SHADOW HABITATS REGULATIONS ASSESSMENT

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1 INTRODUCTION

RPS was commissioned by RES UK & Ireland Ltd to undertake a shadow Habitats Regulations Assessment (HRA) to support a planning application for a proposed Battery Energy Storage System on land at Skreen Road, Omagh.

The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) provide for the protection of habitats and species of European importance through the designation of European sites as part of the UK national site network. European sites are defined as Special Areas of Conservation (SAC) or Special Protection Areas (SPA).

The Regulations also set out the requirement that any plan or project not directly connected with or necessary to the management of a European site and likely to have a significant effect on a European site (either alone or in combination with other plans or projects) will be subject to appropriate assessment of the implications for the European site in view of the site's conservation objectives.

HRA is the process that considers the implications of a plan or project, either individually or in combination with other plans and projects, on a European site. The following report will therefore assist the Competent Authority in fulfilling its duties in accordance with Regulation 43(1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended).

1.1 Habitats Regulations Assessment

HRA is the process that considers the implications of a plan or project (either individually or in combination with other plans and projects) on a European site. It consists of a staged approach (EC 2021) with each stage determining whether a further stage in the process is required.

Stage One: Screening – The first part of the process ascertains whether a plan or project is directly connected with, or necessary to, the management of any European site, and, if this is not the case, whether it is likely to have a significant effect on any European site (either alone or in combination with other plans or projects) in view of the site's conservation objectives (COs).

Stage Two: Appropriate Assessment – If likely significant effects (LSEs) cannot be excluded, the next stage of the process involves assessing the impact of the plan or project (either alone or in combination with other plans or projects) against the COs of the European site, to ascertain whether it will affect the integrity of the site, taking into account any mitigation measures. The Competent Authority then decides whether or not to approve the plan or project in light of the findings of the Appropriate Assessment.

Stage Three: Derogation – Derogation only comes into effect if, despite a negative assessment, it is considered that the plan or project should still be carried out for Imperative Reasons of Overriding Public Interest (IROPI). This is only possible if there are no alternative solutions, the IROPI are duly justified, and if suitable compensatory measures are adopted to ensure that the overall coherence and protection of UK National Site Network.

2 METHODOLOGY

2.1 HRA Guidance

These following guidelines have been followed in the preparation of this report:

- Communication from the Commission on the Precautionary Principle., Office for Official Publications of the European Communities, Luxembourg (EC, 2000a)
- Managing Natura 2000 Sites: the provisions of Article 6 of the 'Habitats' Directive 92/43/EEC, Office for Official Publications of the European Communities, Luxembourg (EC, 2000b)
- Assessment of plans and projects significantly affecting Natura 2000 sites: Methodological guidance on the provisions of Articles 6(3) and (4) of the Habitats Directive 92/43/EEC. Office for Official Publications of the European Communities, Brussels (EC, 2001)
- Habitats Regulations Guidance Notes for Competent Authorities. Environment and Heritage Service. Belfast (EHS, 2002) [not available online]
- 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; (EC, 2007)
- The Appropriate Assessment of Plans in Northern Ireland. RSPB, Belfast (RSPB, 2008)
- Estuaries and Coastal Zones within the Context of the Birds and Habitats Directives - Technical Supporting Document on their Dual Roles as Natura 2000 Sites and as Waterways and Locations for Ports. European Commission (EC, 2009)
- Guidance document on the implementation of the birds and habitats directive in estuaries and coastal zones with particular attention to port development and dredging. European Commission (EC, 2011a)
- Interpretation Manual of European Union Habitats. Version EUR 28. European Commission (EC, 2013)
- European Commission Notice C (2018) 7621 'Managing Natura 2000 Sites: the provisions of Article 6 of the 'Habitats' Directive 92/43/EEC', Office for Official Publications of the European Communities, Luxembourg (EC, 2019)
- European Commission Notice C (2020) 7730 'Guidance document on wind energy developments and EU nature legislation', Office for Official Publications of the European Communities, Luxembourg (EC, 2020)
- Institute of Air Quality Management 'A guide to the assessment of air quality impacts on designated nature conservation sites (Version 1.1)' (IAQM, 2020)
- Guidance explaining The Conservation (Natural Habitats, etc.) (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (DAERA, 2020)
- European Commission Notice C (2021) 6913 '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', Office for Official Publications of the European Communities, Luxembourg (EC, 2021)
- European Commission Guidance document on Assessment of plans and projects in relation to Natura 2000 sites - A summary, Office for Official Publications of the European Communities, Luxembourg (EC, 2022)

2.2 Likely Significant Effects

The European Commission (EC) 2018 Notice (EC, 2019) advises that the appropriate assessment procedure under Article 6(3) is triggered not by the certainty but by the likelihood of significant effects, arising from plans or projects regardless of their location inside or outside a European site. Such likelihood exists if significant effects on the site cannot be excluded. The significance of effects should be determined in relation to the specific features and environmental conditions of the site concerned by the plan or project, taking particular account of the site's COs and ecological characteristics.

