


**FS006915**

**REPORT OF THE MARINE LICENCE VETTING COMMITTEE (MLVC)**

**On**

**FORESHORE LICENCE APPLICATION FOR A SUBSEA FIBRE OPTIC  
CABLE TO THE UK WITH LANDFALL AT LOUGHSHINNY CO. DUBLIN**

**APPLICANT: CELTIX CONNECT LTD**

<b>Document control</b>				
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### **The marine licence vetting committee (MLVC)**

The MLVC is a non-statutory multi-disciplinary committee which is convened, as required, for the purposes of undertaking a technical, including environmental, assessment of an application under the Foreshore Act 1933, as amended. Members undertake to participate in each instance voluntarily, as representatives of their individual organisations.

On the 22/12/2020 the Foreshore Section of the Department of Housing, Local Government and Heritage (DHLGH) requested the MLVC to undertake the technical assessment detailed below.

### **MLVC Report**

#### **1. Project Overview**

Celtix Connect Limited has submitted an application to DHLGH for a Foreshore licence to facilitate the installation, operation, maintenance and decommissioning of the Havhingsten/Celtix Connect-2 subsea fibre optic cable from Loughshinny to the 12NM Limit.

The proposed cable route, the subject of this application, is 29.8km in length from landfall (HWM) at Loughshinny in North Dublin to the 12NM limit on state owned foreshore. The 40mm diameter fibre optic cable is to be laid within a cable corridor of 500m offshore, narrowing to a 250m corridor at nearshore/landfall point. While the target location for the cable is the centre of the corridor, the cable corridor affords the cable laying operations flexibility to re-route the cable, if required, within the corridor as a consequence of obstructions such as undiscovered wrecks or rock outcrops. It is intended that the subsea cable will be linked to the on-shore cable network in Ireland via a terrestrial cable hub station.

The Havhingsten Cable in its entirety will extend from Loughshinny to Squires Gate Lane (south of Blackpool in England) with two branches to the Isle of Man and another element in the North Sea which will extend from Newcastle (UK) to Denmark. The Isle of Man branches and the Denmark element are beyond the foreshore boundary and not part of this application. The cable route will extend more than 940km in total and deliver a boost to telecommunications capacity between Ireland/Isle of Man/UK and Denmark.

The cable corridor was granted a Site Investigation Foreshore Licence in 2018 (Ref No FS006746).

**Location:** Loughshinny, Co. Dublin to the 12NM limit.

#### **2. Brief Description of Proposed Development**

The proposed works on the foreshore are described in detail in the “Planning Report”, dated December 2019, submitted by the applicant. The main elements of the proposed works include **Pre-installation** and **Cable Installation** as follows:

##### **Pre-Installation Works**

**Nearshore Ducting:** In advance of the submarine cable installation, a 100mm diameter duct is to be laid from the Beach Manhole to the landside edge of the beach, this work is above the HWM. The duct will be laid by trenching using excavators and handheld trenching tools to a target depth of 2m. It is planned to stop the duct at a point, high up on the beach, from where the remainder of the cable trenching on the beach can be easily excavated.

**Grapnel run:** Prior to the start of the submarine cable lay installation a pre-lay grapnel run will be undertaken by a vessel over the length of the cable route to clear any obstructions from the route. Any debris retained from this process will be collected on board the vessel and disposed of appropriately through licenced on shore facilities.

### **Cable Installation Works**

**Offshore:** These works will commence from the Irish/UK median line and run toward the Loughshinny landing site. Offshore cable laying operations will be undertaken from the Cable Laying Vessel (CLV) by plough burial, the plough delivers simultaneous cable installation and burial. The cable is passed over the back of the CLV and through the plough which is pulled along the seabed via a tow wire. The target burial depth is 1.5m and the plough will provide continuous depth of burial verification during the installation operation. The CLV will lay the cable from the Irish/UK median line to a water depth of approximately 15m at the approaches to the Loughshinny landing site. Where the target burial cannot be achieved with the plough, cable burial depths will be achieved by water jetting. Water jetting trenchers sit on the seabed and follow the cable whilst employing high powered pumps to inject seawater either side of the cable which fluidises the seabed. The cable naturally sinks, in the fluidised seabed, to achieve burial depths of more than 2m in soft clays and sands. Water jetting trenchers can be pass several times if required to achieve the target burial depths. The trench left behind backfills from the natural movement of sediment on the seabed.

**Nearshore:** The shore-end landing operations will begin when the CLV approaches a water depth of approximately 15m. A line will be taken ashore using a small boat, this line is then used to pull the cable ashore. The cable is suspended above the sea floor using flotation buoys. Onshore, the end of the nearshore ducting is exposed by excavation and the cable is then passed into the Beach Manhole via the ducting, leaving sufficient slack for jointing to the terrestrial cable. Once the cable is in position the remaining buoys are removed by a team of divers and the cable sinks to the sea floor. Water jetting trenchers and divers are employed to bury the cable from the 15m contour to the seaward end of the beach, with a post-lay target buried depth of 1.5m. From the seaward end of the beach to the nearshore ducting, the cable will be buried to a target depth of 2m, using excavators and manual trenching. For additional protection, articulated pipe will be applied around the in-situ cable across the beach. The excavated sand will be used to backfill the trench.

