

18<sup>TH</sup> AUGUST, 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.'<sup>1</sup> 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.'<sup>2</sup> Having taken the view that the works required under 'Leinster Bridges – Term Maintenance Contract No. 3' might constitute 'projects'<sup>3</sup> within the meaning of the Habitats Regulations, Transport Infrastructure Ireland<sup>4</sup> (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.<sup>5</sup> 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 21<sup>st</sup> of June, 2018.

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

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

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

<sup>3</sup> 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.

<sup>4</sup> 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.


<sup>5</sup> 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.

- *Leinster Bridges – Term Maintenance Contract No. 3 – Ecological Assessment* (Roughan & O’Donovan, July 2018); and,
- CN310719 Screening for AA 2019 Leinster Enniscorthy Bridge.xls.<sup>6</sup>

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); Ove Arup and Partners Ireland Limited (engaged to provide ecological services to TII in relation to this screening); 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 CN310719 Screening for AA 2019 Leinster Enniscorthy Bridge.xls, which I am advised and believe to be the works required under the contract in year 2 of its duration.

Having performed screening for Appropriate Assessment in respect of the specific works detailed in CN310719 Screening for AA 2019 Leinster Enniscorthy Bridge.xls, I accept the recommendations of Roughan & O’Donovan Civil Engineers that the year 2 works proposed (excluding the vegetation removal) 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.



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

<sup>6</sup> The spreadsheet ‘CN310719 Screening for AA 2019 Leinster Enniscorthy Bridge.xls’ was first prepared by Roughan & O’Donovan Civil Engineers and provided, amongst other things, the recommendations of Roughan & O’Donovan’s ecologist as to whether or not specified works could be ‘screened out’. Transport Infrastructure Ireland engaged Ove Arup and Partners Ireland Limited to review this information and to advise TII as to the appropriateness of the conclusions contained therein. The Environmental Policy and Compliance Section of TII reviewed the information contained in the spreadsheet and indicated whether or not it agreed with these recommendations.

Bridge ID	Bridge Name	TII Determination	TII Comment
WX-N11-005.00	Enniscorthy Bridge	Agree	TII determines that the works (excluding the vegetation removal) will not have significant effects on any European site.