The threshold for a LSEs is treated in the Screening Assessment as being above a *de minimis* level. A *de minimis* effect is a level of risk that is too small to be concerned with when considering ecological requirements of an Annex I habitat or a population of Annex II species present on a European site necessary to ensure their FCS. If low level effects on habitats or individuals of species are judged to be in this order of magnitude and that judgement has been made in the absence of reasonable scientific doubt, then those effects are not considered to be LSEs.

Case law of the Court of Justice of the European Union (CJEU) has confirmed that a significant effect is triggered when:

- there is a probability or a risk of a plan or project having a significant effect on a European site;
- the plan or project is likely to undermine the COs of the European site; and
- a significant effect cannot be excluded on the basis of objective information.

EC (2021) defines a LSE as being "*any effect that may reasonably be predicted as a consequence of a plan or project that would negatively and significantly affect the COs established for the habitats and species significantly present on the Natura 2000 site. This can result from either on-site or off-site activities, or through combinations with other plans or projects*".

The requirement that the effect in question be 'significant' exists in order to lay down a *de minimis* or negligible threshold – thus, plans or projects that have no appreciable or imperceptible effects on the site are thereby excluded. On this point, EHS (2002) notes that any effect that may reasonably be predicted as a consequence of a plan or project that may affect the COs of the features for which the site was designated but excluding *de minimis* or inconsequential effects.

2.3 Consideration of Ex-Situ Effects

EC (2019) advises that Member States, both in their legislation and in their practice, allow for the Article 6(3) safeguards to be applied to any development pressures, including those which are external to any European sites, but which are likely to have significant effects on such sites.

The CJEU developed this point when it issued a ruling in case C-461/17 (Brian Holohan and Others v An Bord Pleanála) that determined inter alia that Article 6(3) of Directive 92/43/EEC must be interpreted as meaning that an Appropriate Assessment must on the one hand, catalogue the entirety of habitat types and species for which a site is protected, and, on the other, identify and examine both the implications of the plan or project for the species present on that site, and for which that site has not been listed, and the implications for habitat types and species to be found outside the boundaries of that site, provided that those implications are liable to affect the COs of the site.

In that regard, consideration has been given in this assessment to implications for habitats and species located both inside and outside of the European sites considered in the Screening Assessment with

reference to the COs of those sites where effects upon those habitats and/or species are liable to affect the COs of the sites concerned.

2.4 Mitigation Measures

In determining whether or not LSEs will occur or can be excluded during the Screening Assessment, measures intended to avoid or reduce the harmful effects of the proposed plan or project on European sites, (i.e. mitigation measures) or best practice measures have not been taken into account. This approach is consistent with EU guidance and the case law of the CJEU.

EC (2001) states that "*project and plan proponents are often encouraged to design mitigation measures into their proposals at the outset. However, it is important to recognise that the screening assessment should be carried out in the absence of any consideration of mitigation measures that form part of a project or plan and are designed to avoid or reduce the impact of a project or plan on a Natura 2000 site*". This direction in the European Commission's guidance document is unambiguous in that it does not permit the inclusion of mitigation at screening stage.

In April 2018, the CJEU issued a ruling in case C-323/17 People Over Wind & Peter Sweetman v Coillte Teoranta (People Over Wind) that Article 6(3) of Directive 92/43/EEC must be interpreted as meaning that, in order to determine whether it is necessary to carry out, subsequently, an Appropriate Assessment of the implications, for a site concerned, of a plan or project, it is not appropriate, at during the Screening Assessment, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.

The judgment in People Over Wind is further reinforced in EC (2019) which refers to CJEU Case C-323/17.

3 PROPOSED PROJECT

The proposed project involves the installation of up to 110MW BESS provided within a compound area consisting of associated plant, equipment, and buildings. The site of the proposed project is approximately 8 ha. Access tracks will connect the BESS development to Skreen Road to the east. The location of the site and the red line boundary are illustrated in **Figure 1.0 Site Location**.

The proposed project will include installation of:

- 116 no. Battery Storage Enclosure (BSE);
- 21 no. Power Conversion Systems with Single MV Skid and Apron Slab;
- 1 no. 110kv DNO Substation Compound with DNO Substation Building;
- 3 no. BESS Substation Buildings;
- 4 no. Auxiliary Transformer;
- 2 no. Lv Distribution Equipment;
- 1 no. 110kv BESS Substation Compound;
- 17 no. Aggregation Panel with LV Pillar;
- 1 no. Pre-insertion resistor;
- Capacitor Bank;
- 1 no. Harmonic Filter and Resistor;
- 4 no. Spares Container;
- Lighting CCTV Columns

During the operational phase of the project, activity on site will be minimal due to the nature of the proposed development, and limited to routine checks and maintenance once per month.

3.1 Best Practice Measures

A Construction Environmental Management Plan (CEMP) will be produced before construction commences. The CEMP will require the implementation of a range of measures during the construction phase of the proposed project to ensure that the potential for spillage and sedimentation is reduced to the greatest extent possible throughout construction in line with the control of water pollution.

