

**Water Services Investment and Rural Water Programmes –
Protection of Natural Heritage and National Monuments**

1. The purpose of this Circular is to provide local authorities with basic guidance on identifying potential issues relating to protection of natural heritage (including sites, habitats and species) and archaeological heritage in order to prevent avoidable delays in the planning and implementation of individual schemes under the Water Services Investment and Rural Water Programmes. Where necessary, local authorities may secure professional ecological or archaeological advice and related costs may be charged to the individual scheme involved.
2. Ireland's natural heritage is afforded legal protection through the network of NATURA 2000 or European sites, Special Areas of Conservation (SACs), Special Protection Areas (SPAs), Natural Heritage Areas (NHAs) and through the protection of species and their habitats, including those listed in Annexes to the Habitats and Birds Directives, in Schedules to the Wildlife Acts, 1976-2000, and in the Flora Protection Order 1999.
3. The Department advocates a general policy of not building treatment plants in active floodplains. It is also inadvisable to build such plants in former floodplains because of possible future needs to re-activate same.
4. Ireland's archaeological heritage is protected through the National Monuments Acts, 1930 – 2004, and through the various Planning and Development Acts. The policy of the Department in relation to the protection of archaeological heritage is set out in *Framework and Principles for the Protection of the Archaeological Heritage* (published by the former Department of Arts, Heritage, Gaeltacht and the Islands in 1999). The Department's policy with regard to excavation is outlined in *Policy and Guidelines on Archaeological Excavation* (D.A.H.G.I., 1999). Both documents may be downloaded from the Departmental Website www.archaeology.ie.

5. In order to identify potential ecological or archaeological constraints, all water services projects, including pipework proposals, should be subjected to initial screening in accordance with:
- the checklist in Appendix 1 for natural heritage, and
 - the checklist in Appendix 2 for archaeological heritage.

Where initial screening reveals, or cannot exclude with certainty, a likely significant ecological or archaeological impact, an assessment of impacts will need to be undertaken. For natural heritage in general, this will involve an ecological impact assessment. In the case of potential impacts on Natura 2000 or European sites (SACs and SPAs, including any candidate sites), AA (appropriate assessment) is required under Article 6(3) of the Habitats Directive. Consideration should also be given to alternative sites at an early stage.

6. AA will entail preparing a full assessment and statement of the potential direct, indirect and cumulative impacts on any Natura 2000 site and its conservation objectives - it must include measures to avoid or mitigate the impact. In addition to professional ecological expertise, which will be necessary in this context, other expertise may also be required (e.g. hydrological or hydrogeological).

In the event that the potential effect of such an impact on a Natura 2000 site cannot be avoided or fully mitigated, a further process may apply under Article 6.4 of the Habitats Directive and would include examining all available alternatives, communication with the EU Commission and preparation of compensatory measures. Such measures will inevitably result in significant delay. Early identification and avoidance of potential impacts is, therefore, the best option. Useful guidance is available from the EU Commission's website:

http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/guidance_art6_4_en.pdf

To avoid as far as possible further delays where the impacts of a selected site cannot be avoided or fully mitigated, alternative sites/options need to be examined so there can be confidence the site selected has the least environmental impacts. A cost and design analysis of the alternative sites and their environmental impacts should be undertaken.

7. In the case of archaeology, assessment will entail preparing a full statement of the potential impact on known and previously unrecorded archaeological material. Firstly recommendations should be made on how to avoid impacts on the archaeological

resource. If it is not possible to re-align or redesign to avoid impacting on archaeological material, proposed mitigation measures, including geophysical analysis, test excavation, preservation-by record, post-excavation and publication of the results of excavation, should be detailed. Professional archaeological expertise would be necessary in this context.

Known monuments can be identified from the record of monument and places for each county and from the website *www.archaeology.ie*. National monuments that are in State ownership or guardianship, and monuments subject to preservation orders or temporary preservation orders, should be identified and zones of visual amenity defined for them. It should be noted that indirect and direct impact on national monuments in State or local authority care, or subject to a preservation order, will require the consent of the Minister for the Environment, Heritage and Local Government under section 14 of the National Monuments Act, 1930, as amended by Section 5 of the National Monuments (Amendment) Act, 2004.

