



# National Investment Framework for Transport in Ireland

AA Determination Statement

2022

Department of Transport



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## 1. Introduction

This Appropriate Assessment (AA) Determination Statement is provided for the public and relevant bodies to establish that an AA has been conducted in relation to the National Investment Framework for Transport in Ireland (NIFTI) in accordance with relevant regulations.

The EU Habitats Directive (Directive 92/43/EEC) on the Conservation of Natural Habitats and of Wild Fauna and Flora in particular the provisions of Article 6(3), as transposed into Irish law through the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477/2011) (2011 Regulations), sets out the requirement for AA.

In the context of Article 6(3), an AA screening must be carried out to assess whether, on the basis of objective scientific information, the plan, individually or in-combination with other plans or projects, is likely to have a significant effect on a European site.

Specifically, Regulation 42(1) of the 2011 Regulations states:

*"A screening for Appropriate Assessment of a plan or project for which an application for consent is received, or which a public authority wishes to undertake or adopt, and which is not directly connected with or necessary to the management of the site as a European Site, 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 plan or project, individually or in combination with other plans or projects is likely to have a significant effect on the European site."*

Regulation 42(6) of the 2011 Regulations goes on to provide that:

*"The public authority shall determine that an Appropriate Assessment of a plan or project is required where the plan or project is not directly connected with or necessary to the management of the site as a European Site and if it cannot be excluded, on the basis of objective scientific information following screening under this Regulation, that the plan or project, individually or in combination with other plans or projects, will have a significant effect on a European site."*

The AA screening carried out in relation to NIFTI determined that it could not be excluded, on the basis of objective scientific information, that NIFTI, individually or in-combination with other plans and projects, would have a significant effect on a European site(s). Accordingly, the AA screening determined that full AA of NIFTI in view of the relevant sites' conservation objectives was required.

Regulation 42(16) of the 2011 Regulations provides that a public authority shall undertake or adopt a plan only after having determined that the relevant plan shall not adversely affect the integrity of a European site.

To inform the determination on AA, in accordance with the 2011 Regulations, Jacobs Engineering Ireland Limited (Jacobs) on behalf of the Department of Transport (DoT), prepared a Natura Impact Statement (NIS). The NIS comprises a scientific examination of NIFTI and the relevant European Site or European Sites, to identify and characterise any possible implications of NIFTI (individually or in combination with other plans or projects) in view of the conservation objectives of the European site or sites, and any further information including, but not limited to, any plans, maps or drawings, scientific information or data required to enable the carrying out of an AA.

In carrying out an AA, the 2011 Regulations require DoT to take into account each of the following matters:

- a) the NIS;
- b) any other plans that may, in-combination with NIFTI, adversely affect the integrity of a European site;
- c) any supplemental information furnished in relation to any such report or statement;

- d) if appropriate, any additional information sought by the authority and furnished by the applicant in relation to the NIS<sup>1</sup>;
- e) any information or advice obtained by the public authority;
- f) if appropriate, any written submissions or observations made to the public authority in relation to NIFTI; and
- g) any other relevant information.

Chapter 2 of the NIS presented the methodology and guidance documents for undertaking the assessment. Appendix A of the NIS listed European Sites potentially affected. A full list of the Conservation Objectives (Cos) and Qualifying Interests (QIs)/Special Conservation Interests (SCIs) that each European site is designated for, as well as the attributes and targets to maintain or restore the QIs/SCIs to a favourable conservation condition are available from the National Parks and Wildlife Service website and used in the assessment. Chapter 7 of the NIS assessed plans with potential in-combination effects. No further supplemental information was used (or furnished) and no additional information or advice was sought in relation to the NIS.

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<sup>1</sup> This requirement applies only to AAs of projects and not plans.

## 2. National Investment Framework for Transport in Ireland

To prepare for future growth in population and employment; an overall increase in travel; and the changing demographic structure of Ireland, the Government has developed the National Planning Framework (NPF), which was published in February 2018 and provides the over-arching strategic policy framework for Ireland's social and economic development. In October 2021, the 2021-2030 National Development Plan was published replacing the 2018 version.

The National Development Plan (NDP) sets out the investment that will underpin the successful implementation of the new NPF. This will guide national, regional and local planning and investment decisions in Ireland, including in the transport sector.