Such measures are to include the timing of works, the use of sediment traps or lagoons, minimal use of stockpiling and the use of appropriate storage for all hazardous contaminants and pollutants within an appropriate compound during construction. These measures are normal aspects of a major public sector construction contract and would be incorporated into any significant development of this type, whether it be located upstream of a European site or not.

They are typical and environmentally responsible approaches that the employer will require their successful contractor to apply to the execution of any construction contract awarded by the employer. These measures have not been specified because the proposed project is upstream of the European sites, on the contrary they are specified because that is the standard that the employer requires as part its contract with the successful contractor. They are measures that the employer will demand of its contractors carrying out

construction activities on its behalf in all circumstances, and as such they have been included in the specification for the works. Their use is not triggered by the downstream presence of European sites.

For the avoidance of any doubt however, these best practice measures are **not** relied upon during Stage 1 Screening to avoid any possibility whatsoever that they could be construed as being *"measures intended to avoid or reduce the harmful effects of the plan or project"* on a European site.

4 STAGE 1 SCREENING

4.1 Introduction

The Screening Assessment examines the likely effects of the project, either alone or in combination with other plans or projects, upon European sites and considers whether it can be objectively concluded that the effects will not be significant. The Screening Assessment is carried out in the absence of any consideration of mitigation measures that are designed to avoid or reduce the impact of the plan on any European site (EC 2002). Mitigation measures are defined as '*measures aimed at minimising or even cancelling the negative impact of a plan or project during or after its completion'* (EC 2000).

4.2 Management of European Sites

Plans or projects related to the conservation management of European sites are generally excluded from assessment (EC 2000). The proposed project is not directly connected with or necessary to the management of any European site and is therefore subject to Article 6 of the Habitats Directive and HRA.

4.3 European Sites & Qualifying Interest Features

The Screening Assessment identified five European sites within 15 km of the proposed project and one beyond 15 km but hydrologically linked to the proposed project. **Table 4.1** below list the European sites, their QIFs and COs. The boundary of each of these designated sites in relation the proposed project is illustrated in **Figure 2.0 European Sites**.

Table 4.1: European Sites and their Qualifying Interest Features, Conservation Objectives & Threats & Pressures within 15 km or Hydrologically Linked to the Proposed Project

European Site	Distance from Site (km)	Qualifying Interest Feature	Conservation Objectives	Threats & Pressures
Cranny Bogs SAC [UK0030321]	1.8 Straight Line Distance (SLD)	• Active Raised Bog	• Maintain the extent of intact lowland raised bog and actively regenerating raised bog vegetation. • Maintain and enhance the quality of the lowland raised bog community types including the presence of notable species. • Seek to expand the extent of actively regenerating raised bog vegetation into degraded (non-active) areas of cutover bog. • Maintain the diversity and quality of other habitats associated with the active raised bog, e.g. acid grassland, fen and swamp, especially where these exhibit natural transition to the raised bog. • Maintain the hydrology of the raised bog peat mass. • Seek nature conservation management over suitable areas immediately outside the SAC where there may be potential for lowland raised bog rehabilitation.	• Peat cutting • Burning • Drainage • Nitrogen deposition • Changes to surrounding land use • Scrub encroachment • Grazing • Fly-tipping • Climate change
Tonnagh Beg Bog SAC [UK0030325]	4.7 SLD	• Active Raised Bog	• Maintain the extent of intact lowland raised bog and actively regenerating raised bog vegetation. • Maintain and enhance the quality of the lowland raised bog community types including the presence of notable species. • Seek to expand the extent of actively regenerating raised bog vegetation into degraded (non-active) areas of cutover bog. • Maintain the diversity and quality of other habitats associated with the active raised bog, e.g. acid grassland, fen and	• Peat cutting • Burning • Drainage • Nitrogen deposition • Changes to surrounding land use • Scrub encroachment • Grazing • Fly-tipping • Climate change

European Site	Distance from Site (km)	Qualifying Interest Feature	Conservation Objectives	Threats & Pressures
			swamp, especially where these exhibit natural transition to the raised bog. • Maintain the hydrology of the raised bog peat mass. • Seek nature conservation management over suitable areas immediately outside the SAC where there may be potential for lowland raised bog rehabilitation.	
Deroran Bog SAC	13.5 SLD	• Active Raised Bog	• Maintain the extent of intact lowland raised bog and actively regenerating raised bog vegetation. • Maintain and enhance the quality of the lowland raised bog community types including the presence of notable species. • Seek to expand the extent of actively regenerating raised bog vegetation into degraded (non-active) areas of cutover bog. • Maintain the diversity and quality of other habitats associated with the active raised bog, e.g. acid grassland, fen and swamp, especially where these exhibit natural transition to the raised bog. • Maintain the hydrology of the raised bog peat mass. • Seek nature conservation management over suitable areas immediately outside the SAC where there may be potential for lowland raised bog rehabilitation.	• Peat cutting • Burning • Drainage • Nitrogen deposition • Changes to surrounding land use • Scrub encroachment • Grazing • Fly-tipping • Climate change • Tree planting/afforestation
Tully Bog SAC UK0030326	10.3 SLD	• Active Raised Bog	• Maintain the extent of intact lowland raised bog and actively regenerating raised bog vegetation. • Maintain and enhance the quality of the lowland raised bog community types including the presence of notable species. • Seek to expand the extent of actively regenerating raised bog vegetation into	• Peat cutting • Burning • Drainage • Nitrogen deposition • Changes to surrounding land use • Scrub encroachment • Grazing • Fly-tipping • Climate change

