

**APPROPRIATE ASSESSMENT OF SPECIFIC WORKS ASSOCIATED WITH
'Munster 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 'Munster 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 (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

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 'Munster 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 'Munster 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.

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.

I completed screenings for Appropriate Assessment in respect of the Year 4 works required under 'Munster Bridges Term Maintenance Contract No. 3' in 2021.

For certain of those proposed works, namely those proposed on the structures specifically listed in Schedule One below, it was *not possible* to exclude, on the basis of objective scientific information following the screening done, that the said works, individually or in combination with other plans or projects, will have a significant effect on any European site.

Accordingly, under and in accordance with Regulation 42(6) of the Habitats Regulations I determine that an Appropriate Assessment is required for the said works.

Mr. Michael Nolan (the former Chief Executive of Transport Infrastructure Ireland) delegated the function of Appropriate Assessment to me, Dr. Vincent O'Malley, Head of Environmental Policy and Compliance Section, Transport Infrastructure Ireland, on the 14th of August 2019. Mr. Peter Walsh (the current Chief Executive) subsequently confirmed this arrangement after taking office.

Regulation 42(9) of the Habitats Regulations states '*Where a public authority is required to conduct an Appropriate Assessment [...] it shall- (a) prepare a Natura Impact Statement, (b) compile any other evidence including, but not limited to, scientific evidence that is required for the purposes of the Appropriate Assessment, and (c) submit a Natura Impact Statement together with evidence compiled under subparagraph (b) to the [Minister] not later than six weeks before it proposes to adopt or undertake the plan or project to which the Natura Impact Statement and evidence relates.*'

I instructed Atkins Limited to prepare a Natura Impact Statement (to include all evidence including, but not limited to, scientific evidence that is required for the purposes of the Appropriate Assessment) in respect of the works proposed on the structures specifically listed in Schedule One below. That Natura Impact Statement has the title *Munster Term Maintenance Contract No 3 – Year 4 Natura Impact Statement* (Atkins, 15th of November 2021).

On the 14th of March 2022, I submitted that Natura Impact Statement to the Minister for Housing, Local Government and Heritage.

Regulation 42(10) of the Habitats Regulations states, *inter alia*, '*A public authority [...] shall not, without the agreement of the Minister, conclude an Appropriate Assessment [...] earlier than six weeks after the date on which it submitted the Natura Impact Statement to the Minister*'.

I confirm that the period of six weeks mentioned in Regulation 42(10) *has passed*.

Regulation 42(10) of the Habitats Regulation states, *inter alia*, 'A public authority [...] shall take account of any submissions made to it by the Minister.'

I confirm that no submission was made by the Minister.

Regulation 42(13) of the Habitats Regulations states 'Where a public authority has determined [...], that an Appropriate Assessment is required in respect of a proposed plan or project, [...], the public authority shall carry out a public consultation and publish a notice of the proposed plan or project in a manner to be determined by the public authority.'

For this purpose, the Natura Impact Statement was made available for review by, and submissions or observations sought from, the general public between the dates of the 8th of February 2022 and the 10th of March 2022. No submissions were received from the general public.

Regulation 42(11) of the Habitats Regulations states 'An Appropriate Assessment [...] shall include a determination by the public authority [...] pursuant to Article 6(3) of the Habitats Directive as to whether or not a plan or project would adversely affect the integrity of a European site and the assessment shall be carried out by the public authority before a decision is taken to approve, undertake or adopt a plan or project, as the case may be.'

Under and in accordance with Regulation 42(12) of the Habitats Regulations, in carrying out this Appropriate Assessment, I have taken into account:

- (a) the Natura Impact Statement, including the recommendation contained therein that the proposed works will not adversely affect the integrity of any European site;
- (b) the other plans or projects that may, in combination with the proposed works, adversely affect the integrity of a European Site, which are included within the Natura Impact Statement; and,
- (c) the information or advice obtained, namely, from 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).

Regulation 42(17)(b) of the Habitats Regulations states, *inter alia*, 'A public authority shall not [...] undertake [...] a [...] project containing any conditions, restrictions or requirements purporting to (i) permit the deferral of the collection of information required for a screening for Appropriate Assessment or for an Appropriate Assessment or the completion of a screening for Appropriate Assessment or an Appropriate Assessment until after the consent has been given, (ii) accept an incomplete Natura Impact Statement, or (iii) permit or facilitate the avoidance of compliance with the conditions set out in Article 6(4) of the Habitats Directive.'

I confirm that the proposed works and this determination do not contain any such conditions, restrictions or requirements.

I accept the recommendations of Atkins Limited that the proposed works on the structures specifically listed in Schedule Two below, will not adversely affect the integrity of any European site.⁶

Pursuant to Regulation 42(11) of the Habitats Regulations and Article 6(3) of the Habitats Directive, I determine, in view of the best scientific knowledge and the site's conservation objectives, that the proposed works, individually or in combination with other plans or projects, would not adversely affect the integrity of any European site.

