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SCREENING FOR APPROPRIATE ASSESSMENT OF SPECIFIC WORKS ASSOCIATED WITH 'LEINSTER BRIDGES – TERM MAINTENANCE CONTRACT NO. 3'

REASONED DETERMINATION

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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 Ireland[4] (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 (the former 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. Mr. Peter Walsh (the current Chief Executive) subsequently confirmed this arrangement after taking office.

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

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[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.

- *Leinster Bridges – Term Maintenance Contract No. 3 – Ecological Assessment* (Roughan & O'Donovan, July 2018); and,

- GHC18052021Leinster Bridges Kilkenny AA Screening 14.05.2021.xls.[6]

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 GHC18052021Leinster Bridges Kilkenny AA Screening 14.05.2021.xls, which I am advised and believe to be the routine maintenance works required under the contract in County Kilkenny in year 4 of its duration.

Having performed screening for Appropriate Assessment in respect of the specific works detailed in GHC18052021Leinster Bridges Kilkenny AA Screening 14.05.2021.xls, I accept the recommendations of Roughan & O'Donovan Civil Engineers that the year 4 routine 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.

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

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[6] The spreadsheet 'GHC18052021Leinster Bridges Kilkenny AA Screening 14.05.2021' 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.

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Bridge ID	Bridge Name	TII Determination
KK-N10-008.00	Ossary Bridge	Screened Out
KK-N10-009.00	Pococke River Bridge	Screened Out
KK-N24-002.00	Ballynamountain Bridge	Screened Out
KK-N24-005.00	Turkstown Farm Pass	Screened Out
KK-N24-006.00	Railway	Screened Out
KK-N24-007.00	Rathmore Farm Pass	Screened Out
KK-N24-008.00	Rathmore Road Underpass	Screened Out
KK-N24-009.00	Fiddown Interchange	Screened Out
KK-N24-010.00	Ardclone Farm Pass	Screened Out
KK-N24-011.00	Pil River Bridge	Screened Out
KK-N24-012.00	Tibberaghny Bridge	Screened Out
KK-N25-007.00	Ballyrahan Bridge	Screened Out
KK-N29-001.00	Gorteens Railway Bridge	Screened Out
KK-N76-001.00	Ahanure Bridge	Screened Out
KK-N76-002.00	Kilbride River Bridge	Screened Out
KK-N76-003.00	Blessed Edmund Rice Bridge	Screened Out
KK-N76-004.00	Mullaunglass Bridge	Screened Out
KK-N76-005.00	Callan Farm Pass	Screened Out
KK-N76-006.00	Knockreagh Bridge	Screened Out
KK-N76-007.00	Aughcoultagh Bridge	Screened Out
KK-N76-008.00	Grangecuffe Pipes	Screened Out
KK-N76-009.00	Shellumsrath Bridge	Screened Out
KK-N76-010.00	Maidenhill Roundabout Bridge	Screened Out
KK-N10-008.50 (formerly KK-N77-000.10)	Lacken Railway Bridge	Screened Out
KK-N10-008.70 (formerly KK-N77-000.20)	Hebron Bridge	Screened Out

Bridge ID	Bridge Name	TII Determination
KK-N77-000.80	Kilkenny Golf Course Underpass	Screened Out
KK-N77-000.90	Johnswell Bridge	Screened Out
KK-N77-001.00	Baun Bridge	Screened Out
KK-N77-002.00	Dinin Bridge	Screened Out
KK-N77-003.00	Oldtown Farm Underpass	Screened Out
KK-N77-004.00	Castle Street Bridge	Screened Out
KK-N77-005.00	Ballyragget Pipe Bridge	Screened Out
KK-N77-006.00	Ballyragget Bridge	Screened Out
KK-N78-001.00	Douglas River Bridge	Screened Out
KK-N78-002.00	Julianstown Bridge	Screened Out
KK-N78-003.00	Lisnafunchin Bridge	Screened Out
KK-N78-004.00	Dysart Bridge South	Screened Out
KK-N78-005.00	Dysart Bridge North.	Screened Out
KK-N78-006.00	Clashduff Lower Bridge	Screened Out
KK-N78-007.00	Castlecomer Bridge	Screened Out
KK-N78-008.00	Castlecomer Tributary Bridge	Screened Out
KK-N78-009.00	Crettyard Bridge	Screened Out