European Site	Distance from Site (km)	Qualifying Interest Feature	Conservation Objectives	Threats & Pressures
			degraded (non-active) areas of cutover bog. • Maintain the diversity and quality of other habitats associated with the active raised bog, e.g. acid grassland, fen and swamp, especially where these exhibit natural transition to the raised bog. • Maintain the hydrology of the raised bog peat mass • Seek nature conservation management over suitable areas immediately outside the SAC where there may be potential for lowland raised bog rehabilitation.	
Fairy Water Bogs SAC UK0016611	11.3 SLD	• Active Raised Bogs	• Maintain the extent of intact lowland raised bog and actively regenerating raised bog vegetation. • Maintain and enhance the quality of the lowland raised bog community types including the presence of notable species. • Seek to expand the extent of actively regenerating raised bog vegetation into degraded (non-active) areas of cutover bog. • Maintain the diversity and quality of other habitats associated with the active raised bog, e.g. acid grassland, fen and swamp, especially where these exhibit natural transition to the raised bog. • Maintain the hydrology of the raised bog peat mass. • Seek nature conservation management over suitable areas immediately outside the SAC where there may be potential for lowland raised bog rehabilitation.	• Peat cutting • Burning • Drainage • Nitrogen deposition • Changes to surrounding land use • Scrub encroachment • Grazing • Fly-tipping • Climate change • Tree planting/afforestation
Owenkillew River SAC UK0030233	21.1 SLD ~36 HL	• Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation	• Maintain and if feasible enhance extent and composition of community. • Improve water quality	• Water quality/Eutrophication • Channel & bank modification • Substrate siltation • Sand extraction

European Site	Distance from Site (km)	Qualifying Interest Feature	Conservation Objectives	Threats & Pressures
		• Old sessile oak woods with Ilex and Blechnum in the British Isles • Bog woodland • Freshwater pearl mussel *Margaritifera margaritifera* • Atlantic Salmon *Salmo salar* • Otter *Lutra lutra*	• Improve channel substrate quality by reducing siltation. • Maintain and if feasible enhance the river morphology • Maintain and expand the extent of existing oak woodland. (There is an area of degraded bog, wetland and damp grassland which have the potential to develop into oak woodland • Maintain and enhance Oak woodland species diversity and structural diversity. • Maintain the diversity and quality of habitats associated with the Oak woodland, e.g. fen, swamp, grasslands, scrub, especially where these exhibit natural transition to Oak woodland • Seek nature conservation management over adjacent forested areas outside the ASSI where there may be potential for woodland rehabilitation. • Seek nature conservation management over suitable areas immediately outside the ASSI where there may be potential for woodland expansion. • Maintain and expand the extent of existing bog woodland. (There is an area of degraded bog, wetland and damp grassland that have the potential to develop into bog woodland). • Maintain and enhance bog woodland species diversity and structural diversity. • Maintain the diversity and quality of habitats associated with the bog woodland, e.g. fen, swamp, especially where these exhibit natural transition to swamp woodland. • Seek nature conservation management over adjacent forested areas outside the	• Fish farms • Water extraction • Fly-tipping • Alien species • Grazing/poaching/tree barking and browsing • Invasion by exotics • Nitrogen deposition • Changes to surrounding land use • Climate change

European Site	Distance from Site (km)	Qualifying Interest Feature	Conservation Objectives	Threats & Pressures
			ASSI where there may be potential for woodland rehabilitation. • Seek nature conservation management over suitable areas immediately outside the ASSI where there may be potential for woodland expansion. • Maintain and if feasible enhance population numbers through natural recruitment. • Improve age structure of population. Improve water quality. • Improve channel substrate quality by reducing siltation. • Ensure host fish population is adequate for recruitment. • Increase the amount of shading through marginal tree cover along those sections of river currently supporting this species. • Maintain and if possible, expand existing population numbers and distribution. • Maintain and where possible, enhance the extent and quality of suitable Salmon habitat, in particular the chemical and biological quality of the water. • Population numbers and distribution to be maintained and if possible, expanded. • Maintain the extent and quality of suitable Otter habitat, in particular the chemical and biological quality of the water, and all associated wetland habitats.	
River Foyle and Tributaries SAC UK0030320	20.2 SLD ~36 HL	• Otter *Lutra lutra* • Atlantic Salmon *Salmo salar*	• Maintain and if possible expand existing population numbers and distribution (preferably through natural recruitment), and improve age structure of population of Atlantic Salmon.	• Water quality/Eutrophication • Channel & bank modification • Substrate siltation • Sand extraction

