



Rialtas na hÉireann
Government of Ireland

Screening for Appropriate Assessment

Adoption of necessary conservation measures for Terns within Lady's Island Lake Special Protection Area in accordance with Regulation 42A EC (Birds and Natural) Habitats Regulations 2011-2021

Prepared by the Department of Housing, Local Government and Heritage
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1. Introduction

This determination on Screening for Appropriate Assessment (AA) has been made by the Ecological Assessment Unit (EAU) of the Department of Housing, Local Government and Heritage (DHLGH) in accordance with Regulation 42A(8) of the European Communities (Birds and Natural Habitats) Regulations 2011-2021 ('the 2011 Regulations').¹

On the 3rd January 2023, in accordance with the requirements of Regulation 42A(3) of the 2011-2021 Regulations, the Minister for Housing, Local Government and Heritage ('the Minister') furnished the EAU with a derogation licence application proposing to continue conservation measures for Terns within Lady's Island Lake Special Protection Area (SPA) Co. Wexford. Hereafter referred to as "the project".

On the 17th January 2023, the EAU were provided with a Screening for Appropriate Assessment Report undertaken by the National Parks and Wildlife Service Regional Management.

The EAU have evaluated and analysed the information contained in the referred to above documents and carried out a determination. The purpose of this document is to provide a record and an audit trail of the EAU reasoned thinking in view of best scientific knowledge and in view of the conservation objectives of the European sites.

¹ As inserted by Regulation 7 of the European Union (Birds and Natural Habitats) (Amendment).

2. Background

Pursuant to Regulation 42A(1) of the European Communities (Birds and Natural Habitats) Regulations, 2011 (S.I. 477 of 2011), a Screening for AA is required to be carried out on the project. AA is a process required under Article 6(3) of the EU Habitats Directive. Article 6(3) is transposed in Ireland by the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011), as amended, and by Part XAB of the Planning and Development Act, 2000, as amended.

All plans and projects which are not directly connected with or necessary to the management of a European Site, but which either individually or in combination with other plans or projects, are likely to have a significant effect on a “European Site”, require that an AA of these effects to determine if they will adversely affect the integrity of these sites. The project is considered to fall under the requirements of AA as applied to all plans and projects.

The Screening for AA process scrutinises the plan or project to determine if there is potential for likely significant effects either individually or in combination with other plans or projects, on a European Site. European Sites are part of the Natura 2000 network and include those designated as Special Areas of Conservation (SAC), Candidate SACs (cSACs) or Special Protection Areas (SPA). This Screening for Appropriate Assessment describes the outcome of this analysis in respect of the project.

3. Legislation and Guidance

This section provides details on the adopted methodology with sources of guidance and information gathered to inform the preparation of the report.

3.1. Guidance and Data Sources

- AA of Plans and Projects in Ireland - Guidance for Planning Authorities (Department of Environment, Heritage and Local Government, 2010 revision);
- AA under Article 6 of the Habitats Directive; Guidance for Planning Authorities. Circular NPW 1/10 and PSSP 2/10;
- Assessment of Plans and Projects Significantly Affecting Natura 2000 Sites: Methodical Guidance on the Provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (European Commission Environment Directorate-General, 2021);
- Communication from the Commission on the precautionary principle. European Commission (2000);
- Guidance Document on Article 6(4) of the Habitats Directive 92/43/EEC (European Commission, 2007);
- Guidelines for Good Practice AA of Plans under Article 6(3) Habitats Directive (International Workshop on Assessment of Plans under the Habitats Directive, 2011);
- Managing Natura 2000 Sites: The Provision of Article 6 of the Habitats Directive 92/43/EEC (European Commission Environment Directorate-General, 2018); [hereafter referred to as MN 2018]; and
- Office of the Planning Regulator Practice Note PN01 - AA Screening for Development Management (OPR, 2021).
- Lamb, J.S., 2015. Review of vegetation management in breeding colonies of North Atlantic terns. Conservation Evidence, 12, pp.53-59.