Areas of previously unrecorded archaeological potential, i.e. within or adjacent to constraint areas for known monuments, wetland locations, areas with a distinctive topography indicative of high archaeological potential, should be identified.

The primary aim of all recommendations for mitigation should be to minimise further archaeological excavation while preserving archaeological material.

8. Following initial assessment in accordance with Appendix 1 or 2, as appropriate, any proposal likely to have an impact on protected habitats or species or on a national monument should immediately be notified to:

*Development Applications Unit
Department of the Environment, Heritage and Local Government
Dún Scéine
Harcourt Lane
Dublin 2*

and copied to the Department's Water Services Section.

DAU will endeavour to make a co-ordinated response to the Planning Authority within a period five weeks from date of receipt of the proposal.

9. More detailed procedural guidance is being prepared and will be notified to local authorities as soon as possible. In the meantime, enquiries in relation to this Circular may be addressed, as appropriate, to:

- Tom Walsh, Water Services Section, Tel 01-8882168, e-mail *tom.walsh@environ.ie*
- or
- Dr Elizabeth Sides, NPWS Conservation Systems & Marine Tel 01-8883288, e-mail *elizabeth.sides@environ.ie*

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Dublin 1

To: Directors of Services (Water Services)

Water Services Schemes - Natural Heritage Checklist for Local Authorities

This screening methodology is designed to assist those planning and designing water services solutions when determining whether AA for Natura 2000/European sites or habitats & species listed in the annexes of the EU Birds and Habitats Directives is necessary or not. It should also be applied to NHAs

Water Services infrastructure projects relate to the provision, operation and management of drinking water and wastewater services. These projects hold a high health and safety value for the public as well as being of benefit for biodiversity - it is therefore essential that such projects are screened at the earliest stage to avoid situations where nature conservation and human health and safety are pitched as competing interests.

This screening methodology will be reviewed regularly to ensure it remains consistent with the programmes of measures and River Basin Management Plans (RBMPs) currently being developed under the Water Framework Directive (WFD).

What projects must be screened?

For new projects and significant changes to any existing operations, if the answer is 'yes' to any of the following, the project (i.e. construction, operation and maintenance) must be screened for its impacts:

1. Is the development in or on the boundary of a nature conservation site NHA/SAC/SPA?
2. Will nationally protected species be directly impacted? Wildlife Acts (1976 and 2000), Flora Protection order (S.I. 94 of 1999)?
3. Is the development a surface water discharge or abstraction in the surface water catchment¹ or immediately downstream of a nature conservation site with water dependant qualifying habitats/species²?
4. Is the development a groundwater discharge or abstraction in the ground water catchment¹ or within 5 km of a nature conservation site with water-dependant qualifying habitats/species²?
5. Is the development in the surface water or groundwater catchment of salmonid waters?
6. Is the treatment plant in an active or former floodplain or flood zone of a river, lake, etc?
7. Is the development a surface discharge or abstraction to or from marine waters³ and within 3km of a marine nature conservation site?
8. Will the project in combination with other projects (existing and proposed) or changes to such projects affect the hydrology or water levels of sites of nature conservation interest or the habitats of protected species?

NB Please use the Diagram below to work through the screening requirements.

