



**Consultation on the Draft Arterial Drainage Maintenance Activities
2022-2027 and associated SEA Environmental Report and AA
Natura Impact Statement Report
Office of Public Works**

Introduction to CIEEM

The Chartered Institute of Ecology and Environmental Management (CIEEM), as the leading membership organisation supporting professional ecologists and environmental managers in the United Kingdom and Ireland, welcomes the opportunity to comment on this consultation.

CIEEM was established in 1991 and has over 7,000 members drawn from local authorities, government agencies, industry, environmental consultancy, teaching/research, and voluntary environmental organisations. The Chartered Institute has led the way in defining and raising the standards of ecological and environmental management practice with regard to biodiversity protection and enhancement. It promotes knowledge sharing through events and publications, skills development through its comprehensive training and development programme and best practice through the dissemination of technical guidance for the profession and related disciplines.

CIEEM is a member of:

- Northern Ireland Environment Link
- National Biodiversity Forum (Ireland)
- Scottish Environment Link
- Wales Environment Link
- Environmental Policy Forum
- IUCN – The World Conservation Union
- Professional Associations Research Network
- Society for the Environment
- United Nations Decade on Biodiversity 2011-2020 Network
- Greener UK

CIEEM has approximately 450 members in Ireland who are drawn from across the private consultancy sector, NGOs, government and semi-state agencies, local authorities, academia and industry. They are practicing ecologists and environmental managers, many of whom regularly provide input to and advice on land management for the benefit of protected species and biodiversity in general.

This response was coordinated by our Ireland Policy Group.

We welcome the opportunity to participate in this consultation and would be happy to provide further information on this topic. Please contact Jason Reeves (CIEEM Head of Policy and Communications) at JasonReeves@cieem.net with any queries.

Due to the expertise of our membership, we have focused our response to Arterial Drainage Maintenance Activities 2022-2027- Volume III - Natura Impact Statement. We appreciate the opportunity to respond and welcome the consideration of our comments.

Summary of main comments from our submission:	
1.	CIEEM calls for a general review of the Arterial Drainage Act and its implementation in Ireland.
2.	Construction Environmental Management Plans (CEMP) are needed for all sites where a NIS is required.
3.	There is a strong need for the presence of an ECoW on all sites subject to an NIS.
4.	CIEEM calls for greater transparency in this document. In particular, data on the auditing process, on past project level AAs and on the OPW data set, should be included in more detail.
5.	The importance of considering how biodiversity can be harnessed to reduce the effects of flooding through use of Nature Based Solutions should be front and centre of the OPWs flood works.
6.	Strengthening of the title and terminology in section 4.5 Mitigation and recommendations, is required.

CIEEM understands the legal requirement of OPW as per the Arterial Drainage Act 1945 and 1995 but we would like to take this opportunity to call for a review of this law and its implementation in Ireland. There have been substantial changes in environmental imperatives and aims, and accompanying law, since the Act was published, so a new Act is required.

We would also like to point out that the regulation of Arterial Drainage schemes is a key issue. The OPW are largely self-regulating the process with some governmental oversight, however as they themselves are a government organisation, this process cannot be seen as objective or independent. The OPW does outsource NIS assessments and audits to Engineering / Environmental consultancies, however external consultants cannot be deemed truly independent if they are being paid by those who they are auditing. CIEEM would like to see a review of this process to ensure a more accurate appraisal of the impact of this scheme.

Comments on Section 2.1 Project description - Introduction:

2.1: It is stated that there is a national 5 year schedule of Appropriate Assessment for Schemes. CIEEM would like to raise that some of these sites are very sensitive, and this timeframe may not be appropriate.

Table 2.1: The term '*Areas Benefiting (hectares)*' is used. CIEEM considers this terminology to be outdated, as the works clearly are not beneficial for the environment.

Comments on Section 2.4 Environmental Management and Maintenance Planning:

2.4: CIEEM would like to acknowledge the positive steps made with the publication of the Environmental Guidance: Drainage Maintenance and Construction, 2019. This provides good Environmental Procedures for the organisation, which we consider to represent best practice. However, it is important to ensure that this best practice is implemented effectively during works, notably by the presence of an ecologist on sensitive sites.

2.4.1: CIEEM would like clarification on who fills in the Environmental Risk Assessment and Bridge Inspection Form. Potential impacts or even presence of sensitive ecological features (e.g. bats, otters, freshwater pearl mussel) cannot be assessed effectively by an engineer or construction contractor. We only consider an ecologist to be competent for the ecological aspects of these assessments

2.4.2: CIEEM would like to see greater transparency on the Auditing process. This process has been undertaken for a few years and this scientific data should be included in this NIS document, in order to demonstrate whether or not mitigation measures that have been implemented are effective. If the measures are not being implemented properly, it will be necessary to strengthen the mitigation measures, e.g. by requiring the presence of an ecologist on-site during works.

2.4.2: Comments on EP6: CIEEM would like clarity on the effectiveness of the Weekly Record Cards used by operators and management staff. As noted above, we only consider an appropriately qualified / experienced ecologist to be competent in determining the likely presence or absence of sensitive ecological features.

