

# Submission HLG [REDACTED] ESB Ecological Surveys grab sampling at Ballymacrinan Bay, Co. Clare

TO: [REDACTED] (Housing)  
STATUS: Completed  
PURPOSE: For Decision  
DIVISION: Marine Planning Policy and Legislation  
DECISION BY:



## Final comment

Approved. [REDACTED]

## Action required

The approval of the Minister is sought to grant a licence for a term of ten (10) years under Section 3(3) of the Foreshore Act 1933 to ESB for the purpose of carrying out Ecological Surveys using day grab sampling at Ballymacrinan Bay, Co. Clare.

## Executive summary

The approval of the Minister is sought to grant a multi annual licence for a term of ten (10) years under Section 3(3) of the Foreshore Act 1933 to ESB operating at Moneypoint Power Station for the purpose of carrying out Ecological Surveys by subtidal benthic sampling using day grab on the foreshore at Ballymacrinan Bay, Co. Clare.

The purpose of the Ecological Surveys and sampling is solely for compliance with an EPA IED Licence. The EPA IED License requires the applicant to carry out ecological surveys once every two years of the Ballymacrinan Bay habitats and communities and assess whether the conservation objective for the habitats therein are being met.

The ecological surveys proposed are: A maximum of nine (9) subtidal grab samples that will be collected using day grab with a sampling area of 0.01m<sup>2</sup> and will amount to maximum of 0.09m<sup>2</sup> of sediment removed. Sampling will be within 1.25km of the shore and over an area of 155 hectares of foreshore. Sampling will be carried out over 2 days during daylight.

## Detailed information

**Application:** The approval of the Minister is sought to grant a multi annual licence for a term of ten (10) years under Section 3 (3) of the Foreshore Act 1933 to ESB for the purpose of carrying out Ecological Surveys by subtidal benthic sampling using day grab at Ballymacrinan Bay, Co. Clare.

The ecological surveys proposed are:

- A maximum of nine (9) subtidal grab samples that will be collected using day grab with a sampling area of 0.01m<sup>2</sup> and will amount to maximum of 0.09m<sup>2</sup> of sediment removed. Sampling will be within 1.25km of the shore and over an area of 155 hectares of foreshore. Sampling will be carried out over 2 days during daylight.
- Each sample retrieved will be sieved through a 1mm mesh sieve and images of the grab contents before and after sieving will be taken. The remainder of the sample will be preserved in buffered 4% w/v formaldehyde solution for subsequent transport and analysis at a certified laboratory. A subsample of the grab contents will be retained for granulometric analysis.
- Sampling will be confined to the area shown in Foreshore Licence Map 1 dated 05/07/2020 and Site Location Map dated 05/07/2020 as provided by the applicant.

The purpose of the Ecological Surveys and sampling is solely for compliance with an EPA IED Licence. The EPA IED License requires the applicant to carry out ecological surveys once every two years of the Ballymacrinan Bay habitats and communities and assess whether the conservation objective for the habitats therein are being met.

A Foreshore Licence Map "Foreshore Licence Map 1" Drawing Number 107202.2 dated 05/07/2020 indicating the location of the proposed areas for samples to be collected is attached at **Tab 1**.

A Site Location Map "Site Location Map" Drawing Number 1072020.1 dated 05/07/2020 indicating the location of the proposed area of sampling is attached at **Tab 2**.

**Companion Consents:** Planning permission is not required for Ecological Survey activities such as these.

**Public Consultation:**

A public notice concerning this application was published in the "The Clare Echo" on May 23<sup>rd</sup> July 2020. The public display documents were made available in Kilrush Garda Station, Ennis Road, Kilrush, Co. Clare between the hours of 9am and 6pm daily and Kilrush Library, O Gorman Street, Kilrush, County Clare for the full duration of the public consultation period (30 calendar days).

No public submissions were received on foot of the public consultation.

**Prescribed Bodies Consultation:**

Observations on the proposed activity were received from this Department's Water and Marine Advisory Unit, the Department of Culture, Heritage and the Gaeltacht (Nature Conservation and Underwater Archaeology), Aquaculture and Foreshore Management Division of Department of Agriculture, Food and the Marine, Marine Institute, Inland Fisheries Ireland, Sea Fisheries Protection Authority and Marine Survey Office. **Tab 3**.

The applicant noted and replied to the observations from those Prescribed Bodies. **Tab 4**.

There were no objections in principle to the proposed activity.

**Environmental Assessment:**

**EIA Screening:** The proposed works are not of a class that requires a mandatory EIAR under the EIA Directive. **Tab 5**.

**Appropriate Assessment:** The proposed activity was screened for Appropriate Assessment (AA). It was determined that there will be no likely significant effects as a result of the proposed activity on the qualifying features or Conservation Objectives of Lower Shannon SAC (Site 002165) or River Shannon and River Fergus Estuaries SPA (Site 004077) or any additional European site alone or in combination with other projects or plans. **Tab 6 and Tab 7**.

**Marine Lease Vetting Committee (MLVC) assessment and report:**

On the basis of the information provided by the applicant and the observations provided by the State Bodies as listed above, the MLVC concludes that, subject to compliance with the documentation submitted with the application and specific conditions set out below the proposed works would not have a significant negative impact on navigation, fishing, the marine environment or protected species and habitats, would not impact on other legitimate uses or users of the foreshore area in question and would not have a significant effect on the qualifying interests and conservation objectives of the any Natura 2000 sites. The MLVC, therefore, recommends that a multiyear licence be granted for a minimum of 10 years or as required by the applicant. Therefore, is agreeable to the grant of the licence to facilitate the proposed ecological survey activity. See report attached at **Tab 8**.

**Financial Considerations:**

ESB has accepted the licence fee of €950.00.

**Agreement of applicant:** ESB has agreed to the specific conditions which would be attached to the licence, if granted. **Tab 9**.

**Recommendation:**

Having regard to:

- the application for a Foreshore Licence together with accompanying documents;
- the submissions received from Prescribed Bodies;
- the applicant's responses to the submissions of the Prescribed Bodies;

- the public consultation undertaken;
- the AA screening performed;
- the EIA screening performed;
- the assessment of the proposed development by the Marine Licence Vetting Committee, and its conclusions and recommendations in this regard; and
- the consent conditions to be attached to the Foreshore Licence, if granted

it is considered that:

- the proposed works on the foreshore would not have a significant negative impact on the marine environment and would not significantly affect the integrity of the Natura 2000 sites.

It is recommended that a Foreshore Licence be granted subject to the conditions recommended by the MLVC and the licence fee set out above.

#### **Notification of Minister's Determination:**

If approval is granted by the Minister, ESB will be informed accordingly, an appropriate licence will issue and a Notice of Determination regarding the decision (including the reasons) will be published on the Department's website.

The Notice of Determination will address:

- the outcome of the Minister's determination of the application;
- the main reasons and considerations for the Minister's determination;
- a statement that all relevant documentation on which the determination is based is available for inspection both on the website of the Department and at the Department's Wexford Office; and
- confirmation that a review procedure is available before the High Court whereby the substantive or procedural legality of the Minister's determination may be challenged, together with practical information on the review procedure.

## Related submissions

There are no related submissions.

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[REDACTED]

06/10/2020

Approved.

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