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Regional Water Resources Plan South East

AA Determination Statement



Tionscatal Éireann
Project Ireland
2040



Data disclaimer: This document uses best available data at time of writing. As data relating to population forecasts and trends are based on information gathered before the Covid-19 Pandemic, monitoring and feedback will be used to capture any updates. The National Water Resources Plan will also align to relevant updates in applicable policy. In December 2022, the Water Services (Amendment) (No. 2) Act, 2022 was signed into law. This act provides that, from the 31 December 2022, Irish Water will only be known as Uisce Éireann. It also provides that, from that date, all references in any enactment, legal proceedings or other document to Irish Water shall be construed as references to Uisce Éireann only. The AA Determination reflects this transition from Irish Water to Uisce Éireann.

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Table of Contents

1	Introduction	2
2	Regional Water Resources Plan – South East	3
3	Potential Impacts.....	5
4	Data Sources and Guidance Documents.....	5
5	AA Screening and AA.....	6
6	Avoidance and Reduction of Impacts	8
7	In-combination Assessment.....	9
8	Consultation	10
9	Determination	10



AA Determination Statement

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 Regional Water Resources Plan – South East (RWRP-SE), in accordance with relevant legislation.

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) as amended (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:

“ Subject to Regulation 42A, 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 42A applies to situations where the Minister for Housing, Local Government and Heritage is the relevant public authority for the purposes of Appropriate Assessment, which is not relevant to the RWRP-SE).

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 the draft RWRP-SE determined that it could not be excluded, on the basis of objective scientific information, that the RWRP-SE, 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 the RWRP-SE 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 its determination on AA, in accordance with the 2011 Regulations, Uisce Éireann prepared a Natura Impact Statement (NIS), which is a report comprising the scientific examination of the RWRP-SE and the relevant European Site or European Sites, to identify and characterise any possible implications of the RWRP-SE individually or in combination with other plans or projects in view of the conservation objectives of the 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 Appropriate Assessment.

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

- a) the NIS;
- b) any other plans that may, in-combination with the RWRP-SE, 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 NIS¹;
- 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 the RWRP-SE; and
- g) any other relevant information.

The methodology and guidance documents for undertaking the assessment is presented in Chapter 2 of the NIS. European Sites potentially affected are presented in Chapter 3 and listed in Appendix B of the NIS. 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 (NPWS) website and used in the assessment. Plans with potential in-combination effects are assessed in Chapter 7 of the NIS. No further supplemental information was used (or furnished) and no additional information or advice was sought in relation to the NIS. The full documentation pack is available at <https://www.water.ie/nwrp/>

2 Regional Water Resources Plan – South East

Uisce Éireann's National Water Resources Plan (NWRP) is the first resources plan for the public water supply in the Republic of Ireland. It allows Uisce Éireann to integrate government policy, legislation and external factors, which have the potential to impact Uisce Éireann supplies, into the planning and operation of our existing and future supply asset base. The objective of a NWRP is to manage customer and communities needs while meeting their requirements over the short, medium and long term by ensuring safe, secure, sustainable and reliable water supplies.

The NWRP (the Plan) is being delivered in two phases. In the first Phase, the NWRP - Framework Plan, set out the methodologies developed in order to identify need and find solutions to address need across all of Uisce Éireann supplies. The second Phase comprises four Regional Water Resources Plans (RWRPs). Each of these Regional Plans identifies the need for each Water Resource Zone ("WRZ") in the area and applies the methodology developed in the Framework Plan to each water supply. This allows for the development of plan-level Preferred Approaches (i.e. solutions to the identified need) for each supply. The development of four RWRPs is a mechanism for efficient delivery of the NWRP. The outputs of the four RWRPs will be combined for prioritisation and progression through the future cycles of capital investment planning.

¹ This requirement applies only to AAs of projects and not plans.