3.2. Assessment Methodology

This report is based on review of desktop data. Sources of information utilised for this report and accessed during October 2022 include the following:

- National Parks & Wildlife Service (NPWS) Designations Viewer²; and,
- National Biodiversity Data Centre (NBDC) Maps³.

3.3. Legislative Background

According to the EU Habitats Directive (92/43/EEC) and the EU Birds Directive (79/409/EEC), Member States are required to establish a Natura 2000 network of sites of highest biodiversity importance for rare and threatened habitats and species across the EU.

In Ireland, the Natura 2000 network of European sites comprises SACs, candidate SACs and SPAs.

SACs are selected for the conservation of Annex I habitats (including priority types which are in danger of disappearance) and Annex II species (other than birds). SPAs are selected for the conservation of Annex I birds and all migratory birds and their habitats. The Annex habitats and species, for which each site is selected, are the qualifying interests (QI) for SACs and special conservation interests (SCI) for SPAs of each site. Conservation objectives for the site are defined for these qualifying interests.

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, are 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. The obligation to undertake a screening for AA, and if necessary, an AA, derives from Article 6(3) of the Habitats Directive and both involve a number of steps and tests that need to be applied in sequential order.

Article 6(3) is concerned with the strict protection of sites, while Article 6(4) is the procedure for allowing derogation from this strict protection in certain restricted circumstances.

² National Parks & Wildlife Service Designation Viewer. Accessed at ArcGIS Web Application 25/01/2023

³ National Biodiversity Data Centre Maps. Accessed at Maps - Biodiversity Maps (biodiversityireland.ie) 25/01/2023

Article 6(3) of the Habitats Directive states:

“Any plan or project not directly connected with, or necessary to, the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans and projects, shall be subject to appropriate assessment of its implications for the site in view of the site’s conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only having ascertained that it will not adversely affect the integrity of the site concerned and if appropriate, after having obtained the opinion of the general public”.

Article 6(4) states:

“If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.

Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest.”

The competent authority is required to carry out a screening for AA, and if necessary, an AA as required by Article 6(3) of the Habitats Directive. If the competent authority determines that the plan or project will adversely affect the integrity of a European site, it may only authorise that plan or project by following the Article 6(4) procedure.

The Article 6(3) and 6(4) procedures are outlined as follows:

Stage 1 - Screening for Appropriate Assessment – to assess, in view of best scientific knowledge, if the project or plan, individually or in combination with another plan or project is likely to have a significant effect on the Natura 2000 site.

Stage 2 - Appropriate Assessment – This is required if it cannot be excluded, on the basis of objective information, that the project or plan, individually or in combination with other plans or projects, will have a significant effect on a Natura 2000 site. The AA must include a final determination by the competent authority as to whether or not a proposed project would adversely affect the integrity of a Natura 2000 site. In order to reach a final determination, the competent authority must undertake examination, analysis and evaluation, followed by findings, conclusions and a final determination. The appropriate assessment must contain complete, precise and definitive findings and conclusions, and may not have lacunae or gaps.

Stage 3 – Assessment of alternative solutions - the process which examines alternative ways of achieving the objectives of the project or plan that avoid adverse impacts on the integrity of the Natura 2000 site.

Stage 4 - Assessment where no alternative solutions exist and where adverse impacts remain - an assessment of compensatory measures where, in the light of an assessment of imperative reasons of overriding public interest (IROPI), it is deemed that the project or plan should proceed.

Under Regulation 42A(1) of the European Communities (Birds and Natural Habitats) Regulations, 2011 (S.I. 477 of 2011), the Ecological Assessment Unit is the competent authority in relation to screening for AA of projects and plans (such as the proposed project) which the Minister proposes to undertake or adopt.

4. Overview of the Project

Proposed post-emergent vegetation management during the growing season is required annually and is done in response to the nesting behaviour of the Special Conservation Interests, notably the internationally and nationally significant breeding populations of Tern species on the islands. This is part of NPWS-funded annual Tern nest protection and monitoring effort on the islands. The proposed conservation measures at Lady's Island Lake SPA, Co. Wexford to improve nest site conditions for Terns have been formulated by Tony Murray and Ciara O'Mahony (NPWS Regional Operations).

