

6.1 APPENDIX TO CHAPTER 6 – Legislation Framework and Policy Context

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Appendix 6-1 International Legislation

EU Birds Directive

The Birds Directive constitutes a level of general protection for all wild birds throughout the European Union. Annex I of the Birds Directive includes a total of 194 bird species that are considered rare, vulnerable to habitat changes or in danger of extinction within the European Union. Article 4 establishes that there should be a sustainable management of hunting of listed species, and that any large scale non-selective killing of birds must be outlawed. The Directive requires the designation of Special Protection Areas (SPAs) for: listed and rare species, regularly occurring migratory species and for wetlands which attract large numbers of birds. There are 25 Annex I species that regularly occur in Ireland.

EU Habitats Directive

The Habitats Directive aims to protect some 220 habitats and approx. 1000 species through-out Europe. The habitats and species are listed in the Directives annexes where Annex I covers habitats and Annex II, IV and V cover species. There are 59 Annex I habitats in Ireland and 33 Annex IV species which require strict protection wherever they occur. The Directive requires the designation of Special Areas of Conservation (SACs) for areas of habitat deemed to be of European interest. The SACs together with the SPAs from the Birds Directive form a network of protected sites called Natura 2000.

Bern and Bonn Convention

The Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention 1982) was enacted to conserve all species and their habitats. The Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention 1979, enacted 1983) was introduced in order to give protection to migratory species across borders in Europe.

Ramsar Convention

The Ramsar Convention on Wetlands is an intergovernmental treaty signed in Ramsar, Iran, in 1971. The treaty is a commitment for national action and international cooperation for the conservation of wetlands and their resources. In Ireland there are currently 45 Ramsar sites which cover a total area of 66,994ha.

Water Framework Directive

The EU Water Framework Directive (WFD) 2000/60/EC is an important piece of environmental legislation which aims to protect and improve water quality. It applies to rivers, lakes, groundwater, estuaries, and coastal waters. The Water Framework Directive was agreed by all individual EU member states in 2000, and its first cycle ran from 2009 – 2015. The Directive runs in 6-year cycles; the second cycle ran from 2016 – 2021, and the current (third) cycle runs from 2022-2027. The aim of the WFD is to prevent any deterioration in the existing status of water quality, including the protection of good and high-water quality status where it exists. The WFD requires member states to manage their water resources on an integrated basis to achieve at least 'good' ecological status, through River Basin Management Plans (RBMP), by 2027.

National Legislation

Wildlife Act 1976 and amendments

The Wildlife Act 1976 was enacted to provide protection to birds, animals, and plants in Ireland and to control activities which may have an adverse impact on the conservation of wildlife. With regard to the listed species, it is an offence to disturb, injure or damage their breeding or resting place wherever these occur without an appropriate license from the National Parks and Wildlife Service (NPWS). This list includes all wild birds along with their nests and eggs. Intentional destruction of an active nest from the building stage up until the chicks have fledged is an offence. This includes the cutting of hedgerows from the 1st of March to the 31st of August. The act also provides a mechanism to give statutory protection to Natural Heritage Areas (NHAs). The Wildlife Amendment Act 2000 widened the scope of the Act to include most species, including the majority of fish and aquatic invertebrate species which were excluded from the 1976 Act.

The current list of plant species protected by Section 21 of the Wildlife Act, 1976 (and amendments) is set out in the Flora (Protection) Order, 2015 (S.I. No. 356/2015). The Flora (Protection) Order affords protection to several species of plant in Ireland, including 68 vascular plants, 40 mosses, 25 liverworts, 1 stonewort and 1 lichen. This Act makes it illegal for anyone to uproot, cut or damage any of the listed plant species and it also forbids anyone from altering, interfering, or damaging their habitats. This protection is not confined to within designated conservation sites and applies wherever the plants are found.

EU Habitats Directive 1992 and EC (Birds and Natural Habitats) Regulations 2011

The EU Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora (Habitats Directive 1992) provides protection to particular species and habitats throughout Europe. The Habitats Directive has been transposed into Irish law through the EC (Birds and Natural Habitats) Regulations 2011.

Annex IV of the EU Habitats Directive provides protection to a number of listed species, wherever they occur. Under Regulation 23 of the Habitats Directive, any person who, in regard to the listed species, “Deliberately captures or kills any specimen of these species in the wild, deliberately disturbs these species particularly during the period of breeding, rearing, hibernation and migration, deliberately takes or destroys eggs from the wild or damages or destroys a breeding site or resting place of such an animal shall be guilty of an offence.”