The Framework Plan identified the need in terms of Quantity, Quality, Reliability and Sustainability for all of Uisce Éireann's supplies nationally by:

- Assessing quantity need using Supply Demand Balance (SDB);
- Assessing quality and reliability need using Uisce Éireann's Water Quality Risk Assessment - The Barrier Assessment (BA);
- Addressing sustainability by ensuring that all new options for water supply are based on conservative approaches to protecting water sources;
- Using a rigorous and conservative Options Assessment Process; and
- A rigorous and conservative Preferred Approach Development Process.

The objectives of the NWRP are to:

- Enable Uisce Éireann to address needs across water supplies in the most effective way over time, through the regulated investment cycles;
- Ensure that there is a transparent framework to develop the most appropriate projects/programmes to meet statutory obligations in relation to water supply;
- Provide a framework to track outcomes, allowing interventions to be prioritised to bring the water supply up to the required standards in the shortest possible timeframe; and
- Deliver a plan to ensure that all of our customers have access to safe, secure, reliable and sustainable water supplies, wherever they live.

The NWRP also aims to support balanced regional development, as outlined in the National Planning Framework (NPF) and the supporting Regional Spatial and Economic Strategies (RSES), by assessing water supply needs across our growing communities. A detailed description of the Framework Plan is included in the NIS for the Plan.

The RWRP-SE is one of the four regional plans and identifies deficiencies and need across the water supplies within the region to develop a regional plan-level solutions to address these issues. The RWRP-SE has identified the Preferred Approach for the SE region.

The South East Region is subdivided into three Study Areas based on factors such as:

- Groundwater body boundaries;
- Surface water sub-catchments;
- Geographical features;
- Water Resource Zone (WRZ) boundaries;
- Local authority functional areas; and
- Appropriate size for an efficient reporting structure.

The NIS has assessed the Preferred Approach options identified in the RWRP-SE using the Framework Plan methodology. This was done for each WRZ, the three Study Areas and the South East region as a whole. The "source-pathway-receptor" model was used to assess the Preferred Approach options for the South East region (i.e. the various Preferred Approaches identified at WRZ, Study Area and Regional level). This assessment was undertaken in consideration of all potential impact pathways connecting elements of the draft RWRP-SE to European sites in view of their conservation objectives.

3 Potential Impacts

The screening for Appropriate Assessment identified water resources management option types in the RWRP-SE which can, by itself or in-combination with other plans and projects, affect European sites in light of their conservation objectives.

Option types included demand management, catchment management of surface and/or groundwater, storage reservoirs, aquifer storage recovery, desalination, effluent reuse, water transfers and water treatment plants improvement to capacity, efficiency or deployable output.

The AA Screening identified that the implementation of the RWRP-SE may give rise to measures that could result in a variety of possible effect pathways, including but not limited to:

- Physical loss of habitats/supporting habitat;
- Mortality;
- Habitat degradation - changes in water quality (pollution);
- Habitat degradation - hydrological/ hydrogeological changes;
- Change in hydrology - water table/availability; and
- Disturbance (including biological disturbance).

4 Data Sources and Guidance Documents

The following desktop data sources have been used:

- The National Parks and Wildlife Service (NPWS) website (<https://www.npws.ie/>), where site synopses, Natura 2000 data forms and conservation objectives were obtained.
- National Biodiversity Data Centre (<http://www.biodiversityireland.ie/>)
- Environmental Protection Agency maps website (<https://gis.epa.ie/EPAMaps/>)
- River Basin Management Plans (www.wfdireland.ie)
- Catchments (www.catchments.ie)
- Planning websites:
 - My Project Ireland 2040 (<https://geohive.maps.arcgis.com/apps/MapSeries/index.html?appid=f05a07c5a0324b1a887cd9d5d7103e22>)
 - ePlanning (www.eplanning.ie)
 - Wicklow County Council (<https://www.wicklow.ie/Living/Services/Planning>)
 - Wexford County Council (<https://www.wexfordcoco.ie/planning>)
 - Carlow County Council (<https://www.carlow.ie/all-council-services/planning/>)
 - Kilkenny County Council (<https://www.kilkennycoco.ie/eng/services/planning/>)
 - Tipperary County Council (<https://www.tipperarycoco.ie/planning-and-building>)
 - Waterford County Council (<https://www.waterfordcouncil.ie/departments/planning/index.htm>)
 - Limerick County Council (<https://www.limerick.ie/council/services/planning-and-property>)
 - Cork County Council (<https://www.corkcoco.ie/en/resident/planning-and-development>)
 - Laois County Council (<https://laois.ie/departments/planning/>)
- OPW drainage maps (<http://maps.opw.ie/drainage/map/>)

