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Exercise on Biodiversity Case Study

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Environmental Liability Directive (ELD)

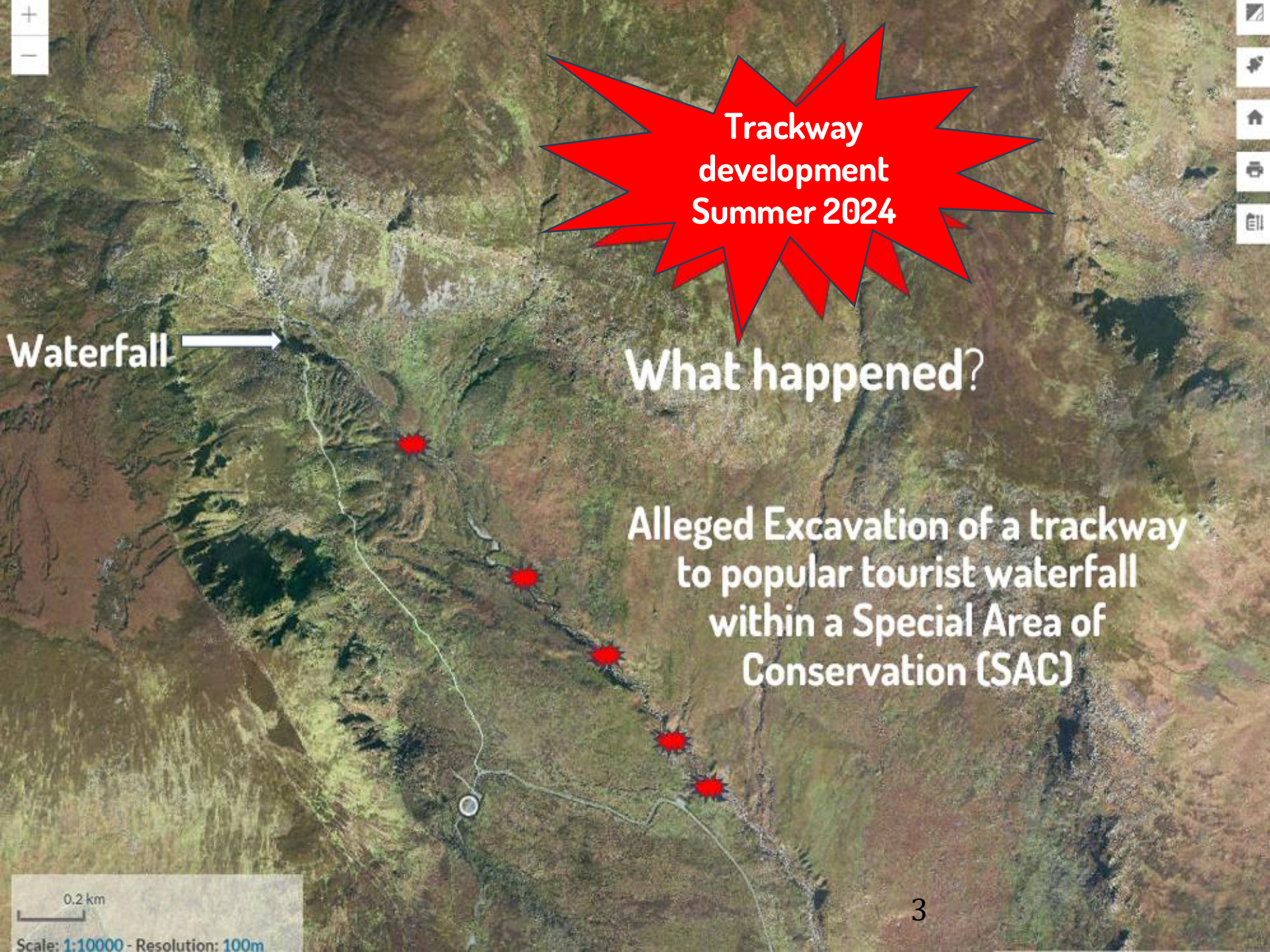
PILOT WOKSHOP

Ministry of the Environment and Energy

Athens, 14-16 October 2024

The following exercise is for training purposes only.