I confirm that this determination has been made before any decision has been taken to approve, undertake or adopt the proposed works.

I am satisfied that TII is not prohibited, by Regulation 42(16) of the Habitats Regulations, from undertaking the proposed works.



Dr. Vincent O'Malley

Head of the Environmental Policy and Compliance Section

Transport Infrastructure Ireland

⁶ It should be noted that clarification in respect of certain issues has been sought in relation to the proposed works to KY-N70-052.60 Derreenamacken Bridge and that TII is not in a position, at this point, to determine that these proposed works will not adversely affect the integrity of any European site.

Schedule One

List of structures where proposed works are the subject of Natura Impact Statement

Structure ID	Structure Name	Natura Impact Statement prepared
Blackrock Bridge	CC-N20-019.00	TRUE
Tooreen Bridge	CC-N71-001.00	TRUE
Ahane Bridge	CC-N72-004.00	TRUE
Milleenylegane Culvert	CC-N72-005.00	TRUE
Cloonbanin Culvert	CC-N72-006.00	TRUE
Drominagh Bridge	CC-N72-007.00	TRUE
Leaders Bridge	CC-N72-010.00	TRUE
Ketragh Bridge	CC-N72-013.00	TRUE
Boland's Bridge	CC-N72-014.00	TRUE
Firville Culvert	CC-N72-019.00	TRUE
Bridge Street Junction, Mallow	CC-N72-022.00	TRUE
Spa Glen Culvert	CC-N72-023.00	TRUE
Spa Walk South, Mallow	CC-N72-024.00	TRUE
Spa Walk Central, Mallow	CC-N72-025.00	TRUE
Carrig Bridge	CC-N72-027.00	TRUE
Torpys Cross Road Bridge	CC-N73-002.00	TRUE
Ballygown Pipe Culvert	CC-N73-003.00	TRUE
Ballynamona Bridge	CC-N73-005.00	TRUE
Burrane Bridge	CL-N67-001.00	TRUE
Potter's Wheel Bridge	CL-N67-013.00	TRUE
Liscasey Bridge West	CL-N68-004.00	TRUE
Brewsterfield Bridge	KY-N22-023.00	TRUE
Poulgorm Bridge	KY-N22-027.00	TRUE
Cummeenavrick Culvert #1	KY-N22-030.00	TRUE
Cummeenavrick Culvert #2	KY-N22-031.00	TRUE
Knocknacaska Culvert	KY-N69-004.00	TRUE
Knocknacaska Arch	KY-N69-005.00	TRUE

Structure ID	Structure Name	Natura Impact Statement prepared
Knockbrack Culvert	KY-N69-006.00	TRUE
Mountcoat Cross Pipe Culvert	KY-N69-013.00	TRUE
Skehanierin Culvert	KY-N69-018.00	TRUE
Cloontubbrid South Culvert	KY-N69-019.00	TRUE
Cuss North Culvert	KY-N69-022.00	TRUE
Tarmon East Cross Roads	KY-N69-024.00	TRUE
Curraheen Bridge	KY-N70-016.00	TRUE
Cumnergorm Bridge	KY-N70-020.00	TRUE
Loher Bridge	KY-N70-040.40	TRUE
Lomanagh South Bridge	KY-N70-050.00	TRUE
Derreenamacken Bridge	KY-N70-052.60	TRUE
McCarthy & O'Leary Memorial Bridge	KY-N71-001.00	TRUE
Muckross Friary Bridge	KY-N71-002.00	TRUE
Torc New Bridge	KY-N71-003.00	TRUE
Newfoundland Bay Tunnel	KY-N71-005.00	TRUE
River Gweestin Bridge	KY-N72-002.00	TRUE
Ballymalis Bridge	KY-N72-003.00	TRUE
Cullavaw Bridge	KY-N72-012.00	TRUE
Annagh East Bridge	KY-N86-007.00	TRUE
Annagh Glen Bridge	KY-N86-009.00	TRUE
Derryquay East Bridge	KY-N86-012.00	TRUE
Derryquay School West Culvert	KY-N86-013.00	TRUE
The Red Bridge	KY-N86-014.00	TRUE
Glasheen Bridge	KY-N86-017.00	TRUE
Derrymore Bridge	KY-N86-018.00	TRUE
Mountoven Culvert	KY-N86-022.20	TRUE
Creggane Bridge 2	LC-N20-003.00	TRUE
Bridge Street Structure Abbeyfeale	LC-N21-001.00	TRUE
Dromtrasna Culvert	LC-N21-001.40	TRUE

