



## **EXOLA BARRYROE K SITE SURVEY APPROPRIATE ASSESSMENT DETERMINATION AND ANNEX IV SPECIES ASSESSMENT**

### ***I. Project Proposal***

On 15 January 2020, Exola DAC, (a wholly owned subsidiary of Providence Resources plc) (hereafter referred to as 'Exola') submitted an application to the Department of Communications, Climate Action and Environment ('DCCAE') seeking Ministerial approval to undertake a seabed and shallow geophysical survey, and an environmental baseline and habitat assessment survey, within the Barryroe licence area (SEL 1/11). The survey area is situated in the North Celtic Sea Basin approximately 49 kilometres (km) south east of the closest coastline at Ballymacshoneen, Butlerstown North, County Cork on the south coast of Ireland ('Barryroe K site').

The proposed site survey will comprise a seabed and shallow geophysical survey and environmental baseline and habitat assessment survey at the Barryroe K site. Additional environmental sampling will be conducted at a single control point approximately 7km to the eastsoutheast of the survey area. ('Barryroe K Site Survey')

The survey operations will cover an area of approximately 9 km<sup>2</sup> with a 1 km buffer around the survey area where the survey vessel may manoeuvre during line turns and during equipment deployment and recovery. The greater working area is approximately 22 km<sup>2</sup>.

The key aims of the survey are to:

- Accurately determine water depths and provide information on depth of sediments overlying chalk bedrock and to identify and map any chalk exposures;
- Provide information on seabed and sub seabed conditions to ensure the safe emplacement and operation of a semi-submersible drilling rig at the well location;
- Provide information on the cultural potential of the survey area, including the location of any shipwrecks or other underwater cultural heritage features;
- Assess the survey area for the presence of any Annex 1 habitats (as defined in the EC Habitats Directive 92/43/EC);
- Obtain environmental baseline samples across the survey area to establish a benchmark for ongoing environmental monitoring as per OSPAR guidelines.

The survey vessel is anticipated to be working on location for approximately 3 days, excluding transit, port calls and weather downtime. Operations are proposed to take place at some point between the 1st April 2020 and 30th November 2020, subject to regulatory approval and vessel availability. If the survey has not commenced within this timeframe, it is proposed that the

operations will be undertaken sometime between 1st February 2021 and 30th November 2021, again subject to regulatory approval and vessel availability.

The proposed Barryroe K site survey follows on from the site survey operations undertaken in the Barryroe (SEL/11) licence area at the proposed A and B well locations during September 2019. Obtaining data at the K location allows for the potential future emplacement of an additional well to the east of the previously surveyed A and B well locations, in order to further appraise the eastern panel of the Barryroe field. Any potential future activities would require separate applications for approval, during which any potential in-combination LSE on European sites would be considered.

The vessel proposed to be used for the survey is the Gardline vessel MV Kommander. It is noted in the application documents that, prior to the commencement of the proposed site survey operations, the applicant may seek approval from the DCCAE to use an alternative equivalent survey vessel.

## **II. DCCAE Assessment Process**

The Environment Advisory Unit (**EAU**), a functionally independent and separate unit of DCCAE, is responsible for carrying out environmental screening and any environmental assessments determined as being required following screening, in accordance with the requirements set out in Directive 2011/92/EU, as amended by Directive 2014/52/EU (**EIA Directive**), Directive 92/43/EEC, as amended, (**Habitats Directive**) and Directive 2009/147/EC (**Birds Directive**) in respect of applications made to the Minister for permission to undertake “*activities*” under an exploration licence or petroleum prospecting licence.

EIA – The *European Union (Environmental Impact Assessment) (Petroleum Exploration) Regulations 2013* (S.I. 134 of 2013), as amended by the *European Union (Environmental Impact Assessment) (Petroleum Exploration) (Amendment) Regulations 2019* (S.I. 124 of 2019) give effect to the EIA Directive as a matter of Irish law in the context of applications for permission to undertake activities under an exploration licence or petroleum prospecting licence. Regulation 3(1B) provides that the EAU shall carry out an EIA Screening Assessment and make a Determination as to whether the activities the subject of the application would, or would not, be likely to have significant effects on the environment by virtue, inter alia, of their nature size and location. Where it has been determined, following screening, that the activities the subject of the application are likely to have significant effects on the environment, an environmental impact assessment will be required.

