Department of Agriculture, Environment and Rural Affairs
www.daera-ni.gov.uk

Background and information to support a Habitats Regulations Assessment and associated protected sites assessment for designated Point of Entry (PoE) at Foyle Port

1. Introduction

There is a requirement to extend the existing designation at Foyle Port Point of Entry (PoE), to cater for the enhanced number Sanitary and Phytosanitary (SPS) checks required for imports into Northern Ireland at the end of the transition period.

Facilities are required for the following designated PoE:

- Plants and plant products including wood packaging material and seeds.
- Products of animal origin for human consumption
- Products of animal origin not for human consumption

Foyle port does not receive live animals; therefore associated inspection facilities for those animals will not be required.

Department of Agriculture, Environment and Rural Affairs (DAERA) have completed this report, based on the best available information, to inform the Competent Authority, Derry and Strabane District Council, of the potential for a likely significant effects on European sites from the construction and operation of the proposed development, as required by Regulation 43 (1) of the Habitats Regulations. The scope also extends to preliminary assessment of the protected sites network within the vicinity of the development.

2. Project description and location

The proposal is for the construction of inspection facilities at Foyle Port PoE to carry out SPS inspections. These inspection facilities will be required at the end of the transition period on 1 January 2021.

The port is primarily a bulk port and a major importer of oil, coal, animal feed, fertiliser and plywood, all essential commodities for the North West rural region. The port handles approximately 2 million tonnes of cargo per annum and offers a diverse range of services including towage, dredging, engineering and steel fabrication.

Foyle Port is located on Lough Foyle in Northern Ireland and is the United Kingdom's most westerly port and an important port on the island of Ireland. The development site is located in the main port, with Port road to the east and River Foyle to the west, at approximate Irish Grid Coordinates (easting, northing): 063877, 584405. The site is currently used with coal storage facilities and other infrastructure on site.

The proposed context and location is shown in **Annex 1.0.**

3. Applicant details

The proposed developments are considered permitted development under Part 14 Class B of the Planning (General Development Order) 2015 (PD). To confirm this, applications for proposed Certificate of Lawful Use or Development (CLUD) will be submitted for the proposed facility at Foyle Port. The proposed applicant is the Department of Agriculture, Environment and Rural Affairs.

4. Legislative context

Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora, commonly known as the Habitats Directive, is transposed into law in Northern Ireland by the Conservation (Natural Habitats, etc.,) Regulations (Northern Ireland) 1995 (as amended).

Article 6(3) of the Habitats Directive (transposed by Regulation 43) establishes the requirement that any plan or project likely to have a significant effect on any Natura 2000 Site(s) shall first be subject to an Appropriate Assessment (AA) of the implications for the site(s), and further that competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site(s) concerned: *"Any plan or project not directly connected with or necessary to the management of the [Natura 2000] site but likely to have a significant effect thereon, either individually or in combination with other plans and projects, shall be subjected to appropriate assessment of its implications for the site in view of the site's conservation objectives.*

For completeness, nationally designated sites – Areas of Special Scientific Interest (ASSIs) and Marine Conservation Zones (MCZs) – are also included in this assessment. The law relating to ASSIs is contained in the Environment Order (Northern Ireland) 2002 (as amended). Article 38 of the Environment (Northern Ireland) Order 2002 places general duties on public bodies relating to ASSIs and decision making. MCZs protect rare, threatened or nationally important marine habitats, species and geological features, and are designated under the Marine Act (Northern Ireland) 2013. An assessment process is also required to ensure public authorities, with respect to authorising an activity that may affect (other than insignificantly) the features of an MCZ, consider the proposal appropriately.