**Target burial depth:** The target burial depth for the cable across the beach is 2m. Offshore, the target burial depth is 1.5m. In areas of stiff soil, the actual burial depth may be reduced but it is planned to achieve a depth which will protect the cable from fishing activities and generally be not less than 0.4 to 0.6m subject to the geophysical nature of the seabed together with burial assessment and risk categorisations. All cable laying activities will be closely monitored by the on-board engineers to ensure that the cable is laid according to the engineered design.

**The Cable:** The cable is an armoured cable designed to protect the optical fibre transmission path over the entire service life of the system, including laying, burial, and decommissioning operations. The fibre optic elements in this cable are contained within a gel filled 2.3mm diameter steel tube cased within a steel wire and copper composite conductor and a 17mm diameter polyethylene insulating sheath. The construction of this core is intended to provide protection against water penetration and hydrogen. The core is further protected by layers of steel wire, polypropylene yarn and proofing compound, giving a final cable diameter of 40mm. The conductor allows for monitoring of the cable performance and break location in the event of damage. The proposed cable installation is “un-repeated” meaning that there is no power supply to the cable. Therefore operation of the cable is not expected to emit any electric induced magnetic fields or heat to the surrounding sediment or seabed. The Havhingsten Cable will consist of 48 fibre pairs and each fibre pair will have the capability to increase national bandwidth by up to 30Tb. The cable has a design life of 25 years, following installation the cable is expected to be operational for at least 25-years.

**Cable maintenance and repair:** Post burial surveys using a Remotely Operated Vehicle (ROV) will be carried out to establish the as-built situation. This information is especially important should the local environmental conditions change or in areas of high tidal or wave energy. If required, cable maintenance/repair activities will have a similar effect to the installation activities, however they will be on an extremely localised scale, and as such are not expected to have any significant effect. Any effects will be less than those identified for installation operations.

**Decommissioning:** The least environmentally damaging option and the usual approach for submarine telecommunication cables is to leave the cable in-situ and this is the expected approach for the Celtix Connects-2 cable. Should decommissioning be undertaken, the operation will be conducted according to the standard industry protocol for the time taking account of all relevant legislative and environmental requirements.

### **Works Programme**

The cable installation programme can be summarised as follows:

- |   |            |
|---|------------|
| • Beach manhole construction (not on foreshore)                   | 12-14 days |
| • Duct installation at Loughshinny (not on foreshore)             | 2-3 days   |
| • Pre Installation Works (including grapnel run)                  | 1 day      |
| • Offshore installation (ploughing and cable lay in Irish Waters) | 3 day      |
| • Nearshore tie in  | 2-3 days   |
| • Post lay burial and reinstatement                               | 7 days     |

It is anticipated that the overall works will be completed in up to 6 weeks. This is dependent on licensing/permitting process, weather and operational factors.

### **3. Relevant Statutory Consents and Government Policies/Programmes**

Section 225 of the Planning and Development Act 2000 as amended confirms that planning permission is not required for this development. COMREG are responsible for managing/consenting the terrestrial elements of the cable network.

Arising from developments at European level, including an initiative led by the Portuguese presidency - the “European Data-Gateway Platforms Strategy” as part of “Shaping Europe’s Digital Future” - there is an increased ambition to further strengthen the international connectivity of the EU including in respect of telecommunications subsea telecommunications connectivity. This ambition stems from a desire to improve the conditions for the EU to develop into a world-class data hub by strengthening the EU’s internal and external communication capacity and thereby to protecting its interests, whilst promoting its values. Ireland supports the principle of boosting the telecommunications subsea connectivity of the EU as a whole and also Ireland’s telecommunications subsea connectivity, and will be advocating at European and national level for a pro-investment approach to be taken to encourage the development of high capacity telecommunications networks, including subsea telecommunications cabling interconnectivity within the EU, including Ireland, and between the EU and third countries.

This has gained further momentum with the recent publication in March 2021 by the European Commission of a Communication entitled ‘2030 Digital Compass: The European way for the Digital Decade’ which sets a vision, targets and avenues for a successful digital transformation of Europe by 2030 and setting the tone and ambitions for the next decade. Under one of four headings to be used as a focus to deliver on the initiative, that of ensuring secure, performant and sustainable digital infrastructures, the Communication views Europe’s digital leadership and global competitiveness as dependent on strong internal and external connectivity and to inform outreach and international engagement, particularly in light of the emergence of data gateways around the EU’s periphery. In that regard, the Commission highlights the importance of improving connectivity not only within the EU but also with external partners including via terrestrial and subsea cables, with a stated intention to increase the number of digital alliances and partnerships with a connectivity component.

Furthermore, at Digital Day 2021 on the 19<sup>th</sup> March, Minister Ryan signed the Declaration on “European Data Gateways as a key element of the EU’s Digital Decade.” In doing so, Ireland joined 24 EU Member States, as well as Iceland and Norway, in committing to reinforcing digital connectivity between Europe and its global partners including in Africa, Asia, the European neighbourhood, the Western Balkans and Latin America.

#### 4. Public Participation

**Public Consultation:** The Foreshore Section of the DHLGH conducted the public consultation. All consultation was undertaken to conform to the requirements of the Section 19 of the Foreshore Act 1933 as amended and the European Directive 2003/35/EC (known as the Public Participation Directive or “PPD”). An initial public consultation period ran from 21st August 2019 to 27th September 2019. Ten (10) submissions were made from the public. However, due to discrepancies between the display documentation and application information published on the Departments website, the public consultation period was deemed unsatisfactory and was repeated. All members of the public who made a submission during the first consultation period were written to advising that a second consultation period would take place, and invited to make a new submission or inform the Department that they were content with the submission made during the first consultation period.