AA – The European Communities (Birds and Natural Habitats) Regulations 2011 – 15 (S.I. 477 of 2011, as amended) (**Birds and Natural Habitats Regulations**) give effect to the Habitats Directive and the Birds Directive as a matter of Irish law and require, inter alia, that a public authority carry out screening for Appropriate Assessment of a plan or project for which an application for consent is received. Where a public authority determines that an Appropriate Assessment is required, the Regulations require that the assessment carried out by a public authority include a determination pursuant to Article 6(3) of the Habitats Directive as to whether or not the plan or project would adversely affect the integrity of a European site. The EAU is responsible for carrying out Stage 1 AA screening assessments and any required Stage 2 Appropriate Assessment in accordance with the Birds and Natural Habitats Regulations, in respect of applications to the Minister for permission to undertake “*activities*” under an exploration licence or petroleum prospecting licence.

On receipt of an application, the Petroleum Affairs Division in DCCAE places the application on the DCCAE website for consultation and refers the application, and any associated responses to the consultation, to the EAU for the purposes of carrying out its assessments.

On the completion of all environmental assessments by the EAU and after incorporating any suggested conditions which may be recommended by the EAU, the application will then be evaluated by the Petroleum Affairs Division in the Department who will make a recommendation to the Minister of State regarding whether consent should be given for the 'activities' applied for.

### **III. Independent Expert Advisors**

DCCAE has further engaged Ramboll UK Limited (**Ramboll**) as independent expert environmental advisors, to provide assistance to the EAU with regard to the carrying out of statutory environmental assessments of applications for permission to carry out "*activities*" under an exploration licence or petroleum prospecting licence.

Ramboll has conducted an independent assessment of the information provided by the Applicant, having regard to the Habitats Directive, the Birds Directive, the Birds and Natural Habitats Regulations and relevant jurisprudence of the EU and Irish courts. The expert report prepared by Ramboll, having carried out an external review of the information submitted by the Applicant in their Appropriate Assessment Screening and Natura Impact Statement Report (original report submitted in January 2020 and updated report submitted in April 2020 further to the issuing of a Notice for Further Information) and the Applicant's assessment of impacts on Annex IV species contained in their EIA Screening Report, is shown at Appendix 1 ("*Statutory Environmental Assessment; Appropriate Assessment Screening Determination and NIS Review for Barryroe K Site Survey*"; **Ramboll Report**).

### **IV. Appropriate Assessment Process: Legislative Background**

Articles 6(3) and 6(4) of the **Habitats Directive** place strict legal obligations on Member States regulating the conditions under which development that has the potential to impact on European Sites can be implemented and requiring that an Appropriate Assessment be carried out of plans or projects, not directly connected with or necessary to the management of a site as a European Site, but which are likely to have a significant effect thereon, either individually or in combination with other plans or projects. An AA Screening assessment is carried out to determine whether a plan or project is likely to have a significant effect on any European Site. The Appropriate Assessment process (AA) is an assessment of the potential for adverse or negative effects of a plan or project, in combination with other plans or projects, on the integrity of any European Site, in view of its conservation objectives. The focus of AA is targeted specifically on Natura 2000 sites and their conservation objectives.

- Article 6.3 states: "*Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the 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 concerned and, if appropriate, after having obtained the opinion of the general public.*"

- Article 6.4 states: *“If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.*

*Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest.”*

### Stage 1: AA Screening

The first step in the AA process is that an AA Screening assessment is carried out to determine whether a plan or project is likely to have a significant effect on a European Site.