Invasive Species Legislation

Certain plant species and their hybrids are listed as Invasive Alien Plant Species in Part 1 of the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations 2011 (SI 477 of 2011, as amended). In addition, soils and other material containing such invasive plant material, are classified in Part 3 of the Third Schedule as vector materials and are subject to the same strict legal controls.

Failure to comply with the legal requirements set down in this legislation can result in either civil or criminal prosecution, or both, with very severe penalties accruing. Convicted parties under the Act can be fined up to €500,000.00, jailed for up to 3 years, or both.

Extracts from the relevant sections of the regulations are reproduced below.

“49(2) Save in accordance with a licence granted [by the Department of Arts, Heritage and the Gaeltacht], any person who plants, disperses, allows or causes to disperse, spreads or otherwise causes to grow in anyplace [a restricted non-native plant], shall be guilty of an offence.

49(3) ... it shall be a defence to a charge of committing an offence under paragraph (1) or (2) to prove that the accused took all reasonable steps and exercised all due diligence to avoid committing the offence.

50(1) Save in accordance with a licence, a person shall be guilty of an offence if he or she [...] offers or exposes for sale, transportation, distribution, introduction, or release—

(a) an animal or plant listed in Part 1 or Part 2 of the Third Schedule,

(b) anything from which an animal or plant referred to in subparagraph (a) can be reproduced or propagated, or

(c) a vector material listed in the Third Schedule, in any place in the State specified in the third column of the Third Schedule in relation to such an animal, plant or vector material.”

National Biodiversity Action Plan 2023-2030

The National Biodiversity Plan (NBAP) 2023-2030, the fourth such plan for Ireland, captures the objectives, targets and actions for biodiversity that will be undertaken by a wide range of government, civil society and private sectors to achieve

Ireland's Vision for Biodiversity. The NBAP provides a framework to track and assess progress towards Ireland's Vision for Biodiversity over a seven-year timeframe from 2023 to 2030. To achieve the Vision, five strategic objectives were identified in the new NBAP for 2023-2030. Actions required to achieve the strategic objectives as well as the lead and key partners responsible for their implementation are set out for each of the objectives and their targets (Table A5-1:1).

Table A5-1 Objectives and targets of the National Biodiversity Action Plan 2023-2030

Objective	Target
1: Adopt a whole-of-government, whole-of-society approach to biodiversity	Outcome 1A. Governance structures and reporting outputs have improved
	Outcome 1B. Organisational capacity and resources for biodiversity have increased at all levels of Government
	Outcome 1C: Responsibility for biodiversity is shared across the whole of government
	Biodiversity Outcome 1D: Biodiversity initiatives are supported across the whole of society
	Outcome 1E. The legislative framework for biodiversity conservation is robust, clear and enforceable
2: Meet urgent conservation and restoration needs	Outcome 2A: The protection of existing designated areas and protected species is strengthened and conservation and restoration within the existing protected area network are enhanced
	Outcome 2B: Biodiversity and ecosystem services in the wider countryside are conserved and restored – agriculture & forestry
	Outcome 2C: Biodiversity and ecosystem services in the wider countryside are conserved and restored – peatlands & climate action
	Outcome 2D: Biodiversity and ecosystem services in the marine and freshwater environment are conserved and restored
	Outcome 2E: Genetic diversity of wild and domesticated species is safeguarded
	Outcome 2F: A National Restoration Plan is in place to contribute to the ambition of the EU Biodiversity Strategy 2030 and global restoration targets
	Outcome 2H: Invasive alien species (IAS) are controlled and managed on an all-island basis to reduce the harmful impact they have on biodiversity and measures are undertaken to tackle the introduction and spread of new IAS to the environment
3: Secure nature's contribution to people	Outcome 3A: Ireland's natural heritage and biocultural diversity is recognised, valued, enhanced and promoted in policy and practice
	Outcome 3B: The role of biodiversity in supporting wellbeing, livelihoods, enterprise and employment is recognised and enhanced
	Outcome 3C: Planning and development will facilitate and secure biodiversity's contributions to people
	Outcome 4C: Long-term monitoring programmes are in place to guide conservation and restoration goals
	Outcome 4D: Ireland has prepared national assessments of ecosystem services
4: Enhance the evidence base for action on biodiversity	Outcome 4A: Research funding bodies will have an improved understanding of the research and skills required to address biodiversity research gaps
	Outcome 4B: Data relevant to biodiversity and ecosystems,

	including conservation needs, is widely accessible and standardised
5: Strengthen Ireland's contribution to international biodiversity initiatives.	Outcome 5A: Science, policy and action on biodiversity conservation and restoration is effectively coordinated in an all-island approach
	Outcome 5B: Ireland takes action internationally to cooperate with other countries, sectors, disciplines and communities to address the biodiversity crisis
	Outcome 5C: Ireland enhances its contributions to the international biodiversity data drive