The Natura Impact Statement was prepared with reference to the following documents:

- Practice Note (PN) 01 Appropriate Assessment Screening for Development Management (Office of the Planning Regulator, 2021);

- AA of Plans and Projects in Ireland: Guidance for Planning Authorities (Department of Environment, Heritage and Local Government, 2010a);
- Assessment of plans and projects in relation to Natura 2000 Sites – Methodological Guidance on Article 6(3) and (4) of the Habitats Directive 92/43/EEC (European Commission, 2021a);
- Guidance document on the strict protection of animal species of Community interest under the Habitats Directive (European Commission, 2021b);
- 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, 2010b);
- 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 (Department of Environment, Heritage and Local Government, 2007a);
- Guidance on Compliance with Regulation 23 of the Habitats Directive. Circular Letter NPWS 2/07 (Department of Environment, Heritage and Local Government, 2007b); 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 AA Screening and AA

An AA screening was conducted on the RWRP-SE. The conclusion of that screening was that it could not be excluded on the basis of objective scientific information that the RWRP-SE, individually or in-combination with other plans or projects, would have a significant effect on a European site or European sites. This conclusion was reached given the strategic nature of the RWRP-SE and in light of a number of uncertainties relating to the implementation of the RWRP-SE going forward. It was therefore concluded that, in accordance with Article 6(3) of the Habitats Directive, the implications of the RWRP-SE 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 the RWRP-SE (and Preferred Approach options arising from the RWRP-SE) 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. The RWRP-SE considered the Preferred Approach options that are to be applied at the regional level; as defined for the South East region. Therefore, all European sites within and with effect pathways from the South East region were initially considered to be potentially within the Zone of Influence (Zoi) of the RWRP-SE as any Preferred Approach option type could be applied in any of the

Study Areas of the region. Transboundary impacts to Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) in Northern Ireland were also considered, of which there were no effects.

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.

A high-level assessment of potential effect pathways (habitat loss/degradation, mortality, water quality/availability, disturbance) of the Preferred Approach options proposed in the RWRP-SE was undertaken. These potential effect pathways can only occur where an option is either progressed within a European site (for example, surface water abstraction from an SAC) or within the ZoI (for example, an option that is hydrologically linked to an SAC or SPA). Potential effect pathways were identified for all but one option type (see bullet point list below). The exception was the catchment management option, which if implemented properly, should only have a positive effect on aquatic receptors through improved water quality in the catchment. Therefore, this option was not discussed further.

The management option types are:

- Leakage reduction;
- Water efficiency;
- Surface water;
- Groundwater;
- Reservoirs;
- Catchment management;
- Effluent reuse;
- Water transfers;
- Network improvements; and
- Water treatment plants.

There would be positive implications for the environment with the leakage reduction option, due to less water needing to be abstracted from ground or surface water sources, and reducing the impact further as much of the network runs along existing road. However, there is still potential for direct and indirect negative effects on SACs and SPAs from construction related activities associated with upgrading the network.

Water efficiency and effluent reuse options would promote actions that would have overall positive implications for the environment, including education and awareness around water savings and management, identifying options for reducing water use and the re-use of grey water. However, there is the potential for health risks associated with untreated grey water re-use due to the presence of bacteria. The construction of a new outfall could have a direct or indirect negative impact on aquatic QI species associated with construction and by altering the flow regime within the river, potentially changing supporting habitat, in particular for fish.