In giving effect to the above as a matter of Irish law, the **Birds and Natural Habitats Regulations** provide, *inter alia*, as follows in relation to screening for Appropriate Assessment:-

Regulation 42(1) of the Birds and Habitats Regulations provides: *“A screening for Appropriate Assessment of a plan or project for which an application for consent is received, or which a public authority wishes to undertake or adopt, and which is not directly connected with or necessary to the management of the site as a European Site, shall be carried out by the public authority to assess, in view of best scientific knowledge and in view of the conservation objectives of the site, if that plan or project, individually or in combination with other plans or projects is likely to have a significant effect on the European site”.*

Regulation 42(2) provides that: *“A public authority shall carry out screening for Appropriate Assessment under paragraph (1) before consent for a plan or project is given, or a decision to undertake or adopt a plan or project is taken”.*

Furthermore the regulations provide under Regulation 42 (6) and 42 (7) that:-

6. *The public authority shall determine that an Appropriate Assessment of a plan or project is required where the plan or project is not directly connected with or necessary to the management of the site as a European Site and if it cannot be excluded, on the basis of objective scientific information following screening under this Regulation, that the plan or project, individually or in combination with other plans or projects, will have a significant effect on a European site.*

7. *The public authority shall determine that an Appropriate Assessment of a plan or project is not required where the plan or project is not directly connected with or necessary to the management of the site as a European Site and if it can be excluded on the basis of objective scientific information following screening under this Regulation, that the plan or project, individually or in combination with other plans or projects, will have a significant effect on a European site.’*

### Stage 2: Appropriate Assessment

Where it has been determined, following screening, that an Appropriate Assessment is required, Regulation 42(11) provides as follows in relation to the carrying out of an Appropriate Assessment:

*(11) An Appropriate Assessment carried out under this Regulation shall include a determination by the public authority under this Regulation pursuant to Article 6(3) of the Habitats Directive as to whether or not a plan or project would adversely affect the integrity of a European site and the assessment shall be carried out by the public authority before a decision is taken to approve, undertake or adopt a plan or project, as the case may be.*

Regulation 42(12) sets out the matters required to be taken into consideration by a public authority in carrying out an Appropriate Assessment:

*(12) In carrying out an Appropriate Assessment under paragraph (11) the public authority shall take into account each of the following matters—*

- a) the Natura Impact Statement,*
- b) any other plans or projects that may, in combination with the plan or project under consideration, adversely affect the integrity of a European Site,*
- c) any supplemental information furnished in relation to any such report or statement,*
- d) if appropriate, any additional information sought by the authority and furnished by the applicant in relation to a Natura Impact Statement,*
- e) any information or advice obtained by the public authority,*
- f) if appropriate, any written submissions or observations made to the public authority in relation to the application for consent for proposed plan or project,*
- g) any other relevant information.*

## **V. Appropriate Assessment Process: Factual Background**

Exola submitted the following documents with the Barryroe K Site Survey application:-

- (i) Application for Approval to Conduct a Seabed Geophysical, Environmental Baseline and Habitat Assessment Site Survey;
- (ii) Pre-survey Fisheries Assessment at Barryroe (SEL 1/11), prepared by Sinbad Offshore Support Ltd for EXOLA DAC;
- (iii) Barryroe K Site Survey: Appropriate Assessment Screening and Natural Impact Statement;
- (iv) Barryroe K Site Survey: Environmental Impact Assessment (EIA) Screening.

### **V.I Stage 1 AA Screening Assessment**

#### **i. Notified Bodies**

Notification of the Exola application was issued to the following organisations:

- Development Application Unit, National Parks and Wildlife Service;
- Irish Maritime Administration, Department of Transport, Tourism and Sport;
- Ship Source Pollution Prevention Unit Irish Maritime Administration, Department of Transport, Tourism and Sport;
- Irish Coast Guard (& National Maritime Operations Centre), Department of Transport, Tourism and Sport;
- Sea Fisheries Protection Authority;
- Sea Fisheries Policy Division, Department of Transport, Tourism and Sport;
- Department of Defence;
- Mission Support Facility, Irish Air Corps;
- Naval Headquarters;

- Marine Institute;
- Commissioners of Irish Lights

The Irish Coast Guard (& National Maritime Operations Centre), Department of Transport, Tourism and Sport responded with observations as shown in Section 2.3.1 of the Ramboll Report, referenced above and included at Appendix 1 to this determination.