5. Assessment Methodology – Desk Study

All European and Ramsar designated sites within 2 km of the proposed development were identified using the DAERA Natural Environment Division Mapviewer. Sites which could fall within a zone of influence through a pathway connection to the proposed development have been identified and included, where appropriate. European sites with grey seals (Halichoerus grypus) as qualifying species within a distance of 135 km from the proposed development and with harbour seals (Phoca vitulina) as qualifying species within a distance of 50 km from the proposed development have also been included. Certain marine mobile species have also been placed within Marine Management Units, which has been completed for the seven most common cetacean species in UK waters. The management units provide an indication of the spatial scales at which impacts of plans and projects alone, cumulatively and in-combination, need to be assessed for the key cetacean species, with consistency across the UK. Information on management units can be found as follows:
http://jncc.defra.gov.uk/pdf/Report_547_webv2.pdf

Publically available information on European and Ramsar sites has been used from the DAERA website to identify the qualifying features of those sites as set out in the Conservation Objectives for each site. Conservation objectives provide an indication of the type of effects which could affect the features of a European Site:

https://www.daera-ni.gov.uk/landing-pages/protected-areas

The zone of influence for nationally designated sites was taken as 2 km from the proposed development boundary. The publically available DAERA citation documents have also been used to identify the qualifying interest features of the site(s):

https://www.daera-ni.gov.uk/topics/land-and-landscapes/areas-special-scientific-interest
https://www.daera-ni.gov.uk/articles/marine-conservation-zones

The possibility of significant effects is considered in this report using the source-pathway-receptor model:

- 'Source' is defined as the individual elements of the proposed works that have the potential to affect the identified ecological feature (or receptor).

- 'Pathway' is defined as the means or route by which a source can affect the ecological feature.

- An 'Ecological feature' is defined as qualifying features the SPA or SAC for which conservation objectives have been set for the European sites under consideration

Each element can exist independently however an effect is created when there is a linkage between the source, pathway and receptor.

In addition, an 'in-combination' assessment is required where the proposed development may have an effect on a European site, but on its own the effects would not be significant. Part of this desk top study has considered other plans or projects, either consented (started or not started), applications lodged, projects not requiring consent, appealed refusals and proposals in plans, which may need to be considered in-combination.

Finally, the assessment process for European and Ramsar sites has followed the methodology as applied in the DTA Handbook, which is utilised as a best practice guidance document for understanding and applying the Habitats Directive:

https://www.dtapublications.co.uk/

6. European and RAMSAR Site Designations and Considerations:

Natura 2000 site features: (refer to JNCC website) **and location**		**Distance from Site (approx.) km**
Natura 2000 site features that have been screened within 2 km of the development proposal:	The application site is not situated within any Natura 2000 site. However, it is assumed it is hydrologically linked to the Natura 2000 designations of Lough Foyle via the River Foyle. The boundary of the SPA is approximately 2 km downstream and overlaps with the boundary of the RAMSAR. It is considered there is potential for the project to give rise to indirect impacts on the Natura 2000 sites from a source pathway receptor linkage. Additional sites are within a 15 km boundary of the application site but have been screened out because there is no source - pathway impact identified i.e. they are not hydrologically/ecologically connected to the site. It should be noted River Foyle SAC has been included because it includes mobile features – Atlantic Salmon - that will need further consideration as part of any assessment process, even though it is upstream of the development and on the limit of the screening boundary for hydrological connections. The European features are as follows: **Lough Foyle SPA:** • Area: 2204.36 ha • Site code: UK9020031 • Date Classified: February 1999 Lough Foyle is situated on the north coast of Northern Ireland immediately downstream and extending to the north-east of the city of Londonderry. The site is comprised of a large shallow sea lough which includes the estuaries of the rivers Foyle, Faughan and Roe. The site contains extensive intertidal areas of mudflats and sandflats, saltmarsh and associated brackish ditches. It supports internationally important species including Whooper Swan, Light Bellied Brent Geese and Bar Tailed Godwit as well as over 20,000 migratory wildfowl. The conservation objective of the SPA is to 'maintain each feature in favourable condition.' With the SPA selection feature objectives identified as: • To maintain or enhance the population of the qualifying species; • Fledging success sufficient to maintain or enhance population; • To maintain or enhance the range of habitats utilised by the qualifying species; • To ensure that the integrity of the site is maintained; • To ensure there is no significant disturbance of the species; and	**1.8 km North**