The vegetation encroachment at the site comprises rough grasses and bramble scrub growing on and around Tern nesting areas on the islands in Lady's Island Lake. Most Terns nest in open areas easily accessed from the air with sparse vegetative cover to provide protection from conspecific aggression, aerial predation and severe weather.

Seabird guano increases the biomass, height, and cover of island vegetation by adding nitrogen and phosphorous to otherwise nutrient-poor exposed coastal substrates, meaning that the presence of a Tern colony at a breeding site for several years can begin to reduce the suitability of nesting habitat.

Left unmanaged and uncontrolled the encroaching vegetation will render the area unsuitable for nesting Terns, and therefore direct management is therefore necessary to maintain the site conditions. For management purposes, the conservation measures must take place during the growing season when the extent of vegetation encroachment is clearly evident. This requires measures to be actioned during the early nesting season, in which removal of vegetation is otherwise restricted under national statute (Section 40 of the Wildlife Acts 1976-2022). Human presence within the site for the purposes of the conservation measures (ornithology) fall under provision of Section 22(5)(a) of the Acts. In addition, the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011) requires a derogation licence from complying with the requirements of the provisions of Regulation 53.

Three specific areas on Inish and Sgarbheen Islands in Lady's Island Lake need management in 2023 and future seasons. Notably, the targeted management of encroaching vegetation:

- on and around the circular embankment on Inish, Island; and
- on and around the central pathways

Post-emergent vegetation removal is to be carried out manually (with trimmers) and, where necessary (e.g. on very rough stony ground where trimmers are not effective) using herbicides in compliance with best practice standards and the Sustainable Use of Pesticides Directive. The proposed activities are targeted at specific small patches and lines of rough grassland, scrub and rocky habitat only.

The exact extent of area affected is undetermined as this will be informed by Tern nest prospecting activity in 2023 and each subsequent season.

Workers will be transported by rigid inflatable boat with outboard engine, along normal island access route. The clearance will take place for up to 6 hours on one day. All strimmings will be left on site. Normal precautions will be taken to ensure no spillage of fuel for strimmers or pesticides. There are currently no other vegetation management or herbicide application on the islands.

5. Part 1: Necessary conservation measures

Answer these questions if the activity is “directly connected with or necessary to the management of the site”. Otherwise go to Part 2.

- a). List the European site(s) and the relevant Conservation Objectives (include version number of the Conservation Objective).

Lady's Island Lake SPA [Site code: 004009].

NPWS First Order Site-specific Conservation Objectives Version 1.0 (2022).
Accessed 25th January 2023.

Available at: https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004009.pdf

Special Conservation Interests:

- Gadwall (*Anas strepera*) [A051]
- Black-headed Gull (*Chroicocephalus ridibundus*) [A179]
- Sandwich Tern (*Sterna sandvicensis*) [A191]
- Roseate Tern (*Sterna dougallii*) [A192]
- Common Tern (*Sterna hirundo*) [A193]
- Arctic Tern (*Sterna paradisaea*) [A194]
- Wetland and Waterbirds [A999]

Conservation Objectives for Special Conservation Interests.

To maintain or restore the favourable conservation condition of the wetland habitat at Lady's Island Lake SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.

Lady's Island Lake SAC [Site code: 000704].

NPWS Site Details Version 1 (2019). Accessed 25th January 2023.

Available at: <https://www.npws.ie/protected-sites/sac/0007104>.

Qualifying Interests:

- Coastal lagoons [1150]
- Reefs [1170]
- Perennial vegetation of stony banks [1220]

Conservation Objectives for Qualifying Interests.