## **ii. Public Consultation**

The Exola 'Barryroe K site survey' application and supporting documentation were published on the Department website on the 22<sup>nd</sup> January 2020 and submissions were invited to be made in respect of the application during a 30 day consultation period concluding on the 21<sup>st</sup> February 2020. A total of 12 responses were received as follows:-

- Three response from private individuals dated 20<sup>th</sup> February, 2020
- Eight responses from private individuals dated 21<sup>st</sup> February, 2020
- Response from Not Here Not Anywhere dated 21<sup>st</sup> February, 2020

The submissions that were received during this public consultation on the Exola application are shown in Sections 2.3.2 – 2.3.4 of Ramboll Report (at Appendix 1 to this Determination).

## **iii. AA Screening Determination and Further Information Request for Stage 2 Appropriate Assessment**

A Stage 1 Screening for Appropriate Assessment was carried out in respect of the proposed Exola Barryroe K site survey and an AA Screening Determination was made pursuant to Regulation 42 of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. 477 of 2011), as amended, that a Stage 2 Appropriate Assessment was required in respect of the proposed Exola Barryroe K Site Survey, as it could not be excluded on the basis of objective scientific information that the proposed site survey, individually or in combination with other plans or projects, would have a significant effect on a European Site.

Exola submitted a Natura Impact Statement with their application and by further Notice dated 7<sup>th</sup> April 2020, Exola were directed to provide specified additional information considered necessary for the purposes of carrying out the Stage 2 Appropriate Assessment of the proposed 'Barryroe K site survey', the subject of the application.

A Newspaper Notice was published noting the outcome of the AA Screening Determination and the Notice for Further Information, the notified bodies and those who had responded with observations during the public consultation were informed of the outcome of the AA Screening Determination and the Notice for Further Information and that a public consultation would be carried out for the purposes of the Stage 2 Appropriate Assessment once the requested further information had been received from the applicant and the Department website was further updated to this effect.

## **V.II Stage 2 AA: Public Consultation Process and Ramboll Independent Review**

### **i. Public Consultation for the purposes of Stage 2 Appropriate Assessment**

On 21<sup>st</sup> April 2020, Exola provided the additional information directed in the Notice for Further Information as being necessary for the purposes of the Stage 2 Appropriate Assessment of the proposed Exola Barryroe K Survey. The following documents were received:

- Exola Barryroe K site Survey – AA Screening and Natura Impact Statement, (updated Report dated April 2020)
- Exola Barryroe K site Survey – Appendix 1, setting out Exola responses to specific questions raised by EAU in Notice for Further Information

On 23 April, the additional information received from the applicant was published on the Department website and drawn to the attention of the notified bodies and those who had responded with observations during the public consultation, and a 21 day public consultation was carried out on the application for the purposes of the Stage 2 Appropriate Assessment, which concluded on 14<sup>th</sup> May 2020. One response was received as noted below:-

- Submission received from Not Here Not Anywhere dated 14<sup>th</sup> May, 2020

The observations contained in that submission and in the submissions received during the initial public consultation on the Exola Barryroe K Survey application are shown in Sections 2.3.2 – 2.3.4 of Ramboll Report (at Appendix 1 to this Determination).

#### ***ii. Ramboll NIS Review and Appropriate Assessment Report***

A Natura Impact Statement (NIS) is a scientifically robust examination of a proposed plan or project, which is used to characterise any possible implications of the project, individually or in combination with other plans or projects, on the conservation objectives of any relevant European site(s).