The dates and details of the events relating to this case have been modified to assist the audience in screening the case for biodiversity damage.



Trackway
development
Summer 2024

Waterfall →

What happened?

Alleged Excavation of a trackway
to popular tourist waterfall
within a Special Area of
Conservation (SAC)

0.2 km



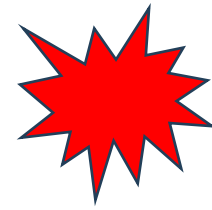
**Trackway
development**



Trackway
development

COMPLAINT DETAILS

Summer 2024



- Local volunteer group received funding from the Local Government/Municipality
- Local volunteer group hired a contractor to do the works
- Large sections of land excavated (no details) and physical removal and destruction of plants
- Works occurred within a Special Area of Conservation (SAC)



GO TO SLIDO



**ASK Q.1, Q2, and Q3
ON THE SCREENING CHECK LIST
THEN GO TO SLIDE 14 ON
POWERPOINT**



☰ Active poll

0



Join at
slido.com
#1773 327



Q 1 (STEP 1) Which one of the following do you think this event relates to?

A terrestrial natural area?

☐ 0%

An aquatic environment?

☐ 0%

An artificial area with a terrestrial natural area or aquatic environment around it?

☐ 0%

SLIDO 

Q1

**Which of the following do
you think this event relates
to?**

CAED Screening check list

STEP 1 – Q1

☰ Q 1 (STEP 1) Which one of the following do you think this event relates to?

7 



☐ A terrestrial natural area?

☐ An aquatic environment?

☐ An artificial area with a terrestrial natural area or aquatic environment around it?

☐ An intensive agricultural area with a terrestrial natural area or aquatic environment around it?

SLIDO



Q2

Does the complaint relate to
AT LEAST ONE of the
following occurrences?

CAED Screening check list

STEP 1 – Q2



☰ Q 2 (STEP 1) - Does the complaint relate to AT LEAST ONE of the following occurrences?

2 👤



- ☐ Big amount of buried/abandoned wastes
- ☐ Large scale spillages on the ground
- ☐ Large scale spillages into waters (ponds, sea, rivers, lakes, groundwater, etc)
- ☐ Large scale land movement (excavations, beach nourishments, etc.)
- ☐ Abstraction of significant quantities of water
- ☐ Fallout of air emissions

OR



SLIDO

Q3

OR does the complaint
relate to **AT LEAST ONE** of
the following adverse
effects?

CAED Screening Check-list

STEP 1 – Q3



☰ Q 3 (STEP 1) - OR Does the complaint relate to AT LEAST ONE of the following adverse effects?

0 👤



- ☐ Unexpected number of dead animals of plants
- ☐ Large scale forest clearing
- ☐ Wildfire
- ☐ Direct destruction of plants or animals (poaching, coral destruction etc.)



Results of STEP 1 of the Screening Checklist

1. A terrestrial natural area
2. Large scale land movement (excavations)
3. Direct destruction of plants

***The answer to STEP 1 is YES
Proceed to STEP 2***

STEP 2 – ELD Application

ELD Exemptions – ELD does NOT apply to the following

- Damage caused by diffuse pollution where it is not possible to establish a causal link between damage and pollution
- An exceptional natural phenomenon e.g. tsunami, earthquake, volcanic eruption, etc.
- An incident relating to oil and hazardous pollution at sea
- An incident relating to Merchant Ships and the carrying of goods
- Activities of national defence or international security and activities to prevent from natural disasters
- Damage caused by nuclear risks, atomic activities (European Atomic Energy Community) and nuclear accidents (Paris, Vienna, Brussels and joint protocol conventions)

GO TO SLIDO 

ASK Q.4

**THEN GO TO SLIDE 18 ON
POWERPOINT**

CASE SCREENING using CAED check list

STEP 2 – ELD Exemptions

☰ Q 4 (STEP 2) - Has the emission, event or incident been caused by any of the exemptions?