Natura 2000 site features: (refer to JNCC website) **and location**		**Distance from Site (approx.) km**
	• To ensure that the following are maintained in the long term: • Population of the species as a viable component of the site; • Distribution of the species within the site; • Distribution and extent of habitats supporting the species; • Structure, function and supporting processes of habitats supporting the species. **Lough Foyle Ramsar** • Area: 2204.36 hectares • Site code: UK12014 • Date Classified: February 1999 The site is composed of a large shallow lough including estuaries, extensive intertidal areas of mudflats, sandflats, saltmarsh and associated brackish ditches. It supports a diverse assemblage of waterfowl (Limosa lapponica, 1.6% of the population, and Light Bellied Brent Geese, (11% of the population) and internationally important (more than 29,000 birds) waterfowl. The boundary is continuous with the SPA boundary. **Lough Foyle SPA (ROI)** • Area: 526.28 hectares • Site code: 004087 ROI A section of Lough Foyle located within ROI (between Muff and Whitecastle) is also designated as Lough Foyle SPA (site code 004087). Due to the documentation provided by NPWS on the site, indicating the numbers using it in isolation are small, it is considered practical to consider the designated area of Lough Foyle residing within ROI as contiguous with that (and its associated qualifying features) designated within NI. **River Faughan and Tributaries SAC** • Area: 293.27 ha • Site code: UK0030361 • Date Classified: August 2009 In total, the SAC encompasses approximately 60km of watercourse and is notable for the physical diversity and naturalness of the banks and channels, especially in the upper reaches, and the richness and naturalness of its plant and animal communities, in particular the population of Atlantic Salmon, which is of international importance and the widespread and common occurrence of Otter in the catchment. Oakwood is also a feature of the site, which covers the valleys of the river and its tributaries. The conservation objectives are to maintain (or restore where appropriate) the features to favourable condition.	**1.8 km North** **4 km North** **2.1 km North** **15 km South**

Natura 2000 site features: (refer to JNCC website) **and location**		**Distance from Site (approx.) km**
	River Foyle and Tributaries SAC • Area: 770.12 ha • Site Code: UK0030320 • Date Classified: April 2004 The SAC includes the River Foyle and its tributaries including part of the River Finn which lies within Northern Ireland, the River Mourne and its tributary the River Strule (up to its confluence with the Owenkillew River) and the River Derg, along with two of its sub-tributaries, the Mourne Beg River and the Glendergan River. In total, the area encompasses 120km of watercourse and is notable for the physical diversity and naturalness of the banks and channels, especially in the upper reaches, and the richness and naturalness of its plant and animal communities. Of particular importance is the population of Atlantic Salmon, which is one of the largest in Europe and Otter which is found throughout the system. The conservation objectives are to maintain (or restore where appropriate) the features to favourable condition.	
European sites with grey seals and harbour seals screened within a distance of 135 km from the proposed development and with harbour seals as qualifying species within a distance of 50 km from the proposed development:	**Skerries and Causeway SAC** • Area: 10,862 ha • Site Code: UK0030383 • Date Classified: SCI August 2012 The Skerries and Causeway site is located adjacent to the coastline of Portstewart, Portrush, Bushmills and the Giant's Causeway World Heritage Site (which lends part of its name to the SAC site; the other half of the SAC name comes from the Skerries islands and rocks off Portrush). The site contains the qualifying Features: Annex I Reef; Annex I Sandbanks which are slightly covered by seawater at all times; Annex I Submerged or partially submerged sea caves; and Annex II Harbour porpoise. It also contains non-qualifying Annex II species, grey seal, common seal, and bottlenose dolphin. The conservation objectives are as follows: To maintain (or restore where appropriate) the: • Reefs • Sandbanks which are slightly covered by sea water all the time, and • Submerged and partially submerged sea caves • Harbour porpoise (Phocoena phocoena) to favourable condition.	**25 km east**

