

18TH OF NOVEMBER, 2019

**SCREENING FOR APPROPRIATE ASSESSMENT OF SPECIFIC WORKS ASSOCIATED WITH ‘LEINSTER BRIDGES – TERM
MAINTENANCE CONTRACT NO. 3’
REASONED DETERMINATION**

Regulation 42(1) of the European Communities (Birds and Natural Habitats) Regulations, 2011 (‘the Habitats Regulations’) states, *inter alia*, ‘A screening for Appropriate Assessment of a [...] project [...] which a public authority wishes to undertake [...] shall be carried out by the public authority to assess, in view of best scientific knowledge and in view of the conservation objectives of the site, if that [...] project, individually or in combination with other plans or projects is likely to have significant effects on the European site.’¹ Regulation 42(2) of the Habitats Regulations states ‘A public authority shall carry out a screening for Appropriate Assessment under paragraph (1) before [...] a decision to undertake [...] a project is taken.’² Having taken the view that the works required under ‘Leinster Bridges – Term Maintenance Contract No. 3’ might constitute ‘projects’³ within the meaning of the Habitats Regulations, Transport Infrastructure Ireland⁴ (TII) decided that the works required under the contract should be subject to screening for Appropriate Assessment pursuant to, *inter alia*, Regulation 42 of the Habitats Regulations and Article 6(3) of the Habitats Directive.⁵ Mr. Michael Nolan (Chief Executive of Transport Infrastructure Ireland) delegated the function of screening for Appropriate Assessment to me, Dr. Vincent O’Malley, Head of Environmental Policy and Compliance Section, Transport Infrastructure Ireland, on the 21st of June, 2018.

In performing this screening for Appropriate Assessment, I had regard, *inter alia*, to information contained in the following document:

- Leinster Bridges NIS No.2 work items removed.doc

¹ Regulation 42(1) of the European Communities (Birds and Natural Habitats) Regulations, 2011 (S.I. No. 477 of 2011).

² Regulation 42(2) of the European Communities (Birds and Natural Habitats) Regulations, 2011 (S.I. No. 477 of 2011).

³ Regulation 2(1) of the European Communities (Birds and Natural Habitats) Regulations, 2011 (S.I. No. 477 of 2011) defines ‘project’ to include ‘land use or infrastructural developments, including any development of land or on land.’ Given the breadth of the term ‘project’ under the Habitats Regulations, Transport Infrastructure Ireland is uncertain as to whether or not works required under ‘Leinster Bridges – Term Maintenance Contract No. 3’ constitute ‘projects’. It notes, however, that Section 3(1) of the Planning and Development Act, 2000, defines ‘development’ to include ‘[...] the carrying out of any works on, in, over, or under land [...]’ and that Section 2(1) of the Planning and Development Act, 2000 defines ‘works’ to include ‘[...] any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal [...].’ As such, Transport Infrastructure Ireland acknowledges that works required under ‘Leinster Bridges – Term Maintenance Contract No. 3’ might constitute ‘projects’ within the meaning of the Habitats Regulations.

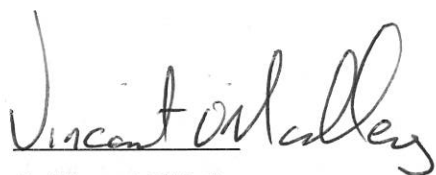
⁴ Article 2 of the Roads Act 2015 (Operational Name of National Roads Authority) Order, 2015 (S.I. No. 297 of 2015) provides that the National Roads Authority may describe itself as Transport Infrastructure Ireland for operational purposes.

⁵ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora [1992] OJ L 206.

In performing this screening for Appropriate Assessment I also met and discussed with various members of staff from TII (e.g., from the legal, structures and environmental sections); and, the consultant engaged by TII to prepare and administer the contract (including the consultant's ecological expert).

The specific works that I screened for Appropriate Assessment were the works detailed in the table below, which I am advised and believe to be the works required under the contract.

Having performed screening for Appropriate Assessment in respect of the specific works detailed in the table below, I accept the recommendations of Roughan & O'Donovan Civil Engineers that the works proposed on the structures specifically listed in the table below, individually or in combination with other plans or projects, would not be likely to have a significant effect on any European site in view of the best scientific knowledge and the site's conservation objectives. I determine that an Appropriate Assessment of these proposed works is not required, as *it can be excluded* on the basis of objective scientific information following the screening done that the proposed works, individually or in combination with other plans or projects, will have a significant effect on any European site.



18/11/2019

Dr. Vincent O'Malley

Head of the Environmental Policy and Compliance Section
Transport Infrastructure Ireland

Structure ID	Structure Name	Work Elements	Proximity to European site	TII Determination
KK-N25-004.00	Ballyverneen Pipe	Removal of debris at inlet (10 m ²); Removal of branches from embankment on upstream side next to masonry parapet (10 m ²).	The pipe is 950 m upstream of the River Barrow and River Nore SAC, at which point the River Barrow is tidal.	Agree
KK-N77-005.00	Ballyragget Pipe Bridge	Removal of 1 m vegetation growing from pipe sides. Removal of tree under parapet on east side 1 m ² (not over water); Cleaning of top of pipe (8 m ²); Cleaning of polysulphide seals in footpath on west side (11 m); Resealing of polysulphide seals in footpath on west side with polysulphide sealant (11 m).	The pipe is within the River Barrow and River Nore SAC and flows into the River Nore SPA 80m downstream.	Agree
WX-N25-002.00	Tagoat Bridge	Infilling of concrete on kerb on north side required (0.04 m ³); Sealing of cracks on footpath on north side (2.5 m); Installation new concrete post and repair timber fence on north side (6 m); Removal rubbish from northwest corner (0.5 m ²).	The bridge is 4 km upstream of the Wexford Harbour and Slobs SPA. The culvert is 7 km upstream of the Slaney River Valley SAC in Wexford Harbour.	Agree

Structure ID	Structure Name	Work Elements	Proximity to European site	TII Determination
WW-N81-004.00	Mattymount Bridge	Patching of 2 No. potholes on northbound lane (4 m ²); Scour repair on central pier on upstream side (1 m ²).	The bridge is within the Slaney River Valley SAC.	Agree