Surface water and groundwater options may include the extension/increase of existing abstractions or the provision of new water abstractions. Groundwater options may also include the storage of water in groundwater aquifers. Where new or increased surface or groundwater abstractions are required, there is potential for direct, indirect, construction and operational effects on SACs and SPAs.

Aquatic and groundwater dependent QI species (and their supporting habitats) and groundwater dependent terrestrial habitats (GWDTHs) would be most at risk with the latter option. The options could result, for example, in negative changes in hydrology potentially altering the aquatic environment, thus affecting aquatic and water dependent QI and their supporting habitats. However, water treatment plant options, including network improvements and decommissioning of sources, have the potential for positive impacts but there is potential for direct and indirect effects on SACs and SPAs associated with the construction or upgrade of treatment plants and infrastructure for network improvements for example.

Currently, transfer of raw water from one catchment to another is unlikely to be a viable option as Uisce Éireann currently do not allow cross-water transfers (see Section 2.5.2 in the RWRP-SE and Table 5.1 in the Framework Plan NIS).

6 Avoidance and Reduction of Impacts

The setting of sustainable abstraction limits (as outlined in Chapter 2.5.1 of the NIS) for any new or increased abstractions arising as a result of the RWRP-SE have been established to ensure impacts on aquatic QI species and habitats requiring high status water quality are avoided. The allowable abstraction standard of 10% of Q95 has been applied with the exception of waterbodies requiring “High” status under the Water Framework Directive where a higher threshold of 5% of Q95 has been applied. The application of these abstraction standards will help to ensure that any new or increased abstractions from rivers designated as SACs (which require “Good” and/or “High” status water quality) will align with the conservation objectives of these designated sites. Sustainable abstraction standards for lakes are similarly set at 5% (for lakes requiring “High” status e.g. oligotrophic waterbodies) and 10% of Q50.

A key step in the Options Assessment Methodology is to identify feasible options (after coarse and fine screening). These Feasible Options are then assessed against a specified number of approaches. Uisce Éireann identify the Option or combination of Options that best conform with each of the six Approach descriptions, for example, the Option or combination of Options that would be classified as the Least Carbon Approach, Least Cost, Best AA etc. These approaches are then assessed against each other following the options assessment methodology assessment process set out in Section 2.6 of the RWRP-SE NIS to determine the Preferred Approach.

The “Best AA approach” (as outlined in Chapter 2.5.3 in the NIS) gives maximum consideration to those options with no potential for impacts on European Sites or options with likely significant effects that can be addressed with general/standard mitigation measures at the project level (based on desktop study). It puts avoidance of impacts on European sites at the forefront of the assessment taking account for the fact that options with a high likelihood of having adverse effects on a European site have already been removed at Coarse Screening stage. Taking this approach any Feasible Option that meets the objectives of the Plan and scores neutral or zero against the European Sites (Biodiversity) question is automatically picked as the Preferred Approach (this is in line with the provisions of Article 6(3) of the Habitats Directive to ensure the protection of European Sites).

For each Preferred Approach the RWRP-SE will have identified other options than could be progressed at the project level, if required. As part of the feedback loop, no option arising from the RWRP-SE with

the potential for adverse effects on site integrity identified at project level will be progressed as the RWRP-SE will have identified other options that could be progressed at the project level if required. Such protective measures have been built into the plan to ensure adverse effects on site integrity are avoided as a result of adopting the RWRP-SE.