Structure ID	Structure Name	Natura Impact Statement prepared
Ballysimon N24 Culvert	LC-N24-011.00	TRUE
Massy's Bridge	LC-N69-012.00	TRUE
Nenagh River Bridge	TN-N52-002.00	TRUE
Grange Bridge	TN-N52-003.00	TRUE
Balyeiragh Bridge	TN-N65-001.00	TRUE
Carrick-On-Suir Bridge 2	TS-N24-003.00	TRUE
Canal Bridge	TS-N24-006.00	TRUE
Old Pike Bridge	WC-N25-017.00	TRUE
Tourig River Bridge	WC-N25-025.00	TRUE
Ballyvecane Upper Bridge	WC-N72-000.60	TRUE
Little Bridge	WC-N72-003.00	TRUE
Finisk Bridge	WC-N72-006.00	TRUE

Schedule Two

List of structures where proposed works will not adversely affect the integrity of any European site

Structure ID	Structure Name	TII accepts the recommendation that the proposed works will not adversely affect the integrity of any European site.
Blackrock Bridge	CC-N20-019.00	TRUE
Tooreen Bridge	CC-N71-001.00	TRUE
Ahane Bridge	CC-N72-004.00	TRUE
Milleenylegane Culvert	CC-N72-005.00	TRUE
Cloonbanin Culvert	CC-N72-006.00	TRUE
Drominagh Bridge	CC-N72-007.00	TRUE
Leaders Bridge	CC-N72-010.00	TRUE
Ketragh Bridge	CC-N72-013.00	TRUE
Boland's Bridge	CC-N72-014.00	TRUE
Firville Culvert	CC-N72-019.00	TRUE
Bridge Street Junction, Mallow	CC-N72-022.00	TRUE
Spa Glen Culvert	CC-N72-023.00	TRUE
Spa Walk South, Mallow	CC-N72-024.00	TRUE
Spa Walk Central, Mallow	CC-N72-025.00	TRUE
Carrig Bridge	CC-N72-027.00	TRUE
Torpys Cross Road Bridge	CC-N73-002.00	TRUE
Ballygown Pipe Culvert	CC-N73-003.00	TRUE
Ballynamona Bridge	CC-N73-005.00	TRUE
Burrane Bridge	CL-N67-001.00	TRUE
Potter's Wheel Bridge	CL-N67-013.00	TRUE
Liscasey Bridge West	CL-N68-004.00	TRUE
Brewsterfield Bridge	KY-N22-023.00	TRUE
Poulgorm Bridge	KY-N22-027.00	TRUE
Cummeenavrick Culvert #1	KY-N22-030.00	TRUE
Cummeenavrick Culvert #2	KY-N22-031.00	TRUE
Knocknacaska Culvert	KY-N69-004.00	TRUE
Knocknacaska Arch	KY-N69-005.00	TRUE

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Cuss North Culvert	KY-N69-022.00	TRUE
Tarmon East Cross Roads	KY-N69-024.00	TRUE
Curraheen Bridge	KY-N70-016.00	TRUE
Cummeorgorm Bridge	KY-N70-020.00	TRUE
Loher Bridge	KY-N70-040.40	TRUE
Lomanagh South Bridge	KY-N70-050.00	TRUE
McCarthy & O'Leary Memorial Bridge	KY-N71-001.00	TRUE
Muckross Friary Bridge	KY-N71-002.00	TRUE
Torc New Bridge	KY-N71-003.00	TRUE
Newfoundland Bay Tunnel	KY-N71-005.00	TRUE
River Gweestin Bridge	KY-N72-002.00	TRUE
Ballymalis Bridge	KY-N72-003.00	TRUE
Cullavaw Bridge	KY-N72-012.00	TRUE
Annagh East Bridge	KY-N86-007.00	TRUE
Annagh Glen Bridge	KY-N86-009.00	TRUE
Derryquay East Bridge	KY-N86-012.00	TRUE
Derryquay School West Culvert	KY-N86-013.00	TRUE
The Red Bridge	KY-N86-014.00	TRUE
Glasheen Bridge	KY-N86-017.00	TRUE
Derrymore Bridge	KY-N86-018.00	TRUE
Mountoven Culvert	KY-N86-022.20	TRUE
Creggane Bridge 2	LC-N20-003.00	TRUE
Bridge Street Structure Abbeyfeale	LC-N21-001.00	TRUE
Dromtrasna Culvert	LC-N21-001.40	TRUE
Ballysimon N24 Culvert	LC-N24-011.00	TRUE

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Carrick-On-Suir Bridge 2	TS-N24-003.00	TRUE
Canal Bridge	TS-N24-006.00	TRUE
Old Pike Bridge	WC-N25-017.00	TRUE
Tourig River Bridge	WC-N25-025.00	TRUE
Ballyvecane Upper Bridge	WC-N72-000.60	TRUE
Little Bridge	WC-N72-003.00	TRUE
Finisk Bridge	WC-N72-006.00	TRUE