

17TH AUGUST, 2018

**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.

I previously carried out screening for Appropriate Assessment in respect of defined works proposed on specific bridges in Leinster and documented this decision in a reasoned determination dated the 1st of August, 2018. At that time it was not possible to 'screen out' certain proposed works on some of the bridges as I considered that

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.

a number of issues needed to be clarified. Clarification was subsequently received from Roughan & O'Donovan Civil Engineers in respect of some of these issues and it is in respect of the proposed works on specific bridges, the subject of such clarification, that I now perform screening for Appropriate Assessment.

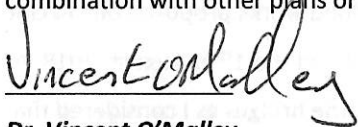
In performing this screening for Appropriate Assessment, I had regard, *inter alia*, to information contained in the following documents:

- *Leinster Bridges – Term Maintenance Contract No. 3 – Ecological Assessment* (Roughan & O'Donovan, July 2018); and,
- *ScrAA Lot 1 Lein Bridges Term Maintenance Cont No 3_After Clarification.xls*.⁶

In performing this screening for Appropriate Assessment I also met and discussed with various members of staff both 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 *ScrAA Lot 1 Lein Bridges Term Maintenance Cont No 3_After Clarification.xls*, which I am advised and believe to be the works required under the contract in year 1 of its duration.

Having performed screening for Appropriate Assessment in respect of the specific works detailed in *ScrAA Lot 1 Lein Bridges Term Maintenance Cont No 3_After Clarification.xls*, I accept the recommendations of Roughan & O'Donovan Civil Engineers that the year 1 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
Transport Infrastructure Ireland

⁶ The spreadsheet '*ScrAA Lot 1 Lein Bridges Term Maintenance Cont No 3_After Clarification.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'. 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. Where it disagreed with this recommendation, it provided reasons and, in some cases, sought clarification of issues. Clarification of some of these issues was subsequently provided by Roughan & O'Donovan Civil Engineers and these clarifications were added to the spreadsheet. Following consideration of the issues and facts, including the clarifications provided by Roughan & O'Donovan Civil Engineers, the Environment Policy and Compliance Section of TII then indicated whether or not it agreed with the recommendations of Roughan & O'Donovan Civil Engineers as to whether or not it was possible to 'screen out' certain works on named bridges.

Bridge ID	Bridge Name	Following clarification of the issues raised, TII accepts the recommendation that the works described are not likely to have significant effects on any European site.
CW-N80-005.00	Ballykealey Bridge	TRUE
KK-N10-009.00	Pococke River Bridge	TRUE
KK-N76-002.00	Kilbride River Bridge	TRUE
KK-N77-001.00	Baun Bridge	TRUE
LS-N77-003.00	Abbeyleix Culvert	TRUE
LS-N80-001.00	Douglas River Bridge	TRUE
LD-N05-000.10	Termonbarry Bridge	TRUE
MH-N51-005.00	Pollboy Bridge	TRUE
MH-N52-002.00	Blackwater River Bridge	TRUE
WX-N11-004.00	Seamus Rafter Bridge	TRUE
WX-N11-005.00	Enniscorthy Bridge	TRUE
WX-N11-007.00	Scarawalsh Farm Pass	TRUE
WX-N30-006.00	Ballymackesy Bridge	TRUE
WW-N81-004.00	Mattymount Bridge	TRUE
WW-N81-005.00	Waterloo Bridge	TRUE
WW-N81-008.00	Whitestown Stream Bridge	TRUE
WW-N81-012.00	Mullycagh Lower Bridge	TRUE