Dún Laoghaire-Rathdown County Development Plan 2022-2028

Policies and objectives of the Dún Laoghaire-Rathdown County Development Plan 2022 – 2028 that are of relevance to this Screening Report are outlined below:

- GIB11: Coastal Area Feasibility Study. It is a Policy Objective to explore undertaking a comprehensive feasibility study on the recreational potential along the coastal area of the County, which comprehensively addresses recreational impact - including visitor numbers, mapping and surveying of sensitive habitats and species and identification of significant threats on European sites - and which would allow an assessment of any future proposals, alone or in combination, to assess impact on the coastal and marine zone within and adjacent to the County boundary. The Council will explore the possibility of carrying out this study with adjoining and/or coastal Local Authorities and/or other agencies.
- GIB18: Protection of Natural Heritage and the Environment. It is a Policy Objective to protect and conserve the environment including, in particular, the natural heritage of the County and to conserve and manage Nationally and Internationally important and EU designated sites - such as Special Protection Areas (SPAs), Special Areas of Conservations (SACs), proposed Natural Heritage Areas (pNHAs) and Ramsar sites (wetlands) - as well as non-designated areas of high nature conservation value known as locally important areas which also serve as 'Stepping Stones' for the purposes of Article 10 of the Habitats Directive.
- GIB19: It is a Policy Objective to ensure the protection of natural heritage and biodiversity, including European Sites that form part of the Natura 2000 network, in accordance with relevant EU Environmental Directives and applicable National Legislation, Policies, Plans and Guidelines.
- GIB21: It is a Policy Objective to protect and preserve areas designated as proposed Natural Heritage Areas, Special Areas of Conservation, and Special Protection Areas. It is Council policy to promote the maintenance and as appropriate, delivery of 'favourable' conservation status of habitats and species within these areas.
- GIB22: It is a Policy Objective to protect and promote the conservation of biodiversity in areas of natural heritage importance outside Designated Areas and to ensure that notable sites, habitats and features of biodiversity importance - including species protected under the Wildlife Acts 1976 and 2000, the Birds Directive 1979, the Habitats Directive 1992, Birds and Habitats Regulations 2011, Flora (Protection) Order, 2015, Annex I habitats, local important areas, wildlife corridors and rare species - are adequately protected. Ecological assessments will be carried out for all developments in areas that support, or have potential to support, features of biodiversity importance or rare and protected species and appropriate mitigation/ avoidance measures will be implemented. In implementing this policy, regard shall be had to the Ecological Network, including the forthcoming DLR Wildlife Corridor Plan, and the recommendations and objectives of the Green City Guidelines (2008) and 'Ecological Guidance Notes for Local Authorities and Developers' (Dún Laoghaire-Rathdown Version 2014).
- GIB23: It is a Policy Objective to protect the Ecological Network which will be integrated into the updated Green Infrastructure Strategy and will align with the DLR County Biodiversity Action Plan. Creating this network throughout the County will also improve the ecological coherence of the Natura 2000 network in accordance with Article 10 of the Habitats Directive. The network will also include non designated sites.
- GIB25: It is a Policy Objective to retain and protect hedgerows in the County from development, which would impact adversely upon them. In addition, the Council will promote the protection of existing site boundary hedgerows and where feasible require the retention of these when considering a grant of planning permission for all developments. The Council will promote the County's hedgerows by increasing coverage, where possible, using locally native species and to develop an appropriate code of practice for road hedgerow maintenance. The Council will promote the protection of existing hedgerows when considering a grant of planning permission for all developments.

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- GIB28: It is a Policy Objective to prepare an 'Invasive Alien Species Action Plan' for the County which will include actions in relation to Invasive Alien Species (IAS) surveys, management and treatment and to also ensure that proposals for development do not lead to the spread or introduction of invasive species. If developments are proposed on sites where invasive species are or were previously present, the applicants will be required to submit a control and management program for the particular invasive species as part of the planning process and to comply with the provisions of the European Communities Birds and Habitats Regulations 2011 (S.I. 477/2011).

Dún Laoghaire-Rathdown Biodiversity Action Plan

The Dún Laoghaire-Rathdown Biodiversity Action Plan (BAP) is set out to protect and improve biodiversity, following five main themes:

1. Biodiversity research including climate change adaption and mitigation;
2. Building for Biodiversity;
3. Delivery of the Ecological Network across the Dún Laoghaire-Rathdown;
4. Raising awareness among the public, local communities, and council staff; and,
5. Increased collaboration with stakeholders.