

(FS007028)

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

ON

**FORESHORE LICENCE APPLICATION FOR:
MAINTENANCE DREDGING AT DROGHEDA PORT, CO LOUTH**

APPLICANT: DROGHEDA PORT COMPANY

Author: 

Marine Licence Vetting Committee

Date: 28/09/21

The Marine Licence Vetting Committee (MLVC)

The Marine Licence Vetting Committee (MLVC) is a non-statutory multi-disciplinary committee which is convened, as required, for the purposes of undertaking a technical assessment and an 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.

The Foreshore Section of the Department of Housing, Local Government and Heritage requested the MLVC to undertake the technical assessment detailed below for Case FS007028.

Introduction

1.0 Project Overview

A foreshore licence has been received from Drogheda Port Company in order to carry out maintenance dredging for a period of 8-years between 10/04/2021 and 10/04/2029, within the commercial estuary of the River Boyne and the seaward approaches and to land ashore a portion of this suitable dredged material for beneficial reuse in the construction industry with the balance of material going to sea disposal. This is in effect a continuation of Maintenance Dredging on follow on to the existing Foreshore Licence (Ref. FS005747) which was granted on 10/04/2013 by the Department of Environmental, Communications and Local Government and which expired on 10/04/2021. Due to processing constraints the application was not completed within the estimated time period and therefore on navigational health and safety grounds an emergency temporary 6 month foreshore licence was granted to the applicant for the period 10/04/2021 to 31/10/2021.

The primary purpose of the proposed maintenance dredging is to maintain a safe navigational water depth at the river entrance and seaward approaches, to maintain a safe and clear navigation channel to the ship berthing facilities, to maintain safe berths and ship swinging areas for ocean going vessels to safely enter, manoeuvre access and egress from Drogheda Port. Drogheda Port Company emphasis that the “beneficial reuse” portion of the dredged material by the construction industry is a by-product of the essential maintenance dredging operation which is encouraged by OSPAR (i.e. DAS must be considered as last resort after all feasible land based disposable options are ruled out) and so this element is not a mining or aggregate winning operation.

2.0 Location

Commercial estuary of the River Boyne and the seaward approaches at Drogheda Port, Drogheda, Co Louth.

3.0 Brief Description of the Proposed Works

The extent of the areas to be dredged are shown on Drawing No PH19002S_D01 ‘Dredge Area – Overview Map’ (Ref. Attachment E). This encompasses the commercial estuary including all berths and ship swing basins, channel and river mouth and seaward approaches taking in a total area of 73Ha.

A summary of minimum dredge depth requirements with this area are presented in the Table on Pg. 4 of the 'Description of Proposed Works' (Ref. Attachment A). It is noted in this regard that the seaward approach channel has to be maintained at -2.2m CD while Tom Roes Point Berth has a depth requirement of -5.5m CD.

The estimate annual quantities of maintenance dredging for period 2021-2029 are the same as those for the current Foreshore Licence (FS005747 2013-2021) and are shown in Table 1 'Estimated Annual Quantities' on Pg. 6 (Ref. Attachment A 'Description of Proposed Works') and are as follows:

Channel from town to sea including all berths and swing basins	30,000m ³ (4,800T)
Entrance and Seaward Approaches	90,000m ³ (14,400T)
Contingency	100,000m ³ (16,000T)
Total	220,000m³ (35,200T)

These quantities are based on the averages over the previous 8-year history. The contingency of 100,000m³ is to cover unforeseen events (including unexpected weather) where accreted material may impede safe navigation or reduce safe navigational water depths. This is becoming more a reality with changing weather patterns and increased severity of certain storm events. The contingency also allows for unexpected weather events at the river mouths and seaward approaches.

A range of dredging plant is suitable for maintenance dredging in the River Boyne. A contractor's selection of preferred plant utilisation will be determined on plant availability, location of dredging and unit rate and may involve trailer suction dredger, backhoe dredger, split barge, grab dredger, bed levelling, or plough.

Maintenance dredging at Drogheda Port is primarily trailer suction dredging which gives minimal release with low sediment in suspension. When occurring typical maintenance dredging is tidal, twice daily usually commencing 3 hours before high water to one hour after and generally of 3 weeks' duration. Campaigns are usually twice yearly depending on weather. The channel at primary dredge site is 100m wide. A typical dredgers beam is 12/14m therefore the extent of and spread of sediment run off is minimal considering the scale of the dredge, dredge timing duration, site location and duration of the run off. Dredge material is contained within an enclosed hold on the vessel while dredging and in transport to the dump site(s) with the usual method of disposal of material via bottom door discharge. Typical trailer suction dredging illustration and specification details are shown in Attachment H.

