

CHIEF EXECUTIVE ORDER No. 2023/WH/0001

SCREENING FOR APPROPRIATE ASSESSMENT OF SPECIFIC WORKS (GROUND INVESTIGATION) FOR BURNFOOT FLOOD RELIEF SCHEME

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".

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.'

Having taken the view that the works required under 'Burnfoot Flood Relief Scheme – Preliminary Ground Investigation' might constitute 'projects' within the meaning of the Habitats Regulations, Donegal County Council, Flood Relief Schemes Unit, 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.

In performing this screening for Appropriate Assessment, DCC had regard, inter alia, to information contained in the following document:

- Burnfoot Flood Relief Scheme; Ground Investigation Works – Screening for Appropriate Assessment, Report No. NI2258 (Revision F03, RPS, 28th October 2022).

In performing this screening for Appropriate Assessment, DCC also communicated with the Office of Public Works, Environment Section in their capacity as Steering Group members for the overall Flood Relief Scheme; and held discussion on ground investigation for flood relief schemes with Emmett Johnston, Divisional Ecologist, National Parks and Wildlife Service.

The specific works that have been screened for Appropriate Assessment are the works detailed in "Burnfoot Flood Relief Scheme; Ground Investigation Works – Screening for Appropriate Assessment", Report No. NI2258 (Revision F03, RPS, 28th October 2022).

The specific works are ground investigation (15no. exploratory cable percussive and window sample boreholes) and associated works, which are critical to the technical analysis and design of the future principal project, Burnfoot Flood Relief Scheme.

The potential impacts during the preliminary site investigation works in Burnfoot have been considered in the context of the Natura 2000 sites potentially affected, their Qualifying Interests, Special Conservation Interests and Conservation Objectives. It has been concluded that the risks posed by habitat / wetland loss, aerial noise and/or visual disturbance, displacement of waterbirds, underwater noise and vibration; sediment emissions and hydrocarbon emissions are unlikely to result in significant effects to the Qualifying Interests of Lough Swilly SAC or Lough Swilly SPA, alone or in combination with other plans or projects.

Further, the Site Investigation works are relatively minor and are small in scale relative to the principal project, of short duration and temporary in nature such that it is identified as

exempted development in accordance with Planning and Development Regulations (2001 as amended, Schedule 2, Class 45).

As significant effects on European Sites by virtue of the proposal have been deemed unlikely, it is therefore determined that Appropriate Assessment is not required on this occasion.

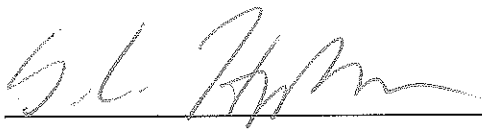
Submitted:

Burnfoot Flood Relief Scheme; Ground Investigation Works – Screening for Appropriate Assessment, Report No. NI2258 (Revision F03, RPS, 28th October 2022) and letter of recommendation from Lorraine Arbuckle, Executive Engineer, FRS Unit, dated the 8th December 2022. The Screening for Appropriate Assessment report recommends that the specified geotechnical investigations and associated works, 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. The letter recommends, based on the aforementioned report, that a reasoned determination is made by Donegal Council that an Appropriate Assessment of these proposed works is not required.

Recommendation:

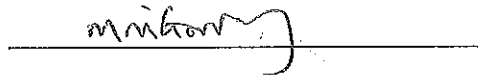
Having performed screening for Appropriate Assessment in respect of the specific works detailed in "Burnfoot Flood Relief Scheme; Ground Investigation Works – Screening for Appropriate Assessment", Report No. NI2258 (Revision F03, RPS, 28th October 2022), it is recommended that Donegal County Council accept the recommendations of RPS Group Ltd that the specified geotechnical investigations and associated works, 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.

It is therefore recommended that reasoned determination is made 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 undertaken that the proposed works, individually or in combination with other plans or projects, will not have a significant effect on any European site.



Seamus Hopkins
A/Senior Engineer, Water & Environment

ORDER: Recommendation approved.



Michael Mc Garvey
A/Director of Service, Water & Environment

Dated this the 9th day of January 2023 ~~December 2022~~ ^{made}