Coastal lagoons [1150]:

To maintain the favourable conservation condition of Coastal lagoons in Lady's Island Lake SAC, which is defined by the following list of attributes:

- Habitat area
- Habitat distribution
- Salinity regime
- Hydrological regime
- Barrier connectivity between lagoon and sea
- Water quality
- Depth of macrophyte colonisation
- Typical plant species
- Typical animal species
- Negative indicator species

Reefs [1170]:

To maintain the favourable conservation condition of Reefs in Lady's Island Lake SAC, which is defined by the following list of attributes:

- Habitat area
- Habitat distribution
- Community structure

Perennial vegetation of stony banks [1220]:

To maintain the favourable conservation condition of Perennial vegetation of stony banks in Lady's Island Lake SAC, which is defined by the following list of attributes:

- Habitat area
- Habitat distribution
- Physical structure: sediment supply; creeks and pans; flooding regime
- Vegetation structure: zonation; vegetation height; vegetation cover; negative indicator species - *Spartina anglica*
- Vegetation composition: typical species and sub-communities.

b). State how this activity furthers the Conservation Objective(s)

Post-emergent vegetation removal on Inish and Sgarbheen Islands in Lady's Island Lake is directly related to the management of nesting habitat for the Special Conservation Interests. At a site level this will maintain and enhance the potential area of suitable nesting habitat and contribute to the Conservation Objectives in the short to medium term.

In order to maintain population levels and sufficient breeding habitat, vegetation structure at existing sites must be managed. This widely used and effective method has a number of advantages, notably low cost, large areas of application, ease of access and requires only limited and readily-available equipment. The project is necessary not only to avoid loss and degradation of nest sites, but also to enable more efficient predator management, particularly on circular embankment on Inish Island.

In the absence of the project, the Conservation Objectives for Lady's Island Lake SPAs would not be achieved as there would be continuing encroachment of vegetation, limiting nest site availability for internationally important populations of Sandwich Tern and Roseate Tern, and nationally important populations of Common Tern and Arctic Tern.

- c). Does this activity have the potential to impact negatively on any Conservation Objective (CO), Qualifying Interest (QI)/Special Conservation Interest (SCI) for this or any other European site?

Yes ☐

No ☒

As per the Screening for Appropriate Assessment Report undertaken by the National Parks and Wildlife Service Deputy Regional Manager, there is a proven and planned route of accessibility for works without impacting on Qualifying Interests of Lady's Island Lake Special Area of Conservation. The EAU have considered detailed maps of the location of measures and reviewed these with reference to the Conservation Objectives (Version 1) for the SAC in relation to the Qualifying Interests. The EAU consider that any effect on QI of the Lady's Island Lake SAC is negligible and concurs with the conclusions of that report.

- d). Are there aspects of this activity which are NOT directly connected with the management of the site?

Yes ☐

No ☒

If the answer to EITHER of the above questions is **Yes** a Screening for AA is required, go to Part 2.

If the answer to BOTH questions is **No** go to Part 5.

6. Part 2: Identification of European Sites within the Potential Zone of Influence of proposed activities

List all European sites which may be affected by this activity because they are linked by an ecological pathway. If the site has a second European designation (SAC, SPA) this also needs to be considered.

7. Part 3: Assess the likelihood of significant effects

Provide this information for **each site** listed in Part 2.

List the QI/SCIs for the site(s), their current conservation condition and the Site Specific Conservation Objectives (SSCO) for that QI/SCI. Then answer the questions about the impact on that QI/SCI.

Site 1: Name and Code

Conservation Condition:

Site Specific Conservation Objectives:

Tick all the boxes below which may apply.

Your answer will determine if the activity is likely to have a (negative) effect on this QI/SCI. Negative effects may arise because of the activity's location within the site; its proximity to the QI/SCI or the size of the land take involved; the abstraction of water or minerals; emissions or waste arising; the types of transport or machinery being used; the length of time involved or seasonality of the work.

- a). There is likely to be a reduction in the area of QI/SCI habitat ☐
- b). The physical/chemical quality of the environment is likely to be changed in a way which may cause the deterioration of the QI/SCI habitat (e.g. applying lime to an acidic soil) ☐
- c). The structure of the ecological community is likely to be altered (e.g. through altered species composition) in a way which will have negative impact on the QI/SCI. ☐
- d). A QI/SCI species is likely to be disturbed (e.g. through noise, vibrations) ☐
- e). The population size, characteristics or reproductive success of a QI/SCI species is likely to be changed either directly or indirectly (e.g. lighting close to a bat roost entrance) ☐
- f). QI/SCI species or habitats are likely to be more vulnerable to change or less resilient to external change (e.g. to flooding, fire or drought) ☐
- g). There are likely to be effects on other species /habitats (not a QI/SCI for this site) which are ecologically linked with this QI/SCI and, as a consequence, there are likely to be negative effects on this QI/SCI (e.g. the impacts on geese which are the SCI when their non-QI feeding areas are damaged). ☐
- h). This activity will cause a deterioration in the conservation condition of this QI/SCI. ☐