The second public consultation concerning this application was published in “Northside People” and “The Irish Independent” newspapers. The relevant documents were on display at Balbriggan Garda Station, Drogheda Street, Balbriggan, Co. Dublin and were also available on the Department of Housing, Local Government and Heritage’s website. The public consultation period ran from 29th January 2020 to 29th February 2020. Fifteen (15) submissions were made by the public, one submission contained a petition with multiple signatures included.

**Public Consultation Submissions and Assessment:** From the twenty five (25) public submissions received during both consultation periods, two hundred and five (205) issues were identified. The issues were grouped, considered and assessed by the MLVC as follows:

- Potential omissions related to archaeological heritage
  - *MLVC comment: The Underwater Archaeology Unit of the Department of Housing, Heritage and Local Government are not opposed to the proposed works and are satisfied that heritage matters can be addressed by appropriate licence conditions. Terrestrial archaeology issues are dealt with under the National Monuments Acts. Under the Act the developer is required to notify the Minister for Housing, Heritage and Local Government is required under section 12 (3) of the National Monuments (Amendment) Act, 1994 (Recorded Monument) under section 5 (8) of the 1987 Act (Register of Historic Monuments) for any works at or in the vicinity of any monument listed in the Record on Monuments and Places or on the Register of Historic Monuments. Accordingly, the MLVC is satisfied that archaeological heritage issues are appropriately addressed.*
- Potential impact future use of Loughshinny harbour and beach, e.g. tourism, amenity use, issues related to future maintenance dredging and future development of the harbour
  - *MLVC comment: The trenching and cable lay techniques outlined are standard practice and the general experience for sandy beaches is that there has been no long term effects. The narrow cable trench will be mainly restored by natural wave action of the advancing tide, mostly in one tidal cycle and fully restored over a short period of time. Accordingly, the MLVC is satisfied that the short term effects can be addressed by appropriate licence conditions. The post-lay installed cable will not have any long term effects on the day to day use of the harbour and amenity area. Any potential repair works, a notice to mariners will be issued and fishing interests and organisations in the region contacted.*
  - *Again the MLVC is satisfied that any plans for future development of the harbour can be addressed by appropriate licence conditions.*
- Route/landfall selection and alternatives
  - *MLVC comment: The applicant conducted a cable route study prior to developing the proposed Loughshinny Route. A number of alternative landing locations were reviewed and subsequently discounted. The MLVC accepts that Loughshinny provides a balanced solution to engineering, environmental and archaeological constraints identified at the alternative landing locations.*
- Consultation with Loughshinny Community Association

- MLVC comment: *The applicants has informed the MLVC that information was sent to the Loughshinny Community Association via email [eharrington@fingalleaderpartnership.ie](mailto:eharrington@fingalleaderpartnership.ie) taken from the <https://dublinruralleader.ie/loughshinny-community-association> website. It's unclear whether that correspondence went any further or was acted upon but it appears from the public submissions that it wasn't widely circulated and pre-application consultation between the applicant and Loughshinny Community Association did not take place. While consultation with community groups is always advisable and recommended, it is not legally required. However, the Loughshinny Community were made aware of the project through the statutory consultation process and afforded the opportunity to make relevant submission which have been taken into consideration..*
- The non-submission of a Natura Impact Statement (NIS)
  - MLVC comment: *The consent authority's Screening for Appropriate Assessment has determined that an NIS is not required for this application. This is outlined separately in this report.*
- The submitted application is misleading/confusing
  - MLVC comment: *While the application has a number of minor typographic errors, it is considered that the application is not deliberately misleading or compromised. The prescribed bodies have fully understood the proposed project and the public submissions show a clear understanding of the works proposed. . The MLVC is satisfied that it fully understands the proposed project and can complete the MLVC process.*
- The professed negative impacts of the terrestrial elements of the cable.
  - MLVC comment: *COMREG are responsible for managing/consenting the terrestrial elements of the cable network. Accordingly the MLVC has not and cannot consider the terrestrial elements. Fingal County Council were consulted on the application and raised no particular objection to the proposed works*
- In-combination or cumulative effects including not appropriately considered.
  - MLVC comment: *In Section 5.5 of their Stage 1 Screening for Appropriate Assessment, the applicant considered and assessed possible in-combination effects. This was further considered as part of the Screening for Appropriate Assessment process undertaken as part of the determination of this proposal. No source-pathway receptors, have been identified between the currently proposed project and cable landing station. Therefore no in-combination effects are considered possible. Considered cumulatively with other adjacent proposed development works, no cumulative impacts are considered likely. Commercial fisheries, shipping interests and recreational were scoped out of the list of projects as they are considered to represent baseline conditions, and are not considered as projects, plans or licensed activities. Therefore, the MLVC is satisfied that the in-combination or cumulative impacts with other plans or projects and with existing fisheries, shipping interests and recreational were addressed appropriately.*
- Project-splitting
  - MLVC comment: *It is considered that the proposed project does not amount to project-splitting. Case law (e.g., Judicial Review: 2015 No. 545) has concluded that the correct approach, in relation to project splitting, is to ascertain if project splitting has occurred for the purpose of avoiding the obligations to have an EIA. The MLVC can find no evidence that the construction of the cable landing station was subject to a separate planning application to avoid the requirement for an EIA. All documentation related to both the current project and the construction of the cable landing station was assessed as part of this environmental report. There is no evidence to suggest that had the two projects being assessed "as one" that a requirement for an EIA would have arisen.*
- Transboundary effects