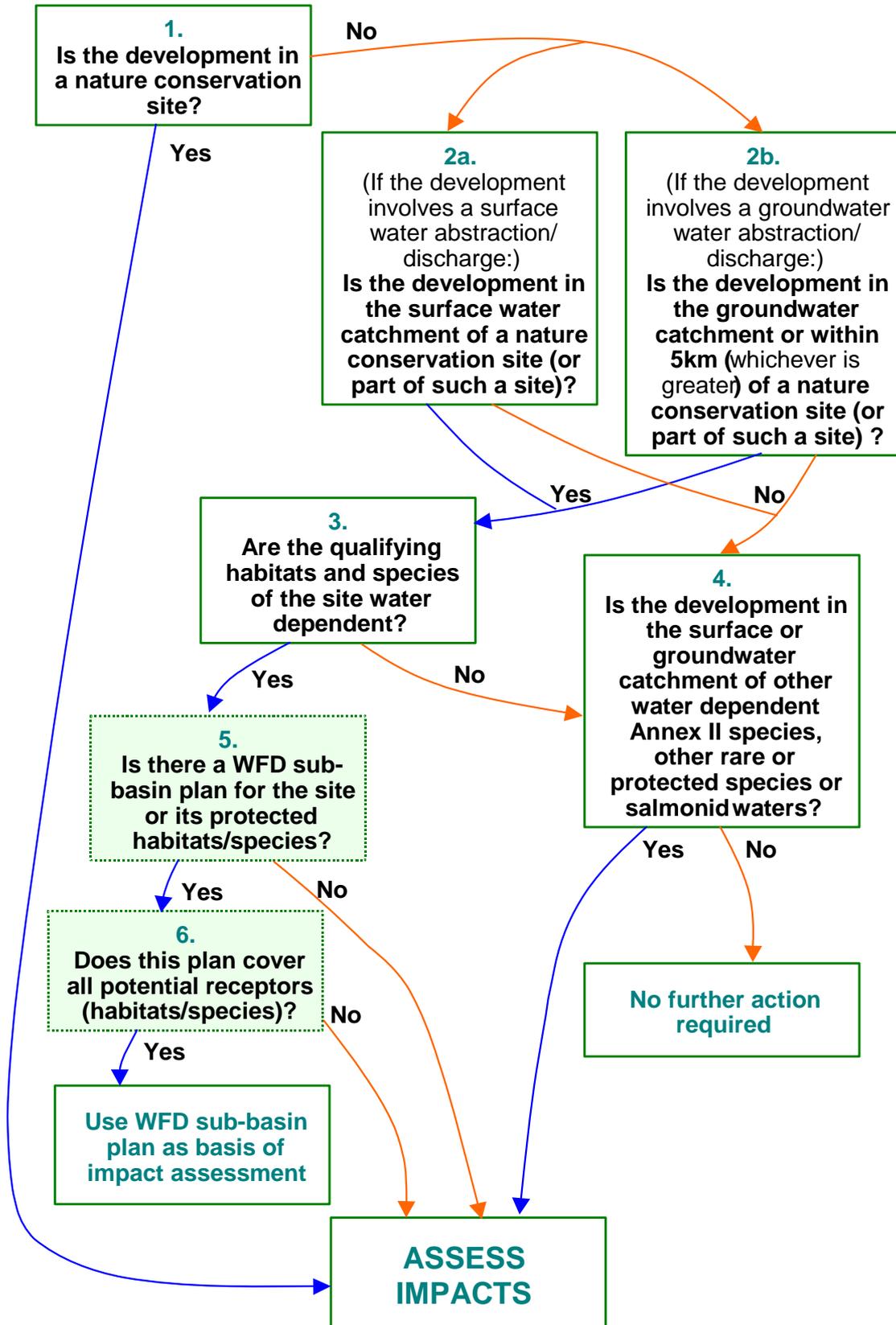
Note ¹. If there is a WFD sub basin plan for the sites or its protected habitats and the plan covers all potential receptors, i.e. habitats and species, this plan can be used as the basis for screening and impact assessment.

Note ². Estuaries are considered part of a catchment.

Note ³. Any marine area including estuaries

Below is a flow diagram for screening water services infrastructure projects, followed by explanatory notes on the diagram and other points of information. If the conclusion of the screening outlined in this **Natura 2000 Screening Protocol** is to **“ASSESS IMPACTS”**, then the plan or project must be referred to the Department of the Environment, Heritage and Local Government’s Development Applications Unit.