Ramboll carried out an independent review of the NIS submitted by Exola in respect of the proposed Barryroe K Site Survey, as contained in:

- Barryroe K Site Survey – Appropriate Assessment Screening and Natura Impact Statement (Report submitted with the application in January 2020);
- Barryroe K Site Survey – AA Screening and Natura Impact Statement, (updated Report dated April 2020 and submitted in response to Notice for Further Information; and
- Barryroe K Site Survey – Appendix 1, setting out Exola responses to specific questions raised by the EAU in Notice for Further Information,

along with the associated application documents. The Ramboll NIS review and assessment considered the following aspects in the context of European sites:-

- Conservation status of relevant habitats and species listed under Annex II of the Habitats Directive and Annex I of the Birds Directive;
- Baseline conditions and conservation objectives and qualifying features of any relevant European site(s);
- Any management plans associated with relevant European site(s);
- Details on each species and habitat type for which relevant European site(s) are designated and spatial mapping of the distribution and temporal mapping, including lifestyle stages;
- Information on population profile of the species and their conservation status (e.g. size, population structure etc.);

- Ecosystem structure and functioning of the site and its overall conservation state;
- The role of the site within the ecosystem region and the Natura 2000 network;
- Any other aspects of the site or its wildlife that is likely to have an influence on its conservation status and objectives (e.g. current management activities, other developments etc.)

Furthermore the NIS was also assessed in the context of the following:-

- A description of size, scale and objectives of the proposed plan or project;
- A description of the pressures of the proposed plan or project, and its likely impacts on the conservation objectives and local site characteristics;
- Identification of all European sites located within the zone of influence of the proposed plan or project, together with qualifying interests and conservation objectives;
- Methodologies, analysis and data sources utilised to demonstrate use of best scientific knowledge;
- A scientific assessment, analysis and statement of the significant effects including direct, indirect, cumulative and in combination effects of the relevant European site(s) and/or species which are expected to occur as a result of the development;
- Details of any appropriate mitigation measures undertaken, or proposed to be undertaken by the applicant to avoid any adverse effects on the integrity of any European site(s) and/or species, and the period within which any such measures shall be carried out by the developer;
- An assessment of the scope and scale of residual effects after mitigation (including direct, indirect, cumulative and in combination effects);
- A conclusion in relation to whether or not the project would adversely affect the integrity of any European site (either individually or in combination with other existing or consented developments).

The Ramboll NIS Review and Appropriate Assessment Report is at Appendix 1 to this Determination.

#### **VI. Appropriate Assessment Determination**

I have carefully considered the following documents in carrying out an Appropriate Assessment of the proposed Exola Barryroe K Site Survey , as detailed in the Exola application:-

- Documents provided by the applicant:
  - Documents submitted with the application (as set out above), in particular, the Barryroe K Site Survey Appropriate Assessment Screening and Natura Impact Statement (Report dated January 2020);
  - Barryroe K Site Survey Appropriate Assessment Screening and Natura Impact Statement (updated Report dated April 2020, submitted in response to Notice for Further Information); and

- Appendix 1 setting out Exola responses to specific questions raised in Notice for Further Information, ;
- Appropriate Assessment Screening and NIS Review Report prepared by Ramboll (June 2020), (at Appendix 1 to this Determination);
- Submissions received during the public consultations on the application;
- Observation received from the Irish Coast Guard, and National Maritime Operations Centre, Department of Transport Tourism and Sport (as a Notified Body).

The applicant submitted with their application a Natura Impact Statement (NIS), examining the possible implications of the proposed Exola Barryroe K Site Survey on relevant European Sites. A supplementary report was submitted in April 2020 (along with a separate Appendix for clarity) in response to the Notice issued by the EAU directing provision of the further information determined as being necessary for the purposes of carrying out a Stage 2 Appropriate Assessment. The NIS submitted by Exola examined potential LSE associated with underwater acoustic emissions generated by the geophysical survey equipment proposed to be utilised as part of the site survey, which were assessed for marine mammals (harbour porpoise, bottlenose dolphin and grey seal) and marine reptiles listed as Qualifying Interests of designated Natura 2000 site's or listed as Annex IV species to the Habitats Directive, as LSE could not be excluded for these species.

