

1ST APRIL 2020

**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:

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.

- CN10420_Reactive Maintenance AA Screening (RM15, RM18, RM19, RM20, RM21)_26032020.doc.⁶

The specific works that I screened for Appropriate Assessment were the works detailed in CN10420_Reactive Maintenance AA Screening (RM15, RM18, RM19, RM20, RM21) 26032020.doc, which I am advised and believe to be reactive maintenance works required under the contract.

Having performed screening for Appropriate Assessment in respect of the specific works detailed in CN10420_Reactive Maintenance AA Screening (RM15, RM18, RM19, RM20, RM21)_26032020.doc, I accept the recommendations of Roughan & O'Donovan Civil Engineers that the reactive maintenance 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.



Dr. Vincent O'Malley

*Head of the Environmental Policy and Compliance Section
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⁶ The document 'CN10420_Reactive Maintenance AA Screening (RM15, RM18, RM19, RM20, RM21)_26032020.doc' 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'. 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
DR-N11-003.20	Wyattville Road Overbridge	Agree
LS-N78-002.00	Bridge over tributary to Glenahane Stream	Agree
WW-N81-002.00	Eldon Bridge	Agree
MH-N51-006.00	Cruicetown Bridge	Agree
SD-N81-001.00	Slade River Bridge	Agree