

# DETERMINATION OF MERGER NOTIFICATION M/23/060 – KILSARAN / CERTAIN ASSETS OF KILMURRAY

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## Section 21 of the Competition Act 2002

### Proposed acquisition by Kilsaran Concrete Unlimited Company of certain assets of Kilmurray Precast Concrete Limited

Dated 12 March 2024

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## Introduction

1. On 15 November 2023, in accordance with section 18(1)(a) of the Competition Act 2002, as amended (the “Act”), the Competition and Consumer Protection Commission (the “Commission”) received a notification of a proposed acquisition whereby Kilsaran Concrete Unlimited Company (“Kilsaran”) would acquire lands (a sand and gravel pit) at Derryarkin, Rhode, Co. Offaly, fixed assets, a chip processing plant, stock, vehicles, plant, supply and sale contracts, interest in leased assets, goodwill, and two small freehold properties (the “Target Assets”) from Kilmurray Precast Concrete Limited (“Kilmurray”) (the “Proposed Transaction”).<sup>1</sup>

## The Proposed Transaction

2. The Proposed Transaction is to be implemented pursuant to an asset purchase agreement, dated 7 November 2023, between Kilmurray, Conor Kilmurray and Kilsaran (“APA”). Under the terms of the APA, Kilsaran will acquire the Target Assets from Kilmurray.

## The Undertakings Involved

### *The Acquirer – Kilsaran*

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<sup>1</sup> Kilsaran and Kilmurray are collectively referred to as “the Parties” in this determination.



3. Kilsaran is a private unlimited company incorporated in the State and forms part of the Kilsaran group of companies (“Kilsaran Group”). Kilsaran Group is active in the manufacture and supply of aggregates, ready-mix concrete, concrete blocks and other base building materials. Kilsaran Group operates 15 sites (comprising both crushed rock quarries and sand and gravel pits) in the State, from which it extracts aggregates. Kilsaran Group supplies its products in the State and runs a small export business to the UK. Kilsaran Group also undertakes surfacing contracts for road construction, building and civil engineering works.
4. For the financial year ending 30 June 2022, Kilsaran Group’s total worldwide turnover was approximately €██████████, of which approximately €██████████ was generated in the State.

### *The Target Assets*

5. Kilmurray owns and operates a single sand and gravel pit at Derryarkin, Rhode, Co. Offaly, from which it extracts and processes sand and gravel aggregates. Kilmurray mainly supplies aggregates to construction contractors and retail customers. Kilmurray forms part of the Kilmurray group of companies (“Kilmurray Group”). Kilmurray Group also includes a hardware store (Kilmurray’s Homevalue) and an imprint concrete supply business (Allcrete). These businesses do not form part of the Proposed Transaction.
6. For the financial year ending 31 December 2022, Kilmurray’s worldwide turnover was approximately €██████████, all of which was generated in the State. All of Kilmurray’s turnover is attributable to the Target Assets.

### **Third-Party Submission**

7. One third party submission was received.

### **Investigation**

8. On 21 December 2023, the Commission served a requirement for further information on each of the Parties pursuant to section 20(2) of the Act (the “Phase 1 RFIs”). The



service of the Phase 1 RFIs adjusted the deadline within which the Commission had to conclude its assessment of the Proposed Transaction in Phase 1.

9. Upon receipt of a full response to the Phase 1 RFIs, the “appropriate date” (as defined in section 19(6)(b)(i) of the Act) became 1 February 2024.<sup>2</sup>
10. The Commission also engaged with third parties in relation to its assessment of the competitive effects of the Proposed Transaction. The third party engagement consisted of market enquiries which included contacting competitors, customers, and other industry stakeholders by email. In some cases, the Commission also spoke to third parties by telephone to further discuss their views.
11. During the Phase 1 investigation, the Commission requested and received further information from the Parties.

## Analysis

12. The Commission is unable, at this stage, to make a determination that the result of the Proposed Transaction will not be to substantially lessen competition in any market for goods or services in the State. Accordingly, the Commission intends to carry out a full investigation under section 22 of the Act.

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<sup>2</sup> The “appropriate date” is the date from which the time limits for making both Phase 1 and Phase 2 determinations begin to run.



## **Determination**

The Competition and Consumer Protection Commission, in accordance with section 21(2)(b) of the Act, has determined that it intends to carry out a full investigation under section 22 of the Act in relation to the proposed acquisition by Kilsaran Concrete Unlimited Company of certain assets comprising lands (a sand and gravel pit) at Derryarkin, Rhode, Co. Offaly, fixed assets, a chip processing plant, stock, vehicles, plant, supply and sale contracts, interest in leased assets, goodwill, and two small freehold properties from Kilmurray Precast Concrete Limited.

For the Competition and Consumer Protection Commission

**Úna Butler**

**Member**

**Competition and Consumer Protection Commission**