

**Information to inform the screening determination for Appropriate Assessment pursuant to Regulation 42A (3) of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. 477 of 2011) as amended by S.I. 293 of 2021 (Ireland) and Northern Irish legislation – The Conservation (Natural Habitats, etc.) (Amendment) (Northern Ireland) (EU Exit) Regulations 2019**

**with respect to:**

**the All-Island Strategic Rail Review**

**25<sup>th</sup> July 2023**

## **Overview**

This document contains the Habitats Directive Screening Determination of the Department of Transport (Ireland) and the Department for Infrastructure (Northern Ireland) (referred to hereafter as ‘the DoT’ and ‘the DfI’) in respect of the draft All-Island Strategic Rail Review (AISRR). The determination is based on the information provided in the Screening for Appropriate Assessment Report which has been prepared by Ove Arup and Partners Ireland Ltd (Arup) for the DOT and DfI<sup>1</sup>. This screening determination should be read in conjunction with that report.

The AISRR examines how the island’s railways are currently used, what role rail could play in future, and how the island’s railway could better serve the people of both jurisdictions. The draft AISRR has focused on how the rail network across the island could contribute to the decarbonisation of the island’s transport systems, promote sustainable connectivity into and between major cities, enhance regional accessibility, and support balanced regional development. The time horizon for the AISRR covers the period from 2023 to 2050 to align with both jurisdictions’ stated goals of achieving net zero carbon emissions by this milestone.

## **Legislative Requirement**

The requirement for "Appropriate Assessment" is set out in Articles 6(3) and 6(4) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (“the Habitats Directive”)<sup>2</sup>, which is transposed into national law in each jurisdiction by:

- The *European Communities (Birds and Natural Habitats) Regulations 2011 (as amended)* S.I 477/2011<sup>3</sup> in Ireland; and
- *The Conservation (Natural Habitats, etc.) (Amendment) (Northern Ireland) (EU Exit) Regulations 2019*<sup>4</sup> in Northern Ireland.

To ensure The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) were operable after the end of the EU transition period, changes were made in The Conservation (Natural Habitats, etc.) (Amendment) (Northern Ireland) (EU Exit) Regulations 2019. Of the European sites within Northern Ireland, a change in nomenclature to reflect the end of the transition period occurred, where Special Areas of Conservation (SACs), Special Protection Areas (SPAs) (as referenced in the Habitats Directive), and Ramsar sites are now collectively referred to as to the National Site Network. As the AISRR is an all-

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<sup>1</sup> Arup (July 2023) Appropriate Assessment Screening Report of the All-Island Strategic Rail Review.

<sup>2</sup> European Commission (1992) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora. [EUR-Lex - 31992L0043 - EN - EUR-Lex \(europa.eu\)](#)

<sup>3</sup> Government of Ireland (2011) S.I. No. 477/2011 - European Communities (Birds and Natural Habitats) Regulations 2011 [S.I. No. 477/2011 - European Communities \(Birds and Natural Habitats\) Regulations 2011. \(irishstatutebook.ie\)](#)

<sup>4</sup> Department of Agriculture, Environment and Rural Affairs (2019) Conservation (Natural Habitats, etc.) (Amendment) (Northern Ireland) (EU Exit) Regulations 2019. [Confidential \(daera-ni.gov.uk\)](#)

island review, these sites are collectively referred in this document as European sites, as per the Habitats Directive.

A key requirement of the Habitats Directive is that the effects of any plan or project, which is not directly connected with or necessary to the management of a European site, but which alone, or in combination with, other plans or projects, is likely to have a significant effect on a European site, should be assessed before any decision is made to allow that plan or project to proceed.

## Appropriate Assessment Process

EU and the two jurisdictions' National Guidance set out two main stages to the assessment process which are as follows:

### 1. Screening

The process which identifies what might be likely impacts arising from a plan or project on a European site, either alone or in combination with other projects or plans and considers whether these impacts are likely to be significant. No further assessment is required where the risk of significant impacts on European sites can be objectively ruled out during the screening stage. The findings of the screening assessment are normally contained in a Habitats Directive Screening Report.

### 2. Appropriate Assessment

Where the possibility of significant impacts has not been discounted by the screening process, a more detailed assessment is required. This is called an Appropriate Assessment. For land use plans, it involves the compilation of a Natura Impact Statement by the Public Authority, which is a report of scientific evidence and data relating to European sites for which significant negative impacts have not been previously screened out. This is used to identify and classify any implications of the plan or project for these sites in view of their Conservation Objectives. The Appropriate Assessment must include a determination as to whether or not the project would adversely affect the integrity of any European site or sites. The plan or project may only be consented if adverse effects on the integrity of European sites can be objectively ruled out during the Appropriate Assessment process. The plan or project may not be consented on foot of an Appropriate Assessment if it is found that it will give rise to adverse impacts on one or more European sites, or if uncertainty remains in relation to potential impacts on one or more European sites.

The key results of the AA Screening undertaken on the Review and its resulting 30 recommendations are:

- Likely Significant Effects (LSE) can be ruled out with no residual effects for **12 Recommendations**.
- LSE alone cannot be ruled out for **18 Recommendations**. This is a result of the nature of developments that may occur and the potential relationship with European sites that may result, and considering other plans and projects, and applying the precautionary principle. Consequently, **the Review Recommendations have the potential to result in LSE on European sites**. It should be noted that this view is based on a worst-case scenario, whereby the Review Recommendations may inform certain layouts of infrastructure development or increase the likelihood that development may be close to or within European sites.
- Whilst it is likely that implementation of the recommendations will include measures to mitigate LSE on European sites and may promote development layout and design that may actually protect European sites, such measures cannot be taken into account at the screening stage, as they could be interpreted as being mitigation measures relevant to the European site.

## Determination

- The DoT and DfI have determined that of the elements of the draft All-Island Strategic Rail Review, 18 proposals have the potential to result in likely significant effects on European sites in view of their conservation objectives, either alone or in-combination with other plans. The plan is not directly connected with, or necessary to, the management of European sites and it cannot be excluded on the

basis of objective scientific information, following screening under the Habitats Directive (92/43/EEC), that the plan - individually or in combination with other plans or projects - will have a significant effect on a European site. Therefore, DoT and DfI determine that an Appropriate Assessment of the draft All-Ireland Strategy Rail Review is required.