NB Catchments of habitats and species of conservation value are addressed here as it is only through examining catchment-wide pressures that hydrological, water pollution and cumulative impacts can be properly assessed.



Notes on flow diagram (Numbers correspond to question numbers in the Figure 1):

1. This question relates to direct impacts only and, therefore, all habitats and species of nature conservation value must be considered. If the development is within a Natura 2000 site, there is potential for direct loss of habitats and/or species of conservation value within the footprint of the development. The footprint includes all temporary and permanent access roads, trenching etc. The standard guidelines for the referral of all development applications that are adjacent to SACs to NPWS (i.e. within 500m), should also be followed here.
2. This and subsequent questions relate to indirect impacts, which are transmitted through water and, therefore, only have the potential to impact upon water dependent species. All projects in the catchments of conservation sites (i.e. both within and upstream of the site) have the potential to impact on the site and to contribute to the cumulative impacts on the site. The 5km stipulation is placed in Question 2b as it was used in the groundwater risk assessments for groundwater dependent conservation sites. Groundwater catchments are the zones of a groundwater body that contribute water to a receptor such as a conservation site. These catchments can be altered, however, through very large abstractions in certain aquifer types. Because these groundwater divides can change, the extra protection of 5km was included.
3. Habitats Directive Annex I habitats and Annex II species have been divided into water dependent (see tables 1 and 2 below) and non-water dependent for the purposes of the WFD. The list of water dependent birds will be finalised shortly. Within most conservation sites, particularly the large SAC-complexes, some areas will contain water dependent habitats/species and others will not. This means that the SAC boundary cannot be taken as indicative of the location of the relevant habitat or species. As a result, the local authority will require the specific locations of the habitats and species in order to screen these projects. These data will need to be collected through surveys where the information is not available from NPWS or other sources. NPWS do not generally have the locations of habitats and species on a single GIS, or other readily available formats. Useful information will be available through NPWS monitoring programmes and databases, such as the rare flora database, as well as through NPWS management plans. NPWS has a public mapviewer tool in place at <http://www.npws.ie/en/MapsData> and is planning the development of a GIS that will be accessible to local authorities.
4. The data for Annex II species in the wider countryside and other protected/rare species (outside designated sites) is less complete and requires further field surveys and data collection. Furthermore, as these species could extend even further downstream than the nature conservation sites, the downstream area that would need to be assessed for potential impacts could be significantly extended by this question.
5. No WFD sub-basin plans have yet been developed. However, 27 *Margaritifera* sub-basin plans will be drafted before the end of 2008. Further such catchment plans will be developed for other species and habitats in SACs. These will set specific nature conservation and water quality/quantity targets for the sites and will prescribe the management measures that need to be undertaken within their catchments.
6. These sub-basin plans are likely to be species/habitat specific so that, even when such plans exist, all potential receptors may not be assessed and further assessments may be required for water services projects. Where sub-basin plans exist, it is likely that these can be used in combination with further impact assessments.

Many water services projects are likely to require assessment. This is particularly the case because of the occurrence of Annex II species (EU Habitats Directive 1992) in the wider countryside, other rare/protected species (Wildlife Acts) and salmonid waters.

APPENDIX 2

Water Services Schemes – Archaeological Heritage Checklist for Local Authorities

Any scheme that extends within or impinges upon the confines of the “black line” drawn around a monument on the Record of Monuments and Places map

Any scheme that is likely to have an adverse impact on the setting and amenity of a monument on the Record of Monuments and Places map

Any scheme that may not be in proximity to known monuments but is large in scale

Any scheme that may be unduly close to archaeological complexes

Any scheme that will impact on rivers, lakes, the inter-tidal zone, the foreshore or any underwater area where historic shipwrecks or other other underwater archaeological objects e.g. ships’ timbers, may be located

Any scheme that requires an Environmental Impact Statement

Any scheme that may have an adverse impact on the setting and amenity of any national monument in the ownership or guardianship of the Minister for the Environment, Heritage and Local Government or any national monument in the ownership or guardianship of a local authority or any national monument that is subject to a preservation order