European Site	Distance from Site (km)	Qualifying Interest Feature	Conservation Objectives	Threats & Pressures
		• Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation	• Maintain and if possible enhance the extent and quality of suitable Salmon habitat - particularly the chemical and biological quality of the water and the condition of the river channel and substrate. • Maintain and if possible enhance extent and composition of community within Water courses of plain to montane levels with the *Ranunculus fluitans* and *Callitricho-Batrachion* vegetation • Improve water quality • Improve channel substrate quality by reducing siltation. • Maintain and if feasible enhance the river morphology • Maintain and if possible increase population numbers and distribution of Otter • Maintain the extent and quality of suitable Otter habitat, in particular the chemical and biological quality of the water and all associated wetland habitats	• Fish farms • Water extraction • Fly-tipping • Alien species • Nitrogen deposition • Changes to surrounding land use • Climate change

4.4 Impact Prediction

4.4.1 Cranny Bogs SAC

The project is located outside Cranny Bogs SAC. There will be no loss of or disturbance to habitats that are QIFs of the European site. There is no pathway of effect between the proposed project and the European site. Therefore, there is no potential for LSEs on Cranny Bogs SAC and it **can be excluded** at the screening stage.

4.4.2 Tonnagh Beg Bogs SAC

The project is located outside Tonnagh Beg Bog SAC. There will be no loss of or disturbance to habitats that are QIFs of the European site. There is no pathway of effect between the proposed project and the European site. Therefore, there is no potential for LSEs on Tonnagh Beg Bog SAC and it **can be excluded** at the screening stage.

4.4.3 Tully Bog SAC

The project is located outside Tully Bog SAC. There will be no loss of or disturbance to habitats that are QIFs of the European site. There is no pathway of effect between the proposed project and the European site. Therefore, there is no potential for LSEs on Tully Bog SAC and it **can be excluded** at the screening stage.

4.4.4 Fairy Water Bogs SAC

The project is located outside Fairy Water Bogs SAC. There will be no loss of or disturbance to habitats that are QIFS of the European site. There is no pathway of effect between the proposed project and the European site. Therefore, there is no potential for LSEs on Fairy Water Bogs SAC and it **can be excluded** at the screening stage.

4.4.5 Deroran Bog SAC

The project is located outside Deroran Bog SAC. There will be no loss of or disturbance to habitats that are QIFS of the European site. There is no pathway of effect between the proposed project and the European site. Therefore, there is no potential for LSEs on Deroran Bog SAC and it **can be excluded** at the screening stage.

4.4.6 Owenkillew River SAC

The project is located outside the Owenkillew River SAC. There will be no loss of or disturbance to habitats that are qualifying features of the European site. The proposed project is hydrologically linked to the Owenkillew River SAC via approximately 36 km of the Strule River and various other tributaries.

Construction works and earthwork operations will be carried out in order to install the northern proposed accessed route that is located in close proximity to an unnamed tributary of the Owenreagh River. At construction phase, if pollutant substances were to be released into this unnamed watercourse, it could be transported downstream through the Owenreagh River which eventually flows into the Strule River and Owenkillew River SAC. Therefore, there is potential for sources(s) of pollution from construction related

sediments, or accidental release of concretes and hydrocarbons via surface runoff discharging into the unnamed watercourse.

The water courses of plain to montane levels with the *Ranunculus fluitans* and *Callitricho-Batrachion* vegetation qualifying habitat may be vulnerable to pollution and sedimentation in the form of altering the viability, composition and quality of the plant communities associated with this habitat. Moreover, the Freshwater pearl mussel *Margaritifera margaritifera*, Atlantic Salmon *Salmo salar* and Otter *Lutra lutra* qualifying species may be vulnerable to pollution and sedimentation by altering the chemical and biological quality of the water, thus reducing suitable habitat for these species.

Polluting materials that escape into this watercourse will be subject to significant dilution, given the large hydrological distance of approximately 36 km between the proposed development and Owenkillew River SAC. Polluting substances or sediments will be diluted to low concentrations to the point where they cannot be detected above background levels. Therefore, given the relatively large hydrological distance between the proposed works and Owenkillew River SAC and due to dilution factors, levels would be likely to be below *de minimus* levels, having no LSE on the conservation objectives and qualifying habitats of this SAC.

However, there is potential for ex-situ effects on qualifying species that are mobile outside of the River Owenkillew River SAC. The proposed development site is hydrologically linked to the Owenreagh River via approximately 1.2 km of an unnamed tributary. The Owenreagh River is hydrologically linked to the Owenkillew River SAC via the Drumreagh River and River Strule. Atlantic salmon are present within the Owenreagh River. Therefore, at the construction phase, any accidental release of pollutants and sediments carried downstream from the proposed development into this river may have negative impacts on salmon populations that utilise the SAC for migration.

On this basis, in the absence of mitigation measures to prevent construction related pollutants entering the unnamed watercourse on site, the potential for LSEs on Owenkillew River SAC **cannot be excluded** at the screening stage.

