

14TH JUNE, 2019

**SCREENING FOR APPROPRIATE ASSESSMENT OF SPECIFIC WORKS ASSOCIATED WITH N71 RETAINING WALL, MUNSTER
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 'MUNSTER TERM MAINTENANCE CONTRACT NO 3' might constitute 'projects' within the meaning of the Habitats Regulations, Transport Infrastructure Ireland³ (TII) has identified that the repair works to the retaining wall at N71 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.⁴ 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 entitled "*Munster – Term Maintenance Contract No. 3 – N71 Retaining Wall Appropriate Assessment Screening Report (Report Reference 5162555DG008_N71 Screening AA_Rev0, Atkins Ireland 14th June 2019)*" and I also met and discussed with various members of staff from TII (e.g., from the legal, structures and environmental sections).

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 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.

⁴ 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.

Having performed screening for Appropriate Assessment in respect of the specific works detailed in Report Reference 5162555DG008_N71 Screening AA_Rev0, Atkins Ireland 14th June 2019, I accept the recommendations of Atkins Ireland that the works proposed on the retaining wall, 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.



Dr. Vincent O'Malley
Head of the Environmental Policy and Compliance Section
Transport Infrastructure Ireland