- MLVC comment: For a transboundary effect to be possible, adverse effects as a result of the project being assessed must have been identified. Transboundary effects are generally limited to large scale infrastructure projects where it can be reasonably assumed the project would have the potential to impact on the environment of another jurisdiction. Given the size, scale and location of the proposed project the potential for transboundary effects is considered highly unlikely.
- Inclusion of Mitigation Measures at Screening Stage
  - MLVC comment: Article 6 mitigation is only required if adverse effects on the qualifying interest of a European site have been identified. No adverse effects have been identified and no Article 6 mitigation has been proposed in the consent authority's Screening for Appropriate Assessment. The 'embedded' or 'designed' mitigation which are referred to in the application relate to legislative requirements and/or standard industry practices are not required to avoid or reduce any effects on a European site. These measures are not relied upon to reach a conclusion of no likely significant effects on any European site.
- The adequacy of the baseline environmental data and information
  - MLVC comment: *Following the request for further information in relation to the baseline data for birds, the applicant provided the necessary further information and it is therefore considered that the adequacy of the baseline data was appropriate and proportionate to the scale and scope of the proposed project.*
- Potential impact on reef features
  - MLVC comment: *The reef feature for which Rockabill to Dalkey Island SAC is designated as primarily confined to the areas surrounding the islands and a section of the intertidal area at Howth Head. Impacts as a result of the cable installation and operation phase on reef habitats of the SAC would be highly unlikely. The proposed project represents a single disturbance event and would not lead to a continuous source of impact on reef habitats. No significant habitat loss would occur that would have the potential to negatively affect the conservation objectives of a European site. It is therefore considered that the Screening for Appropriate Assessment has adequately assessed the potential for impacts on reef habitats.*
- Potential impact of the proposed development on National Conservation Sites (NHA and pNHA) and species protected under the Wildlife Acts and Flora Protection Order has not been addressed anywhere in the project submission
  - MLVC comment: *The potential impact on National Conservation Sites (NHA and pNHA) has been addressed in the Screening for Appropriate Assessment as the NHA designations are coincident with the boundaries of European Sites considered in the Screening for Appropriate Assessment.*
- Consideration of Birds and SPA's
  - MLVC comment: *Consideration of Birds and SPA's is addressed in the Screening for Appropriate Assessment.*
- Environmental Impact Assessment
  - MLVC comment: *The proposed project is not of a class that requires the submission of an Environmental Impact Assessment Report (EIAR). It is considered that the intent of a number of the public comments relevant to EIA were more likely intended to reflect issues related to the Screening for Appropriate Assessment and as such these comments have been addressed elsewhere in this document or the Screening for Appropriate Assessment.*
- Terrestrial issues including planning issues and comments on the cable landing station
- MLVC comment: *Section 225 of the Planning and Development Act 2000 as amended confirms that Planning permission is not required for this development. The cable Landing Station and other issues relating to ducting through the village are not on state foreshore and are therefore not subject to this*

*Foreshore Licensing application. Fingal County Council were consulted on the application and raised no objection to the proposed works.*

- Public Participation was defective including no site notice at landing site
  - MLVC comment: *Public consultation was undertaken to conform to the requirements of Section 19 of the Foreshore Act 1933, and the European Directive 2003/35/EC (known as the Public Participation Directive or “PPD”). No site notice is required under Section 19 of the Foreshore Act 1933. The MLVC understands that the public consultation period was re-advertised due to discrepancies between the display documentation and application information published on the Departments website. The MLVC is satisfied that the public consultation was not misleading or compromised with 25 detailed submissions received, considered and assessed.*
- Impact on Commercial Sea Fisheries
  - MLVC comment: *Significant impacts on sea fishing in the area resulting from the proposed cable laying operation are not considered likely. There is, however, the possibility of interaction with fishing activity in the cable laying corridor during the cable laying operation. It is considered that this will be temporary in nature and of short duration. It is the MLVC’s view that liaison and communication with local fishermen in advance of and during the cable laying operation is a key element in ensuring that interactions with commercial fisheries are minimised. Accordingly, it is recommended that the appointment of a Fisheries Liaison Officer be a specific condition of any licence issued.*
  - MLVC comment: *Any spill or break which could be deemed a pollutant within the area must be immediately notified to both the SFPA and Marine Institute so appropriate action can be taken to maintain the safety of the products harvested from the area.*

## **5. Prescribed Bodies Consultation**

Foreshore Regulations 2011 (S.I. No. 353 of 2011) provides under regulation 3 that when considering a foreshore application, as set out under section 18A (1) of the Act of 1933, the Minister may seek observations from a number of prescribed bodies. For this application, observations were requested from:

- Department of Housing, Local Government and Heritage (Water and Marine Advisor)
- Department of Housing, Local Government and Heritage (Nature Conservation)
- Department of Housing, Local Government and Heritage (Underwater Archaeology)
- Department of Agriculture Food and the Marine (Aquaculture)
- Marine Institute
- Inland Fisheries Ireland
- Sea Fisheries Protection Authority
- Marine Survey Office
- Fingal County Council
- Department of the Environment, Climate and Communications

