EXPLANATORY MEMORANDUM TO

The Newry River (Diversion of Navigable Watercourse and Extinguishment of Public Rights of Navigation) Order (Northern Ireland) 2022

S.R. 2022 No. 61

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department for Infrastructure to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under Article 5 and 6 of the Roads (Northern Ireland) Order 1993 and is subject to the negative resolution procedure.

2. Purpose

2.1. The Order provides for diversion of part of the navigable watercourse and the extinguishment of public rights of navigation over part of the navigable waters of the Newry River.

3. Background

3.1. The Department upon request from any developer may by order provide for the construction of a bridge over navigable waters and the diversion of such part of a navigable watercourse as considered necessary to construct and operate the subject bridge. The Narrow Water Bridge project is being taken forward by Louth County Council (LCC) who have made an application to the Department for such "Bridge Orders" to be made. The Department has no direct involvement in delivering this project but has a statutory function to facilitate the project by processing the necessary "Bridge Orders". The proposed bridge is a single carriageway, cable stayed opening bridge and will remain in the LCC's ownership and to operate.

4. Consultation

4.1. Comprehensive public consultation was carried out by LCC during the development of their scheme and the Department's consultation on draft Bridge Orders between April and June 2013. A total of 17 letters of objection were received. Fifteen of the letters were from mussel fishermen or those representing or supporting the fishermen; a further letter made similar claims to the fishermen about loss of navigation rights; and the remaining letter claimed the bridge required an "Appropriate Assessment" under the Habitats Directive. The main thrust of the objections from the mussel fishermen was the anticipated loss of fishing grounds. The Department was also aware of strong support for the Narrow Water Bridge project locally and had received numerous letters backing the project.

4.2. On 9 July 2013 the then Minister for Regional Development announced his decision that a public inquiry was not necessary and that the Department should proceed to make the Orders. However, later that day LCC announced that the project had to be put on hold as construction costs had

run substantially above their allocated budget. The then Minister instructed that no further action be taken to progress the Bridge Orders.

4.3. Over recent months, LCC has been engaging with Departmental Roads' Officials about progressing the making of the necessary Bridge Orders to facilitate their Narrow Water Bridge Project. On 26 January 2022 LCC formally requested that the Department progress the necessary Bridge Orders. As part of their current development work on the project, LCC has confirmed that they recently engaged with Warrenpoint Harbour Authority and two of the local fishermen who are most directly impacted by the project. LCC has not had any further dialogue since the original 2013 process with any other objectors to the original draft Orders. LCC advised that following their recent engagement, Warrenpoint Harbour Authority has confirmed that they are not opposed to the Narrow Bridge Project but have some concerns on potential queuing of traffic on the A2 out of Warrenpoint as it may impact on port traffic. Departmental officials will continue to work with LCC to resolve these issues. Whilst LCC has not confirmed whether or not the objections of the two local fishermen both remain, LCC has advised that they remain committed to a compensatory package funded through the project, for the loss of fishing ground and impact of access to mussel lays and towards adaptation of boats which can avail of passing under the bridge.

4.4. After careful consideration of the importance of the Narrow Water Bridge project to the local communities of South Down and County Louth; the fact that it is explicitly referenced in New Decade New Approach; and that, as well as delivering social and economic advantage, it will also increase connectivity and maximise the tourism potential for the region, the Minister has instructed the Department to make the Order to assist in progressing the project to tender stage as soon as possible.

5. Equality Impact

5.1. A relevant section 75 Equality of Opportunity Screening Analysis was carried out for this scheme. This determined that an Equality Impact Assessment was not required.

6. Regulatory Impact

6.1. A Regulatory Impact Assessment was not considered necessary.

7. Financial Implications

7.1. None.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department has carried out a Human Rights Act Screening Analysis and no human rights issues have been identified.

9. EU Implications

9.1. Not applicable

10. Parity or Replicatory Measure

10.1. None

11. Additional Information

11.1. Not applicable

24/2/2022