4.4.7 River Foyle and Tributaries SAC

The project is located outside the River Foyle and Tributaries SAC. There will be no loss of or disturbance to habitats that are qualifying features of the European site. The proposed project is hydrologically linked to the River Foyle and Tributaries SAC via approximately 36 km of the Strule River and various other tributaries.

Construction works and earthwork operations will be carried out in order to install the northern proposed accessed route that is located in close proximity to an unnamed tributary of the Owenreagh River which eventually flows into the Strule River. This may lead to potential transport and pollution of watercourses further downstream of the proposed development, as described in the above.

The water courses of plain to montane levels with the *Ranunculus fluitans* and *Callitricho-Batrachion* vegetation qualifying habitat may be vulnerable to pollution and sedimentation in the form of altering the viability, composition and quality of the plant communities associated with this habitat. Moreover, both the Atlantic Salmon *Salmo salar* and Otter *Lutra lutra* qualifying species may be vulnerable to pollution and sedimentation by altering the chemical and biological quality of the water, thus reducing suitable habitat for these species.

Polluting materials that escape into this watercourse will be subject to significant dilution, given the large hydrological distance of approximately 36 km between the proposed development and River Foyle and Tributaries SAC. Therefore, given the relatively large hydrological distance between the proposed works

and River Foyle Tributaries SAC and due to dilution factors also described in the above, levels would be likely to be below *de minimus* levels, having no LSE on the conservation objectives and qualifying species and habitats of this SAC.

However, there is potential for ex-situ effects on qualifying species that are mobile outside of the River Foyle and Tributaries SAC. The proposed development site is hydrologically linked to the Owenreagh River via approximately 1.2 km of an unnamed tributary. The Owenreagh River is hydrologically linked to the River Foyle and Tributaries SAC via the Drumreagh River and River Strule. Atlantic salmon are present within the Owenreagh River. Therefore, at the construction phase, any accidental release of pollutants and sediments carried downstream from the proposed development into this river may have negative impacts on salmon populations that utilise the SAC for migration.

On this basis, in the absence of mitigation measures to prevent construction related pollutants entering the unnamed watercourse on site, the potential for LSEs on River Foyle and Tributaries SAC **cannot be excluded** at the screening stage.

4.5 In-Combination with Other Plans and Projects

Article 6(3) of the Habitats Directive requires that in-combination effects with other plans or projects are considered. On this basis, a range of other projects were considered in terms of their potential to have in-combination effects within the proposed project as set out below in **Table 4.2**.

Table 4.2: Other Plans and Projects considered from the Northern Ireland Planning Portal

Planning Ref.	Location	Description	Status
LA10/2024/0816/O	Approx 60m South of 53 Lakemount Road, Magheragart (Donnell), Dromore, BT78 3HQ	Proposed Infill Dwelling and Garage	Granted
LA10/2024/0937/RM	Approx 25m NW of No. 60 Corbally Rd, Tireen, Fintona, BT78 2JN, TIREENAN, Fintona, BT78 2JN	Dwelling	Granted
LA10/2024/0810/RM	Approx 17m South of 51 Longhill Rd, Dromore, BT78 3LH	Proposed Dwelling and Garage	Granted

The projects listed in **Table 4.2** were investigated on the Northern Ireland planning portal in December 2024.

The projects identified are small scale are not deemed to have any potential effects on the conservation objectives of any of the SACs listed above. Therefore, when the effects of the proposed project are considered in combination, there is no additive pathway for significant cumulative or in-combination effects which can be considered to significantly affect the qualifying interests or conservation objectives of European sites being assessed.

4.6 Conclusion of Stage One Screening

A Stage 1 Screening Assessment has been completed to identify the likely significant effects of a proposed Battery Energy Storage System on land at Skreen Road, Omagh on European sites. The likely significance of effects has been considered in the context of each European Site, its qualifying features and its conservation objectives.

From the findings of the screening stage, it is concluded that:

- the proposed project is not directly connected with or necessary to the management of any European site;
- In the absence of mitigation measures, ex situ LSEs cannot be excluded for the Atlantic salmon populations for the River Foyle and Tributaries SAC and Owenkillew River SAC.
- All other LSEs can be excluded at the screening stage.

Having regard to the methodology employed and the findings of the screening stage, it has been concluded that a Stage 2 AA of the implications of the proposed project on any European site is required.

5 STAGE 2 APPROPRIATE ASSESSMENT

5.1 European Sites

Regulation 43 of the Habitats Regulations states that AA must be undertaken in view of the conservation objectives published for the site concerned. Table 5.1 sets out the conservation objectives for Atlantic salmon within the River Foyle and Tributaries SAC and Owenkillew River SAC.

The Regulations also require that the competent authority shall agree to an application for development consent only after having ascertained that it will not adversely affect the integrity of the European site, having regard to the manner in which the plan or project is proposed to be carried out; or any conditions or restrictions subject to which it proposed that the consent, permission or other authorisation should be given.