Description of the Project or Plan • **Size and scale;** • **Land-take;** • **Distance from Natura 2000 site or key features of the site;** • **Resource requirements (water abstraction etc);** • **Emission (disposal to land, water or air);** • **Excavation requirements;** • **Transportation requirements;** • **Duration of construction, operation, de-commissioning etc;** • **Other.**	• **Size and scale** The footprint size is estimated at 95 m^2 • **Land-take** It is not proposed there will be any land take. • **Distance from Natura 2000 site or key features of the site** Approx. 2 km from Lough Foyle SPA and River Faughan and tributaries SAC • **Resource requirements (water abstraction etc)** No anticipated resource requirements • **Emission (disposal to land, water or air)** Traffic movements will result in air emissions of NOx and SOx and particulate matter. Disposal of waste water (surface or otherwise) is assumed will connect to foul systems/existing drainage systems. • **Excavation requirements** None anticipated • **Transportation requirements** There will be traffic moving on and off the site facilities – as personnel and hauliers move around the site and flow lines will change as traffic are diverted for checks in the port. • **Duration of construction, operation, de-commissioning etc** Early preliminary site works are Planned to commence mid-August with construction September to December, facilities delivery required for 1 January 2021. This will be confirmed when Procurement is initiated and then delivery timelines can be realigned.
Is the proposal directly connected with or necessary to management of the site for conservation of N2K features? **If yes proceed no further.**	No

Describe the individual elements of the project (either alone or in combination with other plans or projects) likely to give rise to impacts on the Natura 2000 site.	Planning applications were identified in the vicinity of the proposed development. The list was correct at the time of writing (August 2020) and includes significant applications detailed from a search of PlanningNI planning portal for applications within the vicinity of the proposed site, over the 5 years previous to the search being carried out. The search has identified there were two applications granted for works at the power plant and works at a recycling facility with one proposal under consideration for construction of a single story office building and car parking facility at the Power Plant. Following consideration of the proposals and due to the location and nature of the infrastructure to be constructed at the intended location, it is not proposed there will be any further assessment of in-combination impacts with other plans or projects. The application site is not located within any of the Natura 2000 designated areas and no associated works will be undertaken within the identified SACs and SPAs. Applying the source-pathway-receptor model for the assessment it is therefore assessed that no direct impacts e.g. habitat loss will occur on the sites. During construction, there may be a potential pathway for effects on the features of the European Sites (namely bird species listed as qualifying features and Atlantic Salmon). The potential effects may arise from habitat degradation and/or disturbance. Construction of the proposed development may involve the use of plant and machinery as well as the associated temporary storage of construction materials, oils, fuels and chemicals in designated areas within the site compound. Impacts could arise through associated construction activities such as additional vehicle movements, movement of material to the site, piling for foundations, disturbance of contaminated material, creation of pollution pathways through works on site with the associated potential for disturbance and pollution events. It is not envisaged there will be impacts from the operation of the development. Further consideration is given below.

N2K Feature: Mention all features	**Describe any likely direct or indirect effects to the N2K features arising as a result of:** • **loss;** • **reduction of habitat area;** • **disturbance;** • **habitat or species fragmentation;** • **reduction in species density; changes in key indicators of conservation value (e.g. water quality, climate change).**	***Effect Significant/Not Significant? Why?**
Lough Foyle – SPA/RAMSAR *Qualifying Feature of interest:* *Light Bellied Brent Geese* *Whooper Swan* *Waterbird Assemblage – full list available here: https://www.daera-ni.gov.uk/sites/default/files/publications/doe/Lough%20Foyle%20SPA%20Citation%20documents%20and%20map.pdf* *Bar Tailed Godwit* **Lough Foyle - SPA (ROI)** *Qualifying feature of Interest:* *Light Bellied Brent Geese* *Whooper Swan* Bewick's Swans Waterbird assemblage found here: https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/	It is not anticipated there will be any likely significant effects on SPA features due to habitat loss, fragmentation and degradation as there will be no land take from the Natura 2000 sites. There may be indirect impacts from disturbance by increased human and mechanical activity in the area by works staff and equipment and potential disturbance due to vibration/noisy activities and potential impacts on water quality. Contaminated land has not been identified as an issue and will be addressed separately if found to be the case Any potential air quality impacts from NOx and SOx and particulate matter have been ruled out given the development is taking place in a heavily industrialised location and there is no intended increase in traffic numbers.	The areas of intertidal mud within the River Foyle adjacent to the proposal provide foraging habitat for relatively small numbers of wintering waders, a proportion of which will undoubtedly also use habitats within the SPA. These areas of mudflat utilised will be of minor importance when compared to the resources available within Lough Foyle SPA as a whole. This would provide buffering against any disturbance or displacement caused by any works during the wintering period (September to March). There may also be some deterrent effect from the increased presence of works personnel near the banks but it is likely that the birds in this suburban environment are habituated to some degree to human presence. It is highly unlikely that the proposed works would have a significant adverse impact on birds using the adjacent areas under typical weather conditions and it is also unlikely there will be high noise levels associated with the proposal. There are no regular foraging or roosting sites for Whooper Swans or Brent Geese in the vicinity of the development. The development would therefore be unlikely to have any significant impact upon these species. Given the distance from the site to the Lough Foyle SPA (ROI) it is considered the above comments will also apply.