4.0 **Relevant Statutory Consents and Government Policies/Programmes**

Drogheda port is an active port with regular commercial shipping movements. In order to allow for safe navigation regular dredging is required. This activity has been licenced at regular intervals over a substantial period of time.

5.0 **Public Participation**

Public Consultation: The Foreshore Section of the Department of Housing, Local Government and Heritage conducted the public consultation. The consultation was undertaken to confirm to the requirements of section 19 of the Foreshore Act 1933, as amended, and the European Directive 2003/35/EC (known as the Public Participation Directive or "PPD").

Newspaper advertisement notices were placed in the Irish Independent and the Drogheda Independent on Tuesday July 21st, 2020. The consultation period ran from July 21st to August 19th, 2020; i.e. 30 calendar days from the date of publication.

The application and associated supporting documentation were available to view by members of the public at Drogheda Garda Station and on the Department's website for the duration of the consultation period.

Public Consultation Submissions and Assessment: No submissions were received from members of the public.

6.0 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 Foreshore Act 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 Culture, Heritage and the Gaeltacht (NPWS and UAU)
- Department of Agriculture Food and the Marine (Aquaculture)
- Marine Institute
- Inland Fisheries Ireland
- Sea Fisheries Protection Authority
- Marine Survey Office

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 Culture, Heritage and the Gaeltacht (NPWS and UAU)
- Department of Agriculture Food and the Marine (Aquaculture)
- Marine Institute
- Inland Fisheries Ireland
- Sea Fisheries Protection Authority
- Marine Survey Office

There were no objections in principal to the proposed activity as set out in the application documentation. A number of submissions from the prescribed bodies raised particular observations and put forward suggestions conditions to be included in any licence issued as follows:

- Dredged material shall not be disposed of at Dump Site A2 during the months of July and August in any year for which the Foreshore Licence remains valid.
- Best practice must be followed rigorously during the campaign to ensure the dredging, recovery and dumping at sea operation, as potentially disruptive activities to nearby SACs and Natura 2000 sites, do not adversely impact the local environment, flora and fauna as well as safe navigation and operations.

- No dredging shall take place within 10m of the wreck known as the “Boyne Boat” (53.72443N, 6.28670W) located in close proximity to the Queensborough navigational beacon.
- No dredging shall take place within 10m of the wrecks of the four barges (053 43 09.14N, 006 18 30.22W) located adjacent to the turning area at Harbourville, Stagreenan.
- Inland Fisheries Ireland requested the scheduling of the works outside the March-May migratory period, however, if works are needed then to be undertaken outside of the low water period.
 - Applicant disagrees with March-May exclusion period as it is not possible to predict or schedule the storm events that generate the navigation restrictions due to accretion at the entrance of the channel.

The Applicant does agree to no dredging over the low water period.

The prescribed bodies confirmed no objection to the project and provided commentary which is listed as the Prescribed Bodies Observations on the Department’s website. A number of the submissions from the prescribed bodies raised particular observations and put forward suggested conditions to be included in any consent issued.

MLVC comment: The MLVC reviewed and assessed these submissions. In particular, regarding the suggested March – May exclusion period, it is considered that given the hydrological dynamics of the port that dredging may be required as a result of sediment movement due to a storm event in the interests of health and safety. However, no dredging shall take place during the low water period. In respect of other suggested conditions these will be incorporated into the conditions set out below.

Technical and Environmental Assessment

7.0 Environmental Assessment

Independent Environmental Consultant (IEC): In addition to the Department’s in-house Marine Advisor (environment), The Department engaged Ove Arup & Partners Ireland Ltd as an 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, EIA Directive, 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. However the Consent Authority (DHLGH) must complete an EIA Pre-Screening Declaration as part of their obligations under the EIA Directive, this declaration document is attached.

Article 6(3) of Directive (92/43/EEC) (as amended) (Habitats Directive): Following a review of the proposed project, the IEC assessed and endorsed the applicant’s Appropriate Assessment Screening and Appropriate Assessment which concluded that likely significant effects could

not be ruled out for a number of SACs that lie within the Zone of Influence. Therefore a Stage 2 Appropriate Assessment was required.

Having considered the application by Drogheda Port Company and the IEC's for Appropriate Assessment Screening and Appropriate Assessment Report the MLVC agrees with and accepts the Screening for Appropriate Assessment and its conclusions. It should be noted that this requires the signature of the Minister as part of the decision-makers obligations under the Habitats Directive.

As a result of the outcome of the Screening for Appropriate Assessment, the IEC carried out a review of