- i). There are likely to be other ecological effects not listed above which are likely to have a significant effect on the QI/SCI. ☐

Explain the effects:

If you have ticked a box for any QI/SCI in any of the sites affected by this activity the likelihood of a significant effect cannot be ruled out and the activity MUST be screened IN for AA.

8. Part 4: In Combination Effects

Is this activity likely to cause negative effects in combination with any other plan or project?

(In answering this question you should consider any other consents which have been applied for or granted. For example, other ARCs, planning consents, forestry consents, or activities authorised as part of an agreed farm or land management plan. List the plans or projects considered).

No ☐ Yes ☐ Uncertain ☐

If the answer is Yes or Uncertain the activity MUST be screened IN for AA. Fill in Part 5 accordingly.

9. Part 5: Findings of the Screening for AA

Screening not carried out as the activity is “directly connected with or necessary to the management of the site”.



Likely significant effects are expected or uncertain.

This activity Screens **IN** and AA **is** required.

☐

Likely significant effects are NOT expected.

This activity Screens **OUT** AA **is not** required.

☐

Signature: Ryan Wilson-Parr, Head of Ecological Assessment

Date: 27th January 2023

10. Part 6: Conclusion

Following an analysis of the project, the EAU determines⁴, in accordance with Regulation 42A(8) of the 2011 Regulations that the conservation measures for breeding populations of Tern species within Lady's Island Lake Special Protection Area are entirely comprised of activities or works that directly support the Conservation Objectives of this European site.

It can be concluded with certainty that the project is a necessary conservation measure that is directly connected with or necessary for the management of the site.

⁴ Ryan Wilson-Parr (Head of Ecological Assessment, Department of Housing, Local Government and Heritage) 27th January 2023

11. Supplementary Information

Figure 1. (below): Location of Lady's Island Lake Special Protection Area as per the European Union Habitats Regulations 2010 (Statutory Instrument No. 69).