CO004087.pdf		
River Faughan and Tributaries SAC *Qualifying feature of Interest:* *Otter* *Atlantic Salmon* *Old Sessile Oakwoods*	It is not anticipated there will be a direct or indirect effect on Sessile Oakwood features due to the location of the works, however, this is a potential for indirect effects from water quality deterioration on Atlantic Salmon that migrate upstream to spawn. In-direct effects are considered on Ottter, who may also utilise the area as foraging ground.	The River Foyle population of Atlantic Salmon *Salmo salar*, is one of the largest in Europe. Research has indicated that each sub-catchment within the system supports genetically distinct populations. They are particularly sensitive to changes in water quality and sediment run off leading to an increase in turbidity, as well as noise impacts. Adult salmon spawn in Autumn and will make their way upstream to fast flowing rivers with spawning usually taking place in November or December. There is potential for indirect water quality impacts from run off – surface or groundwater or otherwise – with contaminants or sediment inadvertently entering the river, which may indirectly impact Atlantic Salmon species. Standard mitigation methods will be employed to prevent this situation including techniques to prevent significant pollution or sediment loads entering waterways. It is not anticipated that in river noisy activities will take place as part of this project design. However, it is acknowledged that this detail of the design project is unknown and therefore further discussion and assessment may be required when details of the contract and proposed methods are known, to determine if any noise generated would potentially be in the thresholds for disturbance and if mitigation is required. Otters may well be in the vicinity of the works and short term impacts from degraded water quality may be an issue that arises, however, it is considered relevant water management techniques would mitigate for potential impacts.
River Foyle and Tributaries SAC *Qualifying feature of Interest:* *Otter* *Atlantic Salmon* *Water courses of plain to montane levels with the fluitantis and Callitricho-Batrachion vegetation*	As above	As above
Skerries and Causeway SAC *Qualifying*	There is potential for disturbance to seals that may transit up river from indirect incidents, for example release of contaminants into a waterway, and/or	Harbour Seals are an Annex II feature of Skerries and Causeway SAC and are recorded in the mouth of the lough, where they will transit and also may haul out at particular locations. It is assumed they may also transit

feature of interest: *Harbour Seal* *Harbour porpoise* *Grey Seal*	noisy activities (not just in river works but also land based noisy activities)	up river, especially when feeding at certain times, but this may be an exception rather than a normal occasion – most counts have seals towards the seaward end of the lough – but there is a potential for water quality deterioration to have an effect locally, however, given the nature of the species and the fact they are a mobile feature, it is not expected that any water quality issues will have a significant effect on the species or the population numbers. Furthermore, all mitigation requirements will be adhered to – as outlined in previous reports – to ensure high standards are maintained in the construction phase. Noisy activities on land (not just in the riverine or marine environment) can disturb marine mammals, depending on the type of activity undertaken. It is not foreseen that any prolonged noisy activity will take place that will cause a long term disturbance issue for the species and all recommended SNCB guidance will be followed, if an activity with potential for noise disturbance (on land) was to occur.