Based on careful consideration of the information contained in the above referenced documents, I agree with and adopt the conclusions reached in the Ramboll Report (at Appendix 1 to this Determination) regarding the adequacy of the information provided by the applicant with regard to the proposed survey, the European sites and/or species that may be affected by the proposed survey, the scientific assessment, analysis and statement of likely significant effects (including direct, indirect, cumulative, in combination and residual effects after mitigation) and the conclusion as to whether the proposed project would adversely affect the integrity of any European Site and accordingly am satisfied that the applicant has provided sufficient information to enable an Appropriate Assessment of the proposed Barryroe K Site Survey.

I further agree with and adopt the Ramboll response to the observations received from the Irish Coast Guard, and National Maritime Operations Centre, Department of Transport Tourism and Sport (as a Notified Body), set out in section 2.3.1 of the Ramboll Report, with appropriate mitigation and management commitments set out in the Ramboll Report to address the issues raised where appropriate to the Appropriate Assessment process.

I also agree with the Ramboll responses to the project specific observations received during the public consultation processes, set out in Section 2.3.4 of the Ramboll Report. As regards the additional observations received during the public consultation processes, comprising general economic comments, general comments regarding health safety and environmental issues (including climate change) and general comments on legal entities and contractor, which are set out in section 2.3.3 of the Ramboll Report, I agree that these are outside the scope of the Stage 2 Appropriate Assessment process in respect of the Exola Barryroe K Site Survey application.

I note the mitigation and management measures committed to by Exola, which are set out in Table 5.1 of the Ramboll Report, along with additional measures where relevant to the Appropriate Assessment process.

I further note Ramboll conclude that the proposed Exola Barryroe K Site Survey – individually and/or in combination with other plans or projects – will not have an adverse effect on the integrity of any European site, in view of its conservation objectives, subject to the implementation of the mitigation measures set out at Table 5.1 of the Ramboll Report.

I agree with and adopt the Appropriate Assessment Screening and NIS Review Report prepared by Ramboll in respect of the Exola Barryroe K Site Survey application (at Appendix 1 to this Determination) and the conclusions reached in that Report.

Accordingly, I adopt all the Mitigation Measures set out in Table 5.1 of the Ramboll Report, which are reproduced as Table 1 (below) in this Determination, and am satisfied and have decided that the proposed Barryroe K Site Survey (the subject of an application by Exola), which will involve a seabed and shallow geophysical survey, and an environmental baseline and habitat assessment survey, with further sampling to be undertaken at a single environmental control point approximately 7km from the survey area, all within the Barryroe licence area (SEL 1/11), will not adversely affect the integrity of any European site, whether individually or in combination with other plans or projects, in view of the sites' conservation objectives. This Determination is subject to the implementation of the mitigation measures adopted and set out in Table 1, which must be included as conditions in any consent that may be granted in respect of this application.

#### **VII. Annex IV Species Assessment: Legislative Background**

Article 12(1) of the Habitats Directive provides that:

*“Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:*

- (a) all forms of deliberate capture or killing of specimens of these species in the wild;*
- (b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;*
- (c) deliberate destruction or taking of eggs from the wild;*
- (d) deterioration or destruction of breeding sites or resting places.”*

Regulation 29 of the Birds and Natural Habitats Regulations transposes Article 12 into Irish law and provides that:

*“29. (1) Where the Minister has reason to believe that any activity, either individually or in combination with other activities, plans or projects, is of a type that may—*

- (a) have a significant effect on a European Site,*
- (b) have an adverse effect on the integrity of a European Site,*
- (c) cause the deterioration of natural habitats or the habitats of species or the disturbance of the species for which the European Site may be or has been designated pursuant to the Habitats Directive or has been classified pursuant to the Birds Directive, insofar as such disturbance could be significant in relation to the objectives of the Habitats Directive,*
- (d) cause pollution or deterioration of habitats within the meaning of the second sentence of Article 4(4) of the Birds Directive, or*
- (e) have an adverse effect on the conservation status of—*