A full list of general 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 and/or operation. These measures will ensure that the RWRP-SE 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 the RWRP-SE with other plans and projects is required (see Chapter 7 in the RWRP-SE NIS). Given the strategic nature of a regional level plan the assessment of in-combination effects focused on other Uisce Éireann plans and other related plans, as listed below:

- Water Services Strategic Plan (WSSP);
- National Wastewater Sludge Management Plan (NWSMP) 2016-2021;
- Lead in Drinking Water Mitigation Plan (LDWMP);
- National Planning Framework (NPF);
- Regional Spatial and Economic Strategies;
- River Basin Management Plan (RBMP) (2018 -2021)/Draft River Basin Management Plan 2022-(2027);
- Forestry Programme 2014 – 2020: IRELAND/Draft Forest Strategy 2022-2030;
- National Marine Planning Framework (NMPF);
- Food Vision 2030;
- EU Biodiversity Strategy for 2030;
- National Biodiversity Action Plan 2017-2021/Draft Ireland's 4th National Biodiversity Action Plan 2023-2027;
- All Ireland Pollinator Plan 2021 – 2025;
- National Waste Action Plan for a Circular Economy 2020 – 2025;
- Climate Action Plan 2023;
- Offshore Renewable Energy Development Plan/Draft Offshore Renewable Energy Development Plan II;
- National Adaptation Framework (NAF);
- Ireland's Ancient East Regional Tourism Development Strategy 2023 – 2027; and
- County Development Plans/Council Local Development Plans:
 - Wicklow County Development Plan 2022-2028;
 - Wexford County Development Plan 2022-2028;
 - Carlow County Development Plan 2022-2028;
 - Kilkenny City and County Development Plan 2021-2027;
 - Tipperary County Development Plan 2022-2028;
 - Waterford City and County Development Plan 2022-2028;
 - Limerick Development Plan 2022-2028;
 - Cork County Development Plan 2022-2028; and

- Laois County Development Plan 2021-2027.

Consideration has been given to the relevant plans that have clear potential to have an in-combination effect with the Preferred Approach options upon European sites and their supporting habitats. However, it is still possible to exclude any AESI arising from the combination of the RWRP-SE with those projects, because its methodology requires the RWRP-SE to take account of in-combination effects with those projects in identifying management options and their respective locations. This assessment used the best available information at the time of writing and Uisce Éireann is satisfied that given the high-level nature of the RWRP-SE, there are no lacunae or gaps in the information required for the AA. The potential impacts of the plans and their in-combination effects were assessed by desktop study. The assessment found that with mitigation measures, there would be no in-combination effects with any other plan and therefore no adverse effects on any European site's integrity were possible.

8 Consultation

The NIS for the draft RWRP-SE has been issued for public consultation and all comments and submissions received were reviewed. Where appropriate, comments and submissions were incorporated into the RWRP-SE and/or the NIS was updated. A total of 30 consultation responses were received, and these are presented in summary in the Phase 2 - Regional Water Resources Plan – South East Consultation Report. No amendments were required for the NIS in response to submissions and observations, and no material changes were required to the assessment in the NIS in response to consultation. Where required, consultation responses will be taken forward in the next iteration of the NWRP.

9 Determination

Uisce Éireann is satisfied that given the high-level nature of the RWRP-SE 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. As competent authority, Uisce Éireann is satisfied that the RWRP-SE 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 scientific information at time of writing;
- b) other relevant plans that may in-combination with the RWRP-SE, adversely affect the integrity of a European site (noting that the in-combination effects of the preferred approaches identified in the RWRP-SE and specific projects will be assessed during subsequent phases of the development of the RWRP-SE);
- c) no supplemental information was furnished in relation to any such report or statement, as Uisce Éireann was satisfied that no such supplemental information was required to enable Uisce Éireann to carry out the AA;
- d) as the AA concerned a plan and not a project, there was no additional information sought by Uisce Éireann from an applicant;
- e) no other information or advice was obtained by Uisce Éireann, as Uisce Éireann was satisfied that no such information or advice was necessary to enable Uisce Éireann to carry out the AA;

- f) the written submissions or observations made to Uisce Éireann in relation to the RWRP-SE, to the extent relevant to AA matters, as detailed in the Phase 2 – Regional Water Resources Plan – South East Consultation Two Report were taken on board; and
- g) Uisce Éireann was satisfied that no other information was required for Uisce Éireann to carry out the AA.