Describe any potential effects on the Natura 2000 site as a whole in terms of: interference with the key relationships that define the structure or function of the site	**Effect considered significant/non-significant: Finding of No significant effects Matrix**
None considered likely	None considered likely

List of Agencies Consulted: Provide contact name and telephone or email address.	N/A – This has been prepared for consultation with appropriate SNCBs and consultee responses will be considered appropriately.
Above consultee response.	N/A

7. Summary of Potential Effects on additional ASSI Features

ASSI Feature: **(Mention all features).**	**Describe any likely direct or indirect effects to the ASSI features arising as a result of:** • **loss;** • **reduction of habitat area;** • **disturbance;** • **habitat or species fragmentation;** • **reduction in species density;** • **changes in key indicators of conservation value (e.g. water quality, climate change).** **And whether any impact is significant or insignificant**
The 2 km screening distance for nationally designated sites has identified the following ASSIs require further assessment: **Lough Foyle ASSI** *Qualifying Features of Interest:* *Bar-tailed Godwit,* *Great Cormorant, Curlew, Dunlin, Eider, Golden Plover, Great Crested Grebe, Greylag Goose, Invertebrate assemblage, Knot, Lapwing, Light-bellied Brent Goose, Mallard, Oystercatcher, Red-breasted Merganser, Redshank, Shelduck, Teal,* *Waterbird assemblage, Whooper Swan, Wigeon, Mute Swan, Breeding bird assemblage, Bewick's Swan* *Saline lagoons, Coastal saltmarsh, Coastal Processes* **River Foyle and Tributaries ASSI** *Qualifying features of interest:* *Atlantic Salmon* *Otter* *Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation* *Series of river types present with corresponding macrophyte assemblages, ranging from ultra-oligotrophic, mesotrophic to estuarine types.* **River Faughan and Tributaries ASSI** *Qualifying features of interest:* *Atlantic Salmon* *Otter* *Oakwood*	The assessment for the ASSI features has identified there is potential for the project to cause disturbance to over wintering birds that may feed adjacent to the proposed application site from noisy activity – machinery or human. However, it is not anticipated that noise levels will be beyond what is currently experienced in the port at the moment – this would apply either in construction or operation phase - and it is assumed the birds will habituate quickly. As the proposal is within a working harbour, it is expected that birds will be used to some level of noise disturbance. There is potential for pollution/siltation impacts on the mudflats and saltmarsh that may be in the vicinity of the works – NED Mapviewer did not return any habitat points but it is assumed this area is associated feeding grounds - but it is not anticipated that any direct impacts from pollution, siltation etc. will occur due to the aforementioned built in mitigation plans for the project. It is acknowledged, however, the site drainage and management of water on the site may require further assessment once details are known and this also applies to potential for contamination. Therefore certain assumptions are made in this assessment but guarantees are built into the project design that any mitigation necessary will be utilised. As per the Natura 2000 assessment, the Riverine otter and Atlantic Salmon features are particularly sensitive to changes in water quality and sediment run off/nutrient loading, leading to an increase in turbidity or degradation of water quality, as well as noise impacts on salmon. There is potential for indirect water quality impacts from run off – surface or groundwater or otherwise – with contaminants or sediment inadvertently entering the river, which may indirectly impact Atlantic Salmon species. Standard mitigation methods will be employed to prevent this situation including techniques to prevent significant pollution or sediment loads entering waterways. It is not anticipated that in river noisy activities will take place as part of this project design. However, it is acknowledged that this detail of the design project is unknown and therefore further discussion and assessment may be required when details of the contract and proposed methods are known, to determine if any

ASSI Feature: **(Mention all features).**	**Describe any likely direct or indirect effects to the ASSI features arising as a result of:** • **loss;** • **reduction of habitat area;** • **disturbance;** • **habitat or species fragmentation;** • **reduction in species density;** • **changes in key indicators of conservation value (e.g. water quality, climate change).** **And whether any impact is significant or insignificant**
Dalradian	noise generated would potentially be in the thresholds for disturbance and if mitigation is required. Otters may well be in the vicinity of the works and short term impacts from degraded water quality may be an issue that arises, however, it is considered relevant water management techniques would mitigate for potential impacts.

8. Marine Conservation Zone Considerations

Given the location of the works, an additional MCZ assessment has not been undertaken, as it is not considered the nearest MCZ would be impacted by the proposal. Marine protected species are considered in the previous assessments, however, further discussion may be required and this will be given further consideration, if necessary.

