100 m upstream, and an active couch (C2), approximately 32 m upstream, will not be removed, but construction activities will occur within their precautionary disturbance zone and therefore have the potential to temporarily disturb otters using them. The report notes that otters in this area use a network of resting places throughout the River Mulkear corridor and are part of a wider, well-connected Shannon catchment population. Extensive suitable habitat exists upstream and downstream of the works.

The report proposes a comprehensive mitigation strategy including ecological supervision; additional surveys pre-works; exclusion zones around the active holt (H2) and active couch (C2); maintenance of habitat connectivity along the river corridor; and noise reduction methods.

A detailed staged exclusion process is proposed for C3 which should ensure that no otters are injured and disturbance is minimised. Ultimately the works will help restore the Mulkear to a natural flow regime, while improving fish passage, and this may in time help enhance prey availability and hence the value of the habitat for otters.

Subject to strict implementation of the proposed mitigation and monitoring measures, the derogation would NOT be detrimental to the maintenance of the populations of the species in question at a favourable conservation status in their natural range.

If the answer above is Yes then the derogation may be granted, providing Tests 1 and 2 have also been met.

Upon completion of your assessment, please return this Recommendation to WLU to continue the application process.



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Derogation decision

The application for a derogation under Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations, 2011 (S.I. 477 of 2011), as amended, has been assessed by officials in the Department and the following decision has been made:

Tick box where appropriate:

There is no satisfactory alternative ☒

and the derogation is not 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. ☒

Therefore, a derogation may be granted to the applicant, since it is—

(a) in the interests of protecting wild fauna and flora and conserving natural habitats ☐

(b) to prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property, ☐

(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, ☒

(d) for the purpose of research and education, of repopulating and re-introducing these species and for the breeding operations necessary for these purposes, including the artificial propagation of plants, or ☐

(e) to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species to the extent specified therein, which are referred to in the First Schedule. ☐

OR This application has been refused as one or more of the conditions set out above have not been met ☐



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The following conditions should be attached to the derogation:

- 1.
- 2.
- 3.
- 4.

[add additional conditions where required]

Kate Greaney

Signed: .

Date: August 28, 2026

Position: Ecologist