- (i) animal species listed in Annex IV(a) to the Habitats Directive in their natural range pursuant to Article 12 of the Habitats Directive,*
- (ii) plant species listed in Annex IV(b) to the Habitats Directive pursuant to Article 13 of the Habitats Directive,*
- (iii) species of wild fauna and flora listed in Annex V to the Habitats Directive pursuant to Article 14 of the Habitats Directive,*
- (iv) naturally occurring birds in the wild state,*

*the Minister shall, by notice, subject to paragraph (2), where he or she considers appropriate, direct that the activity shall not be carried out, caused or permitted to be carried out or continue to be carried out by any person in the European Site or part thereof or at any other specified land or may restrict or regulate the activity in the European Site or part thereof or at any other specified land, and each such notice shall be accompanied by a statement of the Minister's reasons for making the decision."*

#### **VIII. Annex IV Species Assessment: Determination**

Ramboll carried out an assessment of the information submitted by Exola in respect of the proposed Barryroe K Site Survey for the purposes of Article 12 / Annex IV of the Habitats Directive. The outcome of that assessment is also detailed in the Ramboll Report (at Appendix 1).

In this regard, the Ramboll Report further concludes that the proposed seabed and shallow geophysical survey, and environmental baseline and habitat assessment survey, encompassing a potential well location at the Barryroe K site, with further sampling to be undertaken at a single environmental control point approximately 7km from the survey area, all within the Barryroe licence area (SEL 1/11), will not cause any significant disturbance to the Annex IV species described, subject to the implementation of the mitigation measures set out in Table 5.1 of the Ramboll Report.

I agree with and adopt the conclusions in the Ramboll report in relation to impacts on Annex IV species. Accordingly, I am satisfied that the assessment for Annex IV Species is of an acceptable standard and am further satisfied that there would be no adverse effects on the conservation status of Annex IV species that may be present in the survey area, should approval be granted for the Exola Barryroe K Site Survey application, subject to the implementation of the mitigation measures adopted in Table 1 to this Determination, which must be included as conditions in any consent that may be granted in respect of this application.

#### **IX. Conclusion**

Having considered the documents submitted by Exola with the Barryroe K Site Survey application and the further documents submitted in response to the Notice for Further Information, the observations received from the Irish Coast Guard (& National Maritime Operations Centre), Department of Transport Tourism and Sport (as a Notified Body) and from the public during the various public consultations on the application, and the expert report prepared by Ramboll, having carried out a review of the information submitted by the Exola having regard to the Habitats Directive, the Birds Directive, the Birds and Natural Habitats Regulations (at Appendix 1 to this Determination) and having adopted the conclusions reached in the Ramboll Report, it can be concluded, and I conclude, for the purposes of Article 6(3) of the Habitats Directive and Article 42(11) of the Birds and Natural Habitats Regulations, that the proposed Barryroe K Site Survey (the subject of an application by Exola) to undertake a seabed and shallow geophysical survey, and an environmental baseline and habitat assessment survey, encompassing a potential well location at the Barryroe K site, with further sampling to be undertaken at a single environmental control point approximately 7km from the survey area, all within the Barryroe licence area (SEL 1/11), will not adversely affect the integrity of any European site (whether individually or in combination with other plans or projects) in view of the sites' conservation objectives, subject to the implementation of the mitigation measures adopted and outlined in Table 1, and this decision is contingent on the inclusion of all these mitigation measures as conditions in any consent that may be granted in respect of this application.

In addition, having considered the above referenced documentation and having adopted the conclusions reached in the Ramboll Report, I further conclude that the assessment for Annex IV species is of an acceptable standard such that I am satisfied that there would be no adverse effects on the conservation status of Annex IV species that may be present in the area, should approval be granted for the Exola Barryroe K Site Survey application, subject to the implementation of all the mitigation measures adopted, which must be included as conditions in any consent that may be granted in respect of this application.

Jean Clarke, 23<sup>rd</sup> June, 2020

A handwritten signature in cursive script that reads "Jean Clarke".