**Prescribed Bodies Submissions and Assessment:** Observations on the application were received from:

- Department of Housing, Local Government and Heritage (Water and Marine Advisor)
- Department of Housing, Local Government and Heritage (Nature Conservation)
- Department of Housing, Local Government and Heritage (Underwater Archaeology)
- Department of Agriculture Food and the Marine (Aquaculture and Foreshore Management Division)
- Marine Institute
- Inland Fisheries Ireland
- Sea Fisheries Protection Authority
- Marine Survey Office
- Fingal County Council
- Department of Environment, Climate and Communications



There were no objections in principle to the proposed works. A number of the submissions from the Prescribed Bodies raised particular observations and put forward suggested conditions to be included in any licence issued as follows:

- Loughshinny beach and harbour is a high valued amenity in the area. Concerns were raised by the Department of Housing, Local Government and Heritage’s Water and Marine Advisor regarding the potential disturbance to the lifeguarded beach, lifeboat service and harbour.
  - MLVC comment: *These issues are important and relevant. Accordingly, the MLVC recommends that the applicant must ensure that the works are completed in accordance with the information submitted and sets out appropriate licence conditions to minimise disruption to this high value amenity area.*
- Impact on navigation
  - MLVC comment: *The MSO and Dublin Port Company are not opposed to the proposed works, accordingly the MLVC is satisfied that marine navigation matters can be addressed by appropriate licence conditions.*
- Roseate Tern birds breed and nest on Rockabill Island and forage in the waters of the proposed cable route. There is potential for disturbance to these bird species during the months of May to August inclusive.
  - MLVC comment: *It is anticipated that the works will be within 10km of the tern breeding locations for approximately 24 hours. Therefore, terns will only be briefly disturbed for a small area of their total available foraging range for a very short time duration. Breeding terns will likely be habituated to low level shipping activity. The disturbance will be neither prolonged nor repetitive. The limited spatial and temporal extent of the installation and maintenance activities will not lead to a significant increase in the number, location, shape or area of barriers to connectivity for the resident tern species. Accordingly, it was concluded in the Screening for Appropriate Assessment that it can be excluded that the proposed works will have a significant effect on the Roseate Tern.*
- Potential impact on populations of Atlantic Salmon and migratory Sea-Trout.
  - MLVC comment: *This issue is relevant and the applicant must ensure that the works in accordance with the appropriate licence conditions set out to minimise disruption to these species migration patterns.*
- Consideration of Annex II fish species
  - MLVC comment: *The Screening for Appropriate Assessment considered Annex II fish species within the zone of influence of the proposed project and no potential for significant impacts were recorded. It is considered that the effects of the proposed project on additional fish species (other than Annex II species) would be similar to those considered for Annex II species and therefore no effect on fish is considered likely. IFI recommended in the prescribed body consultation that cable laying should not take place in areas within 1 km of the shore in the period mid-May – mid June. The applicant responded that no work would occur during this period. IFI are entitled to request recommendations and such recommendations do not necessarily amount to mitigation in the context of the Habitats Directive. In this case IFI have stated that “IFI concurs with the finding of the AA Screening Report”. As such they are agreeing that the proposed project will not have any impacts on Annex II fish species.*
- The proposed cable route is within the spawning and nursery grounds for 18 species of marine fish. In the nearshore area dredge and net fishing occurs along the coast which is commercially important for lobsters, crabs, whelks, scallops and razor clams. Concern was raised in relation to the threat to cables from dredging and trawling activities. Fishermen deploying static gear will be asked to move pots out of marine cable corridor until the cable installation has passed through. Fishermen with mobile gear will briefly be displaced from a very small area of the available fishing ground.
  - MLVC comment: *Following a review of the application and supporting documentation, the SFPA concluded that the project will have no significant impact on commercial fisheries. There is,*

*however, the possibility of interaction with fishing activity in the cable laying corridor during the short cable laying operation. It is the MLVC's view that liaison and communication with local fishermen in advance of and during the cable laying operation is a key element in ensuring that interactions with commercial fisheries are minimised. Accordingly, the MLVC is satisfied that commercial fisheries matters can be addressed by appropriate licence conditions.*

- *Furthermore, any spill or break which could be deemed a pollutant within the area needs to be immediately notified to both the SFPA and Marine Institute so appropriate action can be taken to maintain the safety of the products harvested in the area.*
- Razor fishery vessels operate in water no deeper than 14m depth with a box dredge which typically digs into the seabed down to approximately 45cm.
  - *MLVC comment: This issue is important and relevant. Accordingly, the MLVC recommends an appropriate licence condition.*
- Department of the Environment, Climate and Communications
  - *MLVC comment: The MLVC accepts the Department of the Environment, Climate and Communications view that the proposed project aligns with Government Policy.*
- Fingal County Council
  - *MLVC comment: Fingal County Council were consulted on the application and raised no objection to the proposed works*

## **6. Environmental Assessments**

**Independent Environmental Consultant (IEC):** The Department has engaged **MERC Consultants Ltd** as IEC to provide assistance with regard to the statutory and non-statutory environmental assessments of this Foreshore Licence application. The IEC has conducted independent assessments of the information provided by the Applicant, having regard to the Habitats Directive, the Birds and Natural Habitats Regulations and the public and prescribed bodies' consultations.

**Environmental Impact Assessment Regulations:** The proposed project does not fall within the classes defined under Annex I or Annex II of the EIA Directive. The Consent Authority (DHLGH) must complete an EIA Pre-Screening Declaration as part of their obligations under the EIA Directive.