Following the publication of the NPF, DoT initiated a programme to update the existing transport investment framework. The new strategy titled: 'National Investment Framework for Transport in Ireland (NIFTI)' will set out DoT strategy for the development and management of Ireland's land transport network over the next two decades. The NPF and its projections around population and settlement patterns are central to the development of NIFTI.

NIFTI, in the short to medium term, will support the land transport element of the NDP and, over the longer term, will provide a strategic framework for decision-making on the appropriate public expenditure on land transport in light of the National Strategic Outcomes and National Policy Objectives established in the NPF.

NIFTI replaces the existing framework for transport investment for Ireland (the Strategic Investment Framework for Land Transport (SIFLT), published in 2015) and aims to ensure a government wide approach to land use transport planning.

NIFTI will ultimately set out the Investment Priorities and Hierarchies for future transport investment decisions in Ireland. A detailed description of NIFTI is included in the Natura Impact Statement (NIS).

### 3. Potential Impacts

The screening for Appropriate Assessment identified that certain elements in NIFTI which could, by themselves or in-combination with other plans and projects, affect European sites in light of their conservation objectives. This is largely due to the potential for:

- direct effects related to the construction of infrastructure as a result of specific policy (e.g. a major road construction or rail development); or,
- indirect effects where NIFTI policies could result in an increase in visitor pressure and disturbance due to increased rural accessibility or compete with environmental interests (e.g. an objective to maximise the transport sector's contribution to Ireland's economic competitiveness).

The ongoing process of policy development for NIFTI will take the protection of European sites into consideration with regards to the key threats associated with the implementation of the plan. These key threats were identified as follows:

- habitat loss, degradation and/or fragmentation; and,
- species mortality (including Road Traffic Accidents (RTA)/intercepting flight paths) and/or changes in species density and/or distribution

## 4. Data Sources and Guidance Documents

The following general sources of information were consulted for background environmental information in producing the Natura Impact Statement (NIS):

- Online data available on European sites as held by the NPWS from [www.npws.ie](http://www.npws.ie) – including site synopsis, conservation objectives and other relevant supporting documentation;
- GIS data for European site boundaries obtained in digital format online from European Environmental Agency;
- Article 17 Overview Report 2019 Volume 1 (NPWS, 2019a);
- Article 17 Habitat Conservation Assessments 2019 Volume 2 (NPWS, 2019b);
- Article 17 Species Conservation Assessment 2019 Volume 3 (NPWS, 2019c);
- Northern Ireland Environment Agency – online European site information [www.doeni.gov.uk](http://www.doeni.gov.uk);
- National Biodiversity Action Plan 2017-2021 (Department of Culture, Heritage and the Gaeltacht, 2017); and
- River Basin Management Plan for Ireland 2018 – 2021 (Department of Housing, Planning and Local Government, 2018a).
- Relevant case law publications (EC, 2006 and CVRIA, 2014) and more recent ECJ rulings.

The NIS was also prepared with reference to the requirements and approach to AA as outlined in the following documents:

- AA of Plans and Projects in Ireland: Guidance for Planning Authorities (Department of Environment, Heritage and Local Government, 2010);
- Assessment of Plans and Projects Significantly Affecting Natura 2000 Sites – Methodological Guidance on the Provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (European Commission, 2002);
- Communication from the Commission on the Precautionary Principle (European Commission, 2000);
- Guidance Document on Article 6(4) of the 'Habitats Directive' 92/43/EEC. Clarification of the concepts of: Alternative Solutions, Imperative Reasons of Overriding Public Interest, Compensatory Measures, Overall Coherence, Opinion of the Commission (European Commission, 2007);
- Marine Natura Impacts Statements in Irish Special Areas of Conservation. A working Document (Department of Arts, Heritage and the Gaeltacht, 2012); and
- Managing Natura 2000 sites: The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC (European Commission, 2018).