Table 5.1: Conservation Objectives for Atlantic Salmon for River Foyle and Tributaries SAC and Owenkillew River SAC

European Site	Qualifying Interest Features & Conservation Objectives
Owenkillew River SAC UK0030233	Atlantic Salmon: • Maintain and if possible, expand existing population numbers and distribution. • Maintain and where possible, enhance the extent and quality of suitable Salmon habitat, in particular the chemical and biological quality of the water.
River Foyle and Tributaries SAC UK0030320	Atlantic Salmon • Maintain and if possible, expand existing population numbers and distribution (preferably through natural recruitment), and improve age structure of population. • Maintain and if possible, enhance the extent and quality of suitable Salmon habitat - particularly the chemical and biological quality of the water and the condition of the river channel and substrate.

5.2 Likely Significant Effects

5.2.1 Suspended Sediments and Pollution

The screening stage has identified ex situ LSEs from suspended sediments and pollution resulting in water quality and habitat deterioration of habitat utilised by Atlantic Salmon outside of the SAC as a potential impact pathway which could result in adverse effects on the conservation objectives of the River Foyle and Tributaries SAC and Owenkillew River SAC.
It is considered that mitigation measures must be prescribed to prevent adverse pollution impacts and habitat deterioration effects as a result of the release of suspended sediments or polluting substances.

5.3 Likely Significant Effects

Measures must be prescribed to prevent the possibility of accidental pollution and release of suspended sediments.

5.3.1 Pollution Prevention

Mitigation measures are outlined below and within the CEMP. These will be implemented at construction phase to prevent pollutants entering local watercourses upstream of the River Foyle and Tributaries SAC and Owenkillew River SAC. These mitigation measures will ensure that the water quality and integrity of habitats used by Atlantic salmon in the Owenreagh river is maintained with respect to the conservation objectives of this habitat described in Table 5.1.

A CEMP will be prepared by the Contractor, to include the following measures:

Best Practice

Suitable protection for watercourses potentially affected by the works will be installed prior to relevant works proceeding. Protection measures will include:

- Plant and equipment will be stored on dedicated hardstandings within the construction compound. This will minimise the risk of pollution caused by leakages occurring out of hours. Drip trays will be used where appropriate.
- All plant and equipment will utilise biodegradable hydraulic oil where available.
- Spill kits will be readily available to all personnel. The spill kits will be of an appropriate size and type for the materials held on site.
- Diesel fuel will be stored in a bunded diesel bowser which will be located within a fenced off area in the construction compound.
- Refuelling and maintenance of vehicles and plant will take place in designated areas of hardstanding.
- All other chemicals will be stored within a storage container with accompanying COSHH datasheets.
- Wastewater from the temporary staff toilets and washing facilities will be discharged to sealed containment systems and removed from site via licensed contractors.

- Toolbox Talks (TBTs) on specialised topics shall take place at regular intervals. The TBTs shall be used to highlight issues of concerns, new information or responsibilities. They will also be used as a tool to provide basic environmental training to the staff.

Surface and Ground Water Management

A Sustainable Drainage System (SuDS) will be implemented to provide surface water management techniques to mitigate any adverse impact on the hydrology within the Proposed Development Area. The SuDS will be developed in more detail and included as part of the updated CEMP prior to construction.

Any potential pollution incident on-site that may impact water quality will be dealt with in accordance with the CEMP that will be developed prior to construction and will be reported immediately to the site manager.

With the implementation of these mitigation measures, the risk of suspended sediments and pollution will not imperil the conservation objectives of the River Foyle and Tributaries SAC and Owenkillew River SAC. Construction and operation of the proposed project will not adversely affect the integrity of this site and no reasonable scientific doubt remains as to the absence of such effects.

6 CONCLUSIONS

This report has been prepared by RPS on behalf of RES UK & Ireland Ltd to support a planning application. The purpose of the report is to document evaluation and analysis comprising a Stage 1 Screening and a Stage 2 Appropriate Assessment.

The report was prepared having regard to relevant legislation and methodological guidance outlined in Section 2.

A Stage 1 Screening is documented in Section 4 of this report to determine whether or not Likely Significant Effects on any European site can be excluded.

The outcome of the Stage One screening appraisal was that the possibility of likely significant effects in relation to suspended sediments and pollution could not be excluded for River Foyle and Tributaries SAC and Owenkillew River SAC in the absence of mitigation and best practice measures intended to avoid or reduce harmful effects on this European site.

The potential for all other likely significant effects on the remaining sites considered in the Stage 1 appraisal could be excluded, even in the absence of mitigation measures.

The Stage 2 appraisal has concluded that no adverse effect upon the integrity of River Foyle and Tributaries SAC and Owenkillew River SAC conservation objectives will arise as a result of the proposed project alone or in-combination with other projects, with the application of mitigation measures, and no reasonable scientific doubt remains as to the absence of such effects.