**Non-Statutory Environmental Assessment:** As the proposed activity is not of a class that would require the submission of a statutory Environmental Impact Assessment Report, the IEC conducted a Non-Statutory Environmental Analysis. The IEC analysis concludes that there will be no significant direct or indirect impacts by virtue of the scale and scope of the project relative to the receiving environment. Having considered the application by Celtix Connect Ltd, the submissions from the public and prescribed bodies' consultations and the conclusions reached in the IEC's Non-Statutory Environmental Analysis, the MLVC accepts and adopts the IEC's Non-Statutory Environmental Analysis and its conclusion.

**Article 6(3) and 6(4) of Directive (92/43/EEC) (as amended) (Habitats Directive):** Following a review of the proposed project, a **Screening for Appropriate Assessment**, following the guidelines of assessment of plans and projects significantly affecting Natura 2000 sites Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC was conducted by the IEC. The Article 6(3) Screening for Appropriate Assessment concludes that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on the assessed European sites or any other European site, in view of the said sites' conservation objectives. An appropriate assessment is not, therefore, required.

Having considered the application by Celtix Connect Ltd, the submissions from the public and prescribed bodies' consultations and the IEC's Screening for Appropriate Assessment, the MLVC accepts and adopts the IEC's **Screening for Appropriate Assessment** and its conclusion. The Consent Authority (DHLGH) must complete a Screening for Appropriate Assessment - Determination as part of their obligations under the Habitats Directive.

**EU Habitats Directive: Article 12 Assessment:** Following a review of the proposed project, the IEC completed an Article 12 Assessment. This assessment concludes that the proposed project will not give rise to significant impacts on species listed under Annex II or IV of the Habitats Directive.

Having considered the application by Celtix Connect Ltd, the submissions from the public and prescribed bodies' consultations and the IEC's Article 12 Assessment, the MLVC accepts and adopts the Article 12 Assessment and its conclusion.

## 7. Estate Management

All foreshore is presumed state owned unless proven otherwise. In this case there are no known established claims of private ownership of the foreshore at this location and no claims of private ownership were raised during the application and public consultation process therefore, the foreshore the subject of this application is state owned. Accordingly Section 3 of the Foreshore Act applies for the proposed submarine cable. The licence area for the proposed cable is shown in the following maps submitted by the applicant:

- Drawing No. P2228-CORR-006-B "Foreshore Licence Map" dated July 29th 2019, on an Admiralty chart basemap shows the proposed cable route on foreshore
- Drawing No. P2228-CORR-007-B "Foreshore Licence Map Landfall" dated 29th July 2019 on an OS Map shows the proposed nearshore cable route and landfall at Loughshinny

The proposed cable route is 29.8km in length from landfall at Loughshinny in North Dublin to the 12M limit of state owned foreshore. It is proposed to lay the 40mm diameter cable within a cable corridor of 500m offshore, narrowing to a 250m corridor at nearshore/landfall point. The 250m/500m cable corridor has a total area of 1,446Ha, while the ultimate licence area for the cable is proposed as 29.8Ha (lay/maintain/decommission swathe of 10m width times 29.8km in length). While the target location for the cable is the centre of the corridor, the cable corridor affords the cable laying operations flexibility to re-route the cable, within the corridor, as a result of obstructions such as undiscovered wrecks or rock outcrops. On completion of the cable installation a drawing including a route position list detailing the "as laid location" for the submarine cable shall be submitted to the Department of Housing, Local Government and Heritage. The applicant included details on crossings of existing cable infrastructure in their application, however as these crossing are outside the foreshore boundary they are not considered in this report.

The applicant shall use that part of the foreshore, the subject matter of the application for the purposes as outlined in the application and for no other purposes whatsoever. Where relevant the foreshore and adjacent seashore area shall be restored to its original condition on completion of the works to the satisfaction of the Department of Housing, Local Government and Heritage.

## 8. Public Interest

Section 2 and 3 of the 1933 Foreshore Act, as amended, states that a lease or licence of state foreshore may be granted "If, in the opinion of the Minister, it is in the public interest". As foreshore is a finite and valuable national resource and public amenity, it is important that each plan and project is fully assessed to ensure, that if consented to, it is a sustainable and proper use of that finite and valuable resource.

In assisting the Minister to establish if a particular plan or project is in the public interest, the MLVC considered and assessed the following:

- Does the project fall under any Government policy or programme?
  - MLVC comment: *The Telecommunications Policy and Regulation Division (TPRD) and the Chief Technical Office (CTO) at the Department of the Environment, Climate and Communications (DECC), have reviewed the application and confirmed that the proposed project aligns with Government Policy. DECC supports increased capacity between Ireland and the UK and internationally to meet the demand for digital and data services into the future, as well as increased diversity in telecommunications cables routes to ensure network resilience and to*

*safeguard international connectivity in the event of a route failure. DECC notes the proposed Havhingsten cable development, which will span 940km of cable and enable high-capacity connectivity for global carriers, cloud-based networks, data centres, information technology (IT) and the global media. Accordingly, DECC would strongly welcome this planned investment in new infrastructure that will enhance Ireland's international connectivity, and considers it to be in line with this Department's policy position in relation to encouraging high capacity telecommunications connectivity between Ireland and the UK, between Ireland and mainland Europe, and in respect of other global connectivity for Ireland.*