The following circulars also outline the AA requirements:

- AA under Article 6 of the Habitats Directive: Guidance for Planning Authorities. Circular NPW 1/10 and PSSP 2/10 (Department of Environment, Heritage and Local Government, 2010);
- AA of Land Use Plans. Circular Letter SEA 1/08 & NPWS 1/08 (Department of Environment, Heritage and Local Government, 2008a);
- Compliance Conditions in respect of Developments requiring (1) Environmental Impact Assessment (EIA); or (2) having potential impacts on Natura 2000 sites. Circular Letter PD 2/07 and NPWS 1/07;
- Guidance on Compliance with Regulation 23 of the Habitats Directive. Circular Letter NPWS 2/07 (Department of Environment, Heritage and Local Government, 2007); and
- Water Services Investment and Rural Water Programmes – Protection of Natural Heritage and National Monuments. Circular L8/08 Department of Environment, Heritage and Local Government (2008b).

## **5. Appropriate Assessment Screening and Appropriate Assessment**

An AA screening was conducted on NIFTI. The screening concluded that it could not be excluded on the basis of objective scientific information that NIFTI, individually or in-combination with other plans or projects, would not have a significant effect on a European site or European sites. This conclusion was reached given the strategic nature of the NIFTI and in light of a number of uncertainties relating to the implementation of NIFTI going forward. It was therefore concluded that, in accordance with Article 6(3) of the Habitats Directive, the implications of the NIFTI for the relevant European sites were required to be subject to AA in view of the relevant sites' conservation objectives.

At Stage 2 of the AA process the assessment evaluated the potential of NIFTI (and the transport infrastructure and policies arising from NIFTI) to adversely affect the integrity of a European site, taking account of the potential for direct, indirect and cumulative impacts alone or in-combination with other plans and projects. NIFTI does not include geographic specificity and the strategic elements of NIFTI (Investment Priorities and Modal and Intervention Hierarchies) could be implemented anywhere within Ireland (with potential for transboundary impacts in Northern Ireland). As such, all European sites within Ireland were considered to be potentially within the Zone of Influence (Zoi) of NIFTI.

The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of annexed habitats and annexed species of community interest for which an SAC or SPA has been designated. The Conservation Objectives (COs) for a European site are set out to ensure that the Conservation Objectives and Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of that site are maintained or restored to a favourable conservation condition. Maintenance of favourable conservation condition of habitats and species at a site level in turn contributes to maintaining or restoring favourable conservation status of habitats and species at a national level and ultimately at the European site network level. The COs and QIs/SCIs that each European site is designated for, as well as the attributes and targets to maintain or restore the QIs/SCIs to a favourable conservation condition were taken into consideration.

The construction of new infrastructure/services and/or works associated with the maintenance of the current land transport network was considered to be the primary impact source arising from the implementation of NIFTI. A high-level assessment of potential effect pathways (habitat loss, degradation and / or fragmentation, species mortality, disturbance, changes to air and water quality) arising from the implementation of NIFTI was undertaken.

As NIFTI sets out a framework at a national level, which will require further consideration by regional local authority structures in order to determine local implementation of measures, and individual assessments on the projects which may be developed as a result of NIFTI, it was not possible to undertake a detailed site specific assessment of Adverse Effects on Site Integrity (AESI).



## **6. Avoidance and Reduction of Impacts**

In developing any future projects arising from the implementation of NIFTI, options will be identified that, in the first instance, aim to avoid impacts on European sites (for example, by assigning priority to routes designed to avoid direct impacts on European sites). Any future projects developed as a result of NIFTI will be subject to an examination of constraints and project level AA, all of which will be informed by detailed ecological assessment, to avoid sensitive receptors. Avoidance of European sites, including SACs and SPAs, will always be a key consideration in taking forward any option. However, it should be noted that a significant number of existing land transport networks are within or traverse Natura 2000 sites. Any such projects are considered viable once it is demonstrated that the project will not compromise the conservation objectives or alter the physical, chemical or biological standards necessary for the achievement of favourable conservation status of the European site.

A full list of general mitigation measures and option-specific mitigation measures are presented in the NIS. All options taken forward will be subject to project-level environmental assessment as and when they are implemented, which will include assessments of their potential to affect European sites during their construction or operation. The mitigation measures prescribed in Chapter 8 of the NIS will ensure that the NIFTI will not result in adverse effects on the integrity of any European site.