Environment Advisory Unit,  
Department of Communications, Climate Action and Environment

**Table 1 Mitigation and Management Measures (additional to measures outlined in EIA Screening Determination)**

<b>Discipline</b>	<b>Commitment proposed</b>
General	<p>The applicant must seek approval from the DCCAIE to use an alternative equivalent survey vessel or equipment from that described in the AA Screening and NIS report. In this event, the DCCAIE would seek confirmation that the survey equipment and methodology on any replacement vessel are equivalent to that described in the AA Screening and NIS reports and that the description of the development used to inform the AA Screening and NIS is still valid.</p> <p>With regard to the environmental sampling equipment, the applicant must update the proposed equipment to be used prior to commencement.</p>
Underwater Noise	<p>Exola and its survey contractor will adhere to the DAHG Guidance to Manage the Risk to Marine Mammals from Man-made Sound Sources in Irish Waters (DAHG, 2014), which provides mitigation measures for the protection of Annex IV species from geophysical acoustic surveys as well as a number of other offshore operations. Of note is that these measures apply specifically to marine mammals, however, observations shall also be undertaken for marine reptiles and the same procedures applied</p> <p>Two qualified Marine Mammal Observers (MMOs) will be appointed to monitor marine mammals and log all data according to the standardised forms provided in the DAHG Guidance and provide an MMO report to the regulatory authorities.</p> <p>Acoustic surveying will not commence if marine mammals are detected within a 500 m radius around the acoustic sources (referred to as the Monitored Zone).</p> <p>Sound-producing survey activities will only be commenced in daylight hours where effective visual monitoring, as determined by the MMO, can be achieved.</p> <p>For sound-producing activities, as water depths across the proposed survey area are less than 200 m, pre-start-up monitoring will be conducted by the MMO at least 30 minutes before any activity using the acoustic sources is due to commence. Sound-producing survey activity using the acoustic sound sources will not commence until at least 30 minutes have elapsed with no marine mammals detected within the Monitored Zone by the MMO. This pre-start monitoring will be followed by the soft-start procedure.</p> <p>Commencement of sound-producing survey activities will be undertaken using a 'soft-start' (ramp up and gradual increase in energy/noise source) procedure for any equipment where the output peak SPL exceeds 170 dB re 1µPa at 1 metre. The build-up of acoustic energy output will occur in consistent stages to provide a steady gradual increase in power (over a period of 20 minutes). Where the power of acoustic noise sources cannot be increased gradually due to operational parameters of the device, the device will be switched on and off in a consistent sequential manner for a period of 20 minutes prior to commencement of the full necessary output.</p> <p>Where a soft-start procedure has commenced, there is no requirement to halt or discontinue the procedure at night or in poor weather or visibility conditions or if marine mammals are sighted within the Monitored Zone.</p> <p>Where there is a break in sound output (e.g. in the event of equipment failure, shut-down etc.) from the acoustic sources for more than 30 minutes, all soft-start procedures must be undertaken before activity can recommence.</p> <p>If a break in sound output occurs during the hours of darkness, the survey will be</p>

	suspended until daylight when effective visual monitoring, as determined by the MMO, can be completed before start-up.
	Full reporting on MMO operations and mitigation measures undertaken must be provided to the relevant regulatory authorities.
Discharges to the Sea	<p>As per Sea Pollution (Miscellaneous Provisions) Act 2006 Part 3 Para 20 and 21 the operator will provide:</p> <ul style="list-style-type: none"> <li>• A risk assessment re hydrocarbon discharge; and</li> <li>• A plan for the prevention and minimisation of any accidental discharge.</li> </ul> <p>Operations such as the “ship to ship” transfer of fuels or other HNS substances which present a hazard to the marine environment are prescribed operations within the Irish EEZ and as such require a permit for operations from the Irish Coast Guard (DTTAS).</p> <p>The Operator should update and advise the IRCG of the commencement and suspension or termination of survey operations offshore via the Marine Rescue Coordination Centre (MRCC) Dublin and a Radio Navigational Warning (RNW) should be promulgated via the same.</p>