7 REFERENCES

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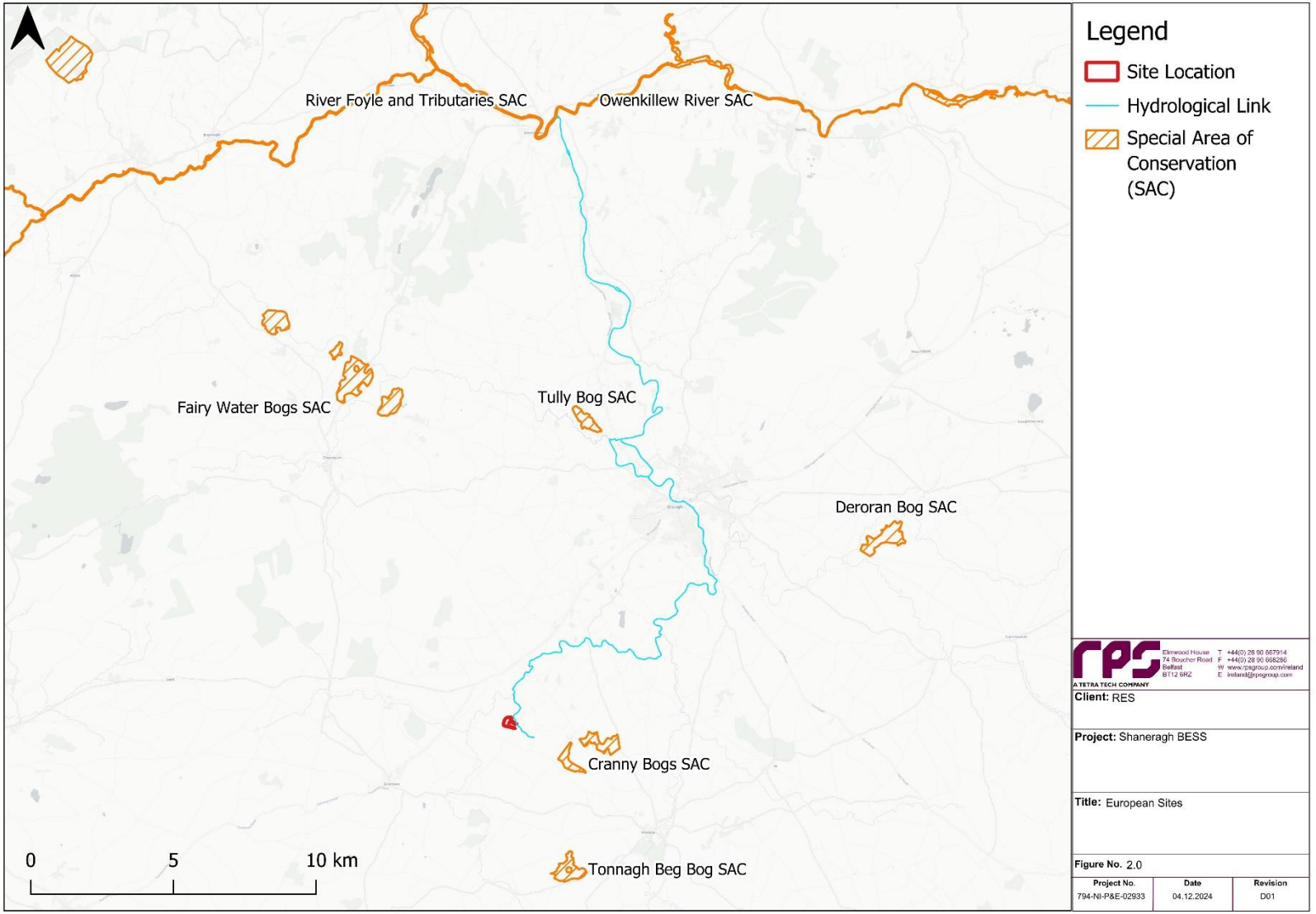
The Planning Inspectorate (May 2018) Pins Note 05/2018: Consideration of avoidance and reduction measures in *Habitats Regulations Assessment: People over Wind, Peter Sweetman v Coillte Teoranta*.

Figures

FIGURES


KEY:
LANDLORD'S PROPERTY
(INSIDE EDGE OF LINE DENOTES BOUNDARY)
DEVELOPMENT BOUNDARY (OUTSIDE EDGE OF LINE DENOTES BOUNDARY)
SITE LOCATION - NOT TO SCALE
PLANNING
1:2,500 @ A1
TM65 IRISH GRID
N/A
N/A
N/A
SHANERAGH
LOCATION PLAN
05577-RES-MAP-DR-XX-001
2


River Foyle and Tributaries SAC
Owenkillew River SAC
Fairy Water Bogs SAC
Tully Bog SAC
Deroran Bog SAC
Cranny Bogs SAC
Tonnagh Beg Bog SAC
0
5
10 km
Legend
Site Location
Hydrological Link
Special Area of Conservation (SAC)
A TETRA TECH COMPANY
Client: RES
Project: Shaneragh BESS
Title: European Sites
Figure No. 2.0
Project No. 794-NI-P&E-02933
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