## 7. In-combination Assessment

Under Article 6(3) of the Habitats Directive an assessment of in-combination effects of NIFTI with other plans and projects was required (see Chapter 7 in the NIS). Given the strategic nature of a national level plan, the assessment of in-combination effects focused on national policies, plans and strategies for wide range of key technical areas including:

- Transport, Planning and Investment;
- Air Quality;
- Energy and Climate Change;
- Built Environment;
- Agriculture and Forestry; and
- Water, Wastewater and Waste.

It is not possible, at this stage, to assess NIFTI's in-combination with other projects since projects as a result of NIFTI are unknown and location or detailed design have not yet been determined. As such, this in-combination assessment considered possible synergistic effects from other plans.

Projects which are put forward as a result of NIFTI will need to adhere to the highest environmental standards, best practice design standards will be implemented, and it will also be a requirement to meet the provisions of the habitats directive. Similarly, the plans listed within Chapter 7 of the NIS contain protective measures for their resulting projects and the same adherence to the highest environmental standards, design standards, and the habitats directive will apply. As such, in-combination AESIs from NIFTI with the plans detailed within the NIS are not predicted.

## 8. Consultation

The NIS for the draft NIFTI was issued for public consultation alongside the draft NIFTI and SEA Environmental Report. Public consultation was carried out on 31st March 2021 and 28th May 2021. Following the consultation, final amendments were made to the final NIFTI from mid-late 2021 and the final NIFTI and supporting documents published. An SEA Statement has been developed and published alongside this AA Determination Statement and the final NIFTI, documenting how the consultation process influenced the final version of NIFTI.

The consultation period for the draft NIFTI, Strategic Environmental Assessment (SEA) Environmental Report and NIS lasted a total of eight weeks and a total of 108 submissions were received during the consultation process. The submissions which resulted in changes to NIFTI are summarised in Table 3.1 of the SEA Statement along with the resulting actions and updates. Table 3.2 in the SEA Statement summarises all submissions in relation to the SEA Environmental Report.

None of the changes represented a material change to the draft NIFTI. Rather, NIFTI has been further strengthened following public consultation with social inclusion, accessibility and sustainable mobility more deeply embedded in the framework. Additionally, NIFTI has been updated to include a more strengthened position on the transition to a decarbonised transport network with a priority action on charging infrastructure and has recognised the need to contribute to tackling the biodiversity crisis, and stronger requirements on spatial and land use considerations to ensure more strategic transport planning.

## 9. Determination

DoT is satisfied that given the high-level nature of NIFTI that no additional information was required for the assessment and that the information presented in the NIS was sufficient for a complete, precise and definitive assessment to be carried out with no lacunae or gaps. Based on the information presented within the NIS, as competent authority, the DoT is satisfied that NIFTI will not result in adverse effects on the integrity of any European site in view of their conservation objectives, either alone or in-combination with other plans.

This decision is based on the following considerations:

- a) assessment and conclusions as presented in the Natura Impact Statement which was written with the best available information at time of writing;
- b) other relevant plans that may in-combination with the NIFTI, adversely affect the integrity of a European site (noting that the in-combination effects of NIFTI and specific projects will be assessed during subsequent specific future developments);
- c) no supplemental information was furnished in relation to any such report or statement, as the DoT was satisfied that no such supplemental information was required to enable DoT to carry out the Appropriate Assessment;
- d) as the Appropriate Assessment concerned a plan and not a project, there was no additional information sought by the DoT from an applicant;
- e) no other information or advice was obtained by DoT, as DoT was satisfied that no such information or advice was necessary to enable DoT to carry out the Appropriate Assessment;
- f) the written submissions or observations made to DoT in relation to the NIFTI, to the extent relevant to Appropriate Assessment matters, as summarised in Appendix A of the Strategic Environmental Assessment Statement;
- g) DoT was satisfied that no other information was required for DoT to carry out the Appropriate Assessment.

The future projects which may arrive as a result of the implementation of NIFTI do not have defined locations or detailed design. As such, project level AAs will be undertaken (informed by detailed surveys) to identify project specific impact pathways and build on and refine the mitigation measures outlined above to protect European sites. Any project(s) arising from the implementation of NIFTI shall be required to conform to the mitigation measures and key principles for protecting European sites identified within the NIS. In addition, all projects arising from the implementation of NIFTI will themselves be subject to Screening for AA/AA when details of locations and design become known.