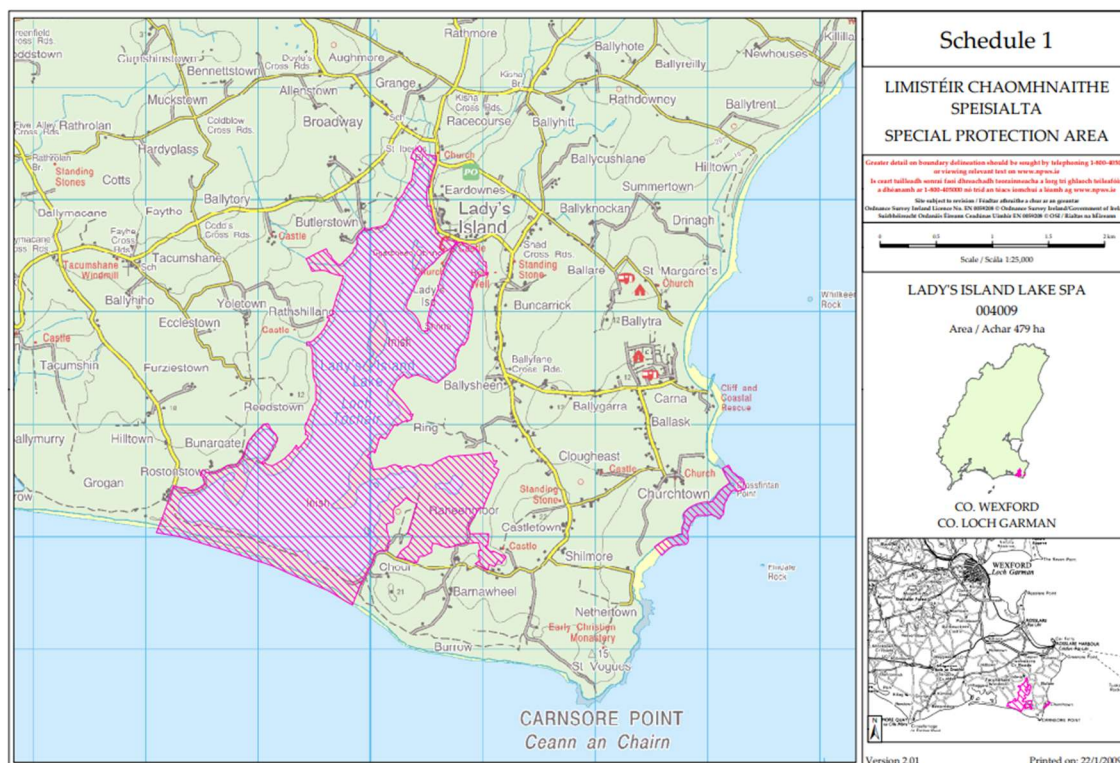
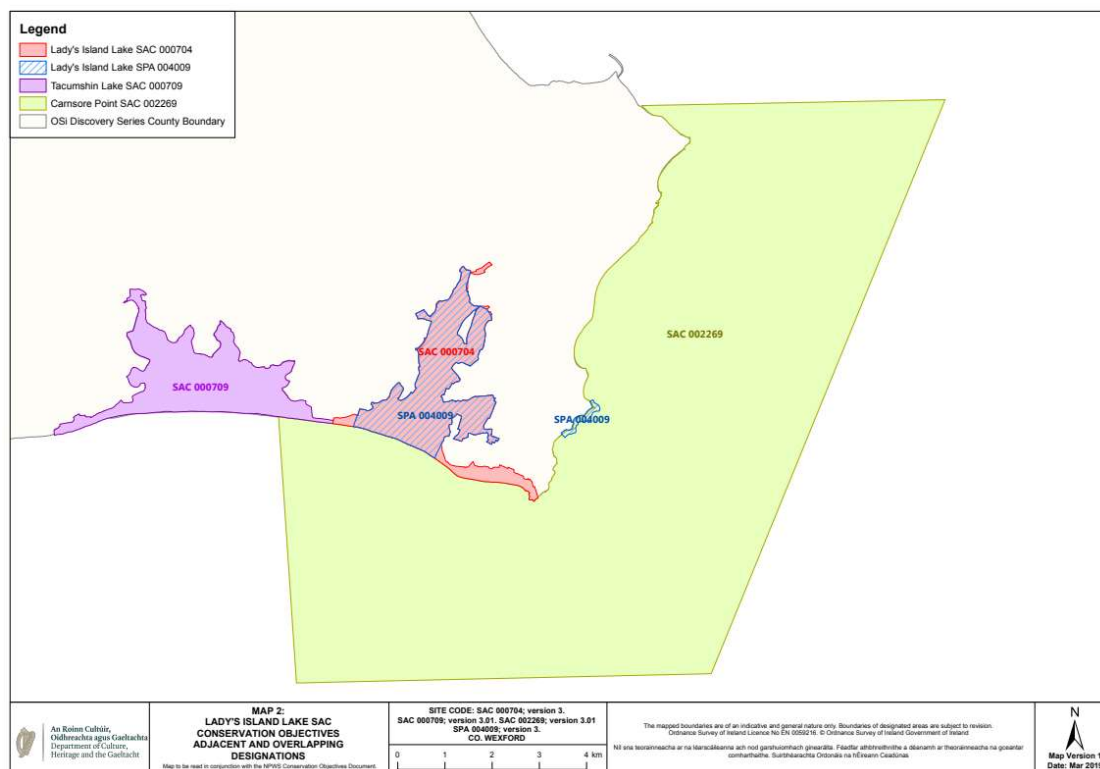


Figure 2. (below): Adjacent and overlapping designations of Lady's Island Lake Special Protection Area.



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