*Furthermore, DECC would be supportive of any projects/ proposals which are broadly in line with the policies laid out in the Telecommunications chapter of the National Marine Planning Framework (NMPF).*

- Does the project fall under any EU Directive or programme?
  - MLVC comment: *There is no published EU directive. However, arising from developments at European level, including an initiative led by the Portuguese presidency - the "European Data-Gateway Platforms Strategy" as part of "Shaping Europe's Digital Future" - there is an increased ambition to further strengthen the international connectivity of the EU including in respect of telecommunications subsea telecommunications connectivity. This ambition stems from a desire to improve the conditions for the EU to develop into a world-class data hub by strengthening the EU's internal and external communication capacity and thereby to protecting its interests, whilst promoting its values. Ireland supports the principle of boosting the telecommunications subsea connectivity of the EU as a whole and also Ireland's telecommunications subsea connectivity, and will be advocating at European and national level for a pro-investment approach to be taken to encourage the development of high capacity telecommunications networks, including subsea telecommunications cabling interconnectivity within the EU, including Ireland, and between the EU and third countries.*
- Is there a public use element to the project?
  - MLVC comment: *The cable is wholly owned by a private entity as is the norm for telecommunication interconnectors. However, as stated above the cable is fully supported by DECC from an interconnectivity perspective and will help support existing employment and future job creation in the wider economy.*
- Does the project impact on existing public access/use and amenity of the foreshore?
  - MLVC comment. *The cable installation works will necessitate short term localised restrictions to the foreshore. These are proportionate and arranged to ensure minimal disruption to existing access arrangements.*
- Does the project impact on any potential future use of foreshore?
  - MLVC comment: *The MLVC is not aware of any planned public infrastructure project in this area of foreshore. Notwithstanding, the MLVC has set appropriate licence conditions to ensure the proposed works does not negatively impact on any future public projects.*
- Does the plan or project contribute to the sustainable economic development of the local area or wider economy?
  - MLVC comment: *While the project does not directly contribute to the local economy, the project does contribute to Ireland's overall economy and therefore indirectly contributes to the economic development of the area.*
- Relevant public and prescribed body submissions
  - MLVC comment: *The submissions are listed, discussed and assessed under Sections 5 and 6 of this report.*

Having considered and assessed the relevant issues above, while taking note that the state owned foreshore is finite resource which must be utilised sustainably, the MLVC is satisfied that the proposed project is in the Public Interest.

### **9. MLVC Considerations**

The following documents were considered and assessed:

- Foreshore Licence Application dated 09/01/2020 and supporting documentation.
- Drawings/Maps as follows:
  - Drawing No P228-CORR-002-B “Installation Corridor Republic of Ireland Route”
  - Drawing No P228-CORR-006-B “Foreshore Licence Map”
  - Drawing No P228-CORR-007-B “Foreshore Licence Map Landfall”
- Applicant’s “Planning Report”, dated December 2019
- Written submissions and recommendations received from Prescribed Bodies
- The applicant’s responses to the Prescribed Bodies submissions.
- The public submissions received from the public consultation.
- The applicant’s responses to the public submissions received.
- Independent Environmental Advisors submissions including
  - Non-Statutory Environmental Analysis Rev .01 dated 09.03.2021
  - Screening for Appropriate Assessment Rev .03 dated 12.03.2021
  - EU Habitats Directive: Article 12 Assessment Rev .02 dated 09.03.2021
- Clarifications requested and received. A number of requests for clarifications were made to the applicant during the decision making process. These docs are included in appendix 1.

### **10. MLVC Conclusions and Recommendation**

Submissions by the public and the prescribed bodies have been considered and responded to by way of attached conditions. Significant appropriate consideration has been given to environmental matters by Independent Environmental Consultants and the MLVC.

The MLVC concludes that, subject to compliance with the specific conditions set out below, the proposed works would will not adversely affect Fishing, Navigation or the Environment and is in the Public Interest. In addition, the Department of the Environment, Climate and Communications as the Department responsible for telecommunication infrastructure policy strongly welcomes this planned investment in new infrastructure that will enhance Ireland’s international connectivity, and considers it to be in line with this Department’s policy position in relation to encouraging high capacity telecommunications connectivity between Ireland and the UK, between Ireland and mainland Europe, and in respect of other global connectivity for Ireland.

Therefore, **the MLVC recommend that the Minister issues** a Foreshore Licence for the installation, operation, maintenance and decommissioning of the subsea fibre optic cable from Loughshinny to the 12NM Limit as set out in the application. Any Foreshore Licence issued shall be subject to the appropriate conditions outlined below.

### **11. Proposed Licence Conditions**

1. The Licensee shall use that part of the foreshore, the subject matter of this licence for the purposes as outlined in the application and for no other purposes whatsoever.
2. The submarine cable shall be laid within the route corridor as outlined on Drawing P2228-CORR-006 entitled “Foreshore Licence map” dated 19<sup>th</sup> July/2019 and Drawing P2228-CORR-007-B “Foreshore Licence Map Landfall” dated 29<sup>th</sup> July 2019.
3. Cable installation and maintenance shall be completed in accordance with the application and supporting documents provided in the application process. Decommissioning procedure, at the time

of decommissioning, shall be in accordance with best practise up to and including full removal, or otherwise agreed with the Department of Housing, Local Government and Heritage in compliance with all legislation and environmental requirements.