9. Priority Habitats and Species

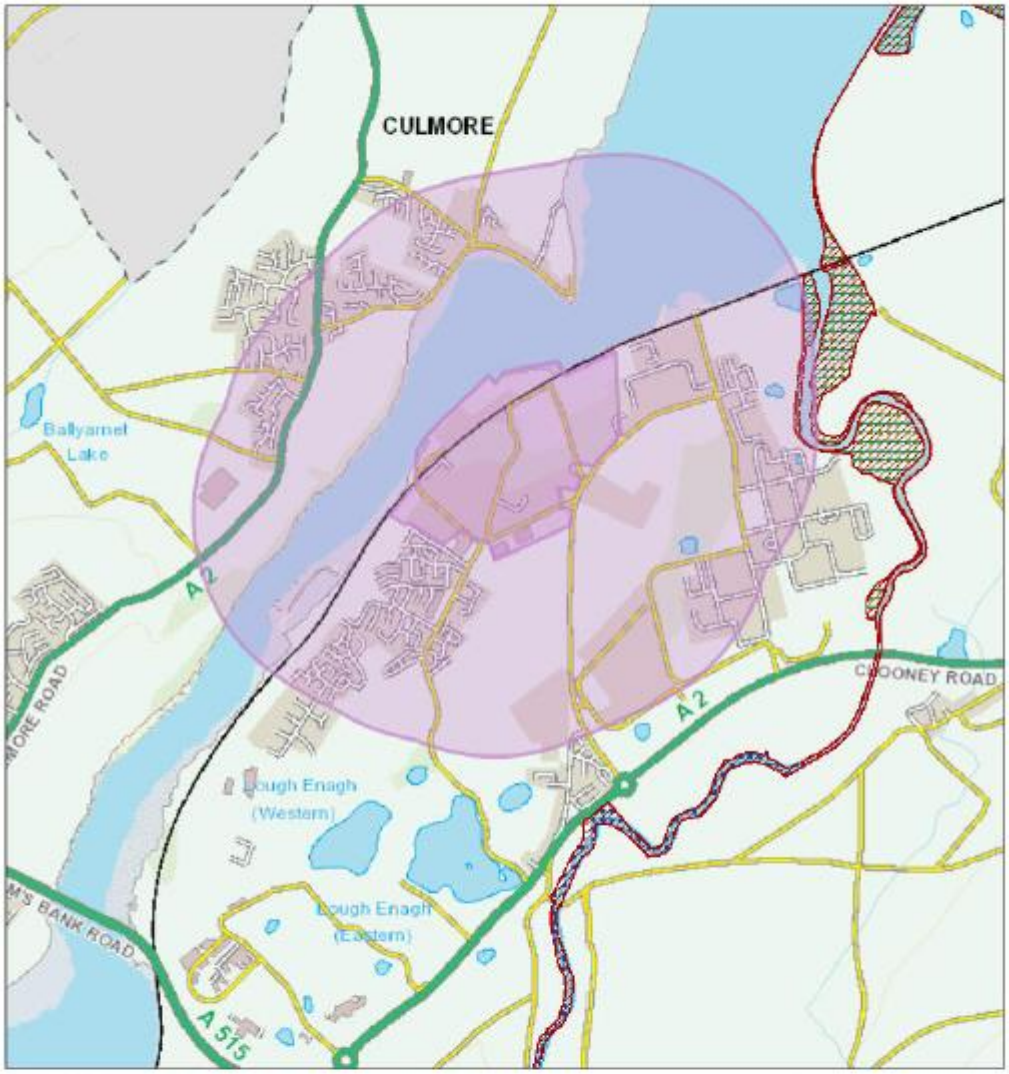
- Priority Habitat:

Open Mosaic Habitats (a Northern Ireland priority habitat) are a possibility on sites in these types of location. https://cdn.buglife.org.uk/2020/01/Identifying-open-mosaic-habitat.pdf

From an inspection of aerial photographs it appears that the chosen Foyle site is likely not to have priority habitat present.

Annex 1.0

Foyle Port Estate



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- World Heritage Site
- Natura2000 Sites - Special Protection Area
- Natura2000 Sites - Special Area Of Conservation
- Ramsar
- Nature Reserve
- Area Of Outstanding Natural Beauty