0 

☐ YES

☐ NO

CASE SCREENING using CAED check list

STEP 2 – Temporal Exemptions

When did the incident occur?

- Damage caused by an emission, event or incident which took place before 1st April 2009
- Damage caused by an emission, event or incident which takes place after the 1st April 2009, when it derives from a specific activity that took place and finished before this date
- If more than 30 years have passed since the emission, incident or event occurred

GO TO SLIDO 


ASK Q.5

**THEN GO TO SLIDE 21 ON
POWERPOINT**

CASE SCREENING using CAED check list

STEP 2 Temporal Exemptions

☰ Q 5 (STEP 2) - Do any of the temporal options apply?

0 





☐ YES

☐ NO

STEP 2 – Liability Check

Is the activity listed as a Schedule 3 or non-schedule 3?

Liability Regimes	Occupational Activities	Damage to Habitats & Species	Water Damage	Land Damage
Strict – All Schedule 3 Activities	<p>IED licensed facilities</p> <p>Waste management operations (licence and permit)</p> <p>Discharges to surface and groundwater (discharge licences)</p> <p>Water abstractions under WFD</p> <p>Manufacture and use of dangerous <u>substances</u></p> <p>Air pollution licences</p> <p>Transport of Dangerous Goods</p> <p>Contained use of GMOs</p> <p>Deliberate releases of GMOs</p> <p>Transboundary Shipment of Waste</p> <p>Mining & Extractive Industry Waste</p>	✓	✓	✓
Fault-Based Activities (non-schedule 3)	Any activity not listed above 	✓	✗	✗


 **Note:** Operators who do not have a licence or permit as listed in Schedule 3 activities for example, agriculture, forestry, tourism developments, transportation, and freight hubs etc.

GO TO SLIDO 

ASK Q.6

**THEN GO TO SLIDE 24 ON
POWERPOINT**

STEP 2 Liability Check – Schedule 3 or Non-Schedule 3 Activity

☰ Q 6 (STEP 2) - Have the adverse effects have been caused by a Schedule 3 activity? 0 

☐ YES

☐ NO



Results of Part 1 of STEP 2 **Screening**

ELD applicability check

There are NO Exemptions ✓

ELD applies ✓



PART 2 STEP 2 Biodiversity Screening

REPORT – Biodiversity Experts

**2 Hectares of protected wet and dry heath
damaged by development**

Loss of 1545m² of dry Heath Habitat (4030)

Loss of 650m² of wet Heath Habitat (4060)

Represents significant loss of this habitat within SAC



**Listed as an
Annex I
protected
Habitat in
Directive**

~ 3km long X 3-9m wide trackway excavated

**Baseline data available BEFORE damage indicates status of both
habitats in Ireland is BAD**



GO TO SLIDO



**ASK Q.7 and Q.8
THEN GO TO SLIDE 29 ON
POWERPOINT**

STEP 2 Biodiversity Screening



 Multiple choice ▾
0 votes

  Poll settings

Q 7 (STEP 2) - Have there been actual or likely adverse effects on any of the following?

A Protected Species?

 0%

A Protected Habitat?

 0%

+ Add option

STEP 2 Biodiversity Screening



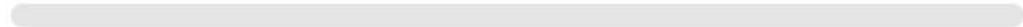
Multiple choice ▾
0 votes



Poll settings

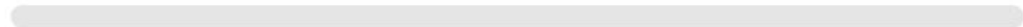
Q 8 (STEP 2) - Has the excavation works generated adverse effects on the favourable conservation status of the protected habitat?

YES



0%

NO



0%

+ Add option

Results of Part 2 of Step 2

Biodiversity Screening

 Evidence that there have been ***adverse effects on the protected habitat***

 The works have generated ***adverse effects on the reaching or maintaining of the favourable conservation status of the protected habitat***

WHY?

 Loss of 1545 m² of Dry Heath Annex I habitat

 Loss of 650m² Wet Heath Annex I habitat

OVERALL SIGNIFICANT NET LOSS OF HABITAT

STATUS IN IRELAND IS BAD





Thank You!!!

Any Questions?