4. On completion of the works, the Licensee shall submit to the Department of Housing, Local Government and Heritage a statement from a suitable qualified Chartered Engineer confirming that works are completed in accordance with the documents submitted, together with a drawing and a route position list showing the “as-laid location” for the submarine cable.
5. The Licensee shall provide details of the final “as-laid location” of the cable to the UK Hydrographic Office for inclusion on all appropriate Nautical/Marine charts.
6. During the course of the nearshore/landfall cable lay operations the Licensee shall ensure that existing public access arrangements are maintained, where possible, and all necessary precautions are put in place to protect the public in accordance with relevant Health and Safety Legislation. The public shall be notified in advance, by notice in a locally read newspaper, of any localised restriction on the beach due to cable laying operations.
7. The foreshore and adjacent seashore beach area shall be restored to its natural condition on completion of the cable installation works to the satisfaction of the Department of Housing, Local Government and Heritage.
8. The cable shall be buried to a target depth of at least 2.0m, or hard ground, beneath the beach with the subsea cable buried to a target depth, employing best endeavours with the techniques and equipment specified in the application, of 1.5m below the seabed.
9. No submarine cable laying operations shall be undertaken within 1km of the HWM between May 1<sup>st</sup> and September 30<sup>th</sup>.
10. No post-lay rock dumping is permitted within the state foreshore.
11. The installed cable shall consist of 48 fibre pairs with no electrical current and the cable shall not emit any electric induced magnetic fields or heat to the surrounding sediment or seabed.
12. The Licensee shall ensure all appropriate measures are taken for the duration of the marine works to ensure the safety of navigation is maintained. Any hazard to safe navigation shall be easily identifiable to all mariners operating within or in the vicinity of the license area.
13. The Licensee shall, through consultation and agreement with the Department of Transport, Marine Survey Office and Commissioners of Irish Lights, arrange for the publication of a Marine Notice through the Maritime Safety Policy Division. Navtext and radio broadcast warnings frequency to be agreed in advance with the Irish Coast Guard.
14. The Licensee shall ensure that Dublin Port Company are fully informed of all work plans, including start up and completion dates for cable lay operations.
15. All cable lay, cable ship, cable maintenance and any other vessels to be used in connection with the proposed cable installation shall have appropriate certification from the Marine Survey Office.

16. The Licensee shall notify the Department of Housing, Local Government and Heritage at least 14 days in advance of the commencement of any works on the foreshore. This notification shall include an up to date Programme of Works for the completion of the project.
17. For any potential future repair works, The Department of Housing, Local Government and Heritage must be notified with a notice to mariners issued and fishing interests and relevant local organisations contacted.
18. In the event that Fingal County Council wish to upgrade the landing facilities at Loughshinny harbour and approaches, the Licensee shall, if instructed by the Department of Housing, Local Government and Heritage, work in cooperation with the local authority or their assignees including the localised temporary or permanent relocation of the cable, to an alternative position reasonably specified by the Department in consultation with the Licensee, at the Licensee's expense.
19. The Licensee shall appoint a Fisheries Liaison Officer who will consult with the SFPA, relevant fishermen's groups and charter boat skippers in order that appropriate actions can be taken to avoid or minimise any interactions with ongoing fishing/angling activities in the area during the course of the cable installation operations on the foreshore.
20. The Licensee shall adhere to mandatory water quality environmental control measures for vessels (including shipboard oil emergency plans, discharge of ballast water etc.) under MARPOL Convention and the Sea Pollution Act requirements. Any spill or break which could be deemed a pollutant within the area shall be immediately notified to both the SFPA and Marine Institute so appropriate action can be taken to maintain the safety of the products harvested from the area.
21. An exclusion zone of at least 100 m should be established around the furthest known extent of know wrecks located along the proposed cable route and any potential wreck sites discovered during the proposed marine surveys and development works. A chart showing the location of all exclusion zones in relation to the proposed cable route should be forwarded to the National Monuments Service prior to the cable laying works proceeding.
22. In order to ensure the preservation of potential archaeological sites, wrecks and features the applicant is required to engage the services of a suitability qualified underwater archaeologist to monitor all disturbance works associated (both on the foreshore and on board the cable laying vessels) with the development including beach preparation works and Foreshore works at the landfall, pre-lay grapnel run operations, cable burial operations and post lay inspection and burial works. The archaeological monitoring shall be licensed under the national Monuments Acts 1930-2004.
23. A detailed method statement shall accompany the licence application for archaeological monitoring and shall include details on the proposed works, duration of works, archaeological monitoring team proposed and a find's retrieval strategy.
24. Should archaeological material be found during the course of monitoring, the archaeologist shall have the work in that area suspended, pending a decision as to how best to resolve the archaeology. The applicant shall be prepared to be advised by the Underwater Archaeology Unit (UAU) within the Department of Housing Local Government and Heritage with regard to any necessary action (e.g.

avoidance, preservation in situ or excavation). The Applicants shall facilitate the archaeologist in recording any material found.

25. The Underwater Archaeology Unit within The Department of Housing Local Government and Heritage shall be furnished with a report describing the results of the monitoring.
26. An archaeological dive team should be put on standby during the cable laying operations in the event that archaeological material is discovered during these works. A dive/survey licence as issued by the Minister for Housing Local Government and Heritage should be obtained by the archaeological dive team leader 3 weeks in advance of the works proceeding.
27. The Licensee shall ensure that contractors, and their subcontractors, are made aware of all conditions and project specific requirements and they are required to have briefings on these to ensure all parties are fully aware of these requirements.

END