2.4.3: CIEEM welcomes the inclusion of construction-stage mitigation measures. However, the implementation of ecological mitigation is a complex, site-specific process that requires the expertise of an ecologist. Inadequate mitigation may result in legal offences, and we understand that the OPW's environmental auditing process has shown that mitigation is not always being implemented adequately. Therefore, we propose that an on-site Ecological Clerk of Works is engaged for all projects that require NIS.

2.4.4: Section 3 of the OPW Environmental Guidance: Drainage Maintenance & Construction document includes procedures for the management of three terrestrial invasive species: Japanese Knotweed, Himalayan Balsam and Giant Hogweed. However, it does not include procedures for the management of aquatic invasive species, e.g. Nuttall's Waterweed *Elodea nuttallii* or Curly Waterweed *Lagarosiphon major*. Maintenance works may cause these species to spread downstream and colonise new areas, where they could have significant negative impacts on Natura 2000 sites. Therefore, the omission of aquatic invasive species is a lacuna in the NIS, and additional mitigation will be necessary to address it.

2.4.7: See comment above regarding Section 2.4.3

2.4.10: We note that Biodiversity training was provided to OPW staff in 2017 and 2018. CIEEM recommends that this training course is provided on an annual basis and updated over time. Detailed training is required for all project managers and environmental specialists, while ground staff require basic familiarisation with key considerations and legal obligations.

2.4: It should be clarified that "spraying with herbicide" only applies to the use of herbicide to control Third Schedule (of S.I. No. 477/2011 - European Communities (Birds and Natural Habitats) Regulations 2011) invasive species (e.g. Japanese knotweed), and not to the use of herbicide to clear any other form of vegetation.

Comments on Section 2.5 Mitigation and Monitoring:

2.5.3: Third-party audits of channel maintenance projects have found a number of ecological impacts, including excessive vegetation removal, poor soil management and poor channel maintenance. Although these were improved by another visit, this is too late, and suggests that the mitigation strategy (which is presented in the NIS) is inadequate. Our suggested addition of an Ecological Clerk

of Works (ECoW) for all sites requiring NIS will ensure the mitigation strategies are efficient and robust, and implemented at an early stage.

2.5.4: CIEEM welcome the joint work of OPW and IFI on the ERRP biological research.

2.5.6: CIEEM understand that the OPW data are not publicly available. If they could be provided in the NIS it would help to demonstrate whether or not mitigation strategies are effective and reliable. The following data could be included: how much data are contained in the dataset, how often new data are added, and how they are verified, how often this is accessed by staff, and the training that is provided to staff on effective use of this data.

2.5.7: CIEEM welcomes OPW involvement in Pilot studies and would hope to see the benefits of these projects being implemented more widely in its schemes.

2.6: The importance of considering how biodiversity can be harnessed to reduce the effects of flooding through use of Nature Based Solutions should be front and centre of the OPWs flood works. Benefits for biodiversity may not necessarily come at the cost of flood protection. The Biodiversity Action Plan of the OPW outlines some aspirational actions for implementation.

Comments on Section 2.7 Alternatives considered:

2.7: CIEEM would recommend the implementation of Alternative 1 but with the presence of an ECoW on site. We believe that would be a more efficient way to monitor maintenance activities than the current audit system.

2.7.7: We would also advocate for Alternative 3 to be investigated. We believe that it is inevitable that our flooding management is going to move in this direction and that the OPW should be acting as leaders of this research and approach.

Comments on Section 3 Stage 1 Screening for Appropriate Assessment:

3.6: CIEEM agrees with the importance of keeping the integrity of our Natura 2000 sites and is concerned about the potential impacts of Arterial Drainage as stated in section 3.6 and 3.7. We would

especially highlight the impact Arterial Drainage has on Ireland adhering to our legal responsibilities in regard to the Water Framework Directive.

3.7.2: CIEEM welcomes the OPW's work on SLOWWATERS and looks forward to reading the feasibility assessment for implementation of Nature-based solutions.

Comments on Section 4 Natura Impact Assessment:

4.4: CIEEM welcomes the comprehensive listing of potential sources of impacts from the Arterial works in this section and the mitigation measures and guidance that are developed for these. However, we stress that an ECoW can provide a more in-depth assessment of the impacts and mitigation options on a site, than can be achieved through referring to the EP documents alone, some of which are general in nature.

4.4.1: We understand that AA and NIS at project level have been taken into account for this NIS, CIEEM would welcome transparency with the data from these reports being shared to back up this NIS process.

Comments on Section 4.5 Mitigation and Recommendations:

4.5: This NIS has established that these mitigation measures are necessary for the Arterial Drainage works to avoid impacts. However, a number of non-binding terms are used throughout the mitigation section, e.g. "*should*". Similarly, the title of the Section is "*Mitigation and Recommendations*". The use of these terms suggests that some of the items are optional rather than a strict requirement. Therefore, all measures in this section should be replaced with definitive terms (e.g. "*will*"), and "*recommendations*" should be removed from the section title.

4.5: CIEEM recognises that some of these mitigation measures could be covered in the plan, however they are done so on an '*ongoing*' or '*long term*' basis. We also highlight that these measures are only as effective as their implementation in mitigating impacts. We therefore reiterate the importance of expert and skilled professionals being onsite during work.

4.5: It is the opinion of CIEEM that Construction Environmental Management Plans (CEMP) are needed for all sites where an NIS is required along with supervision of works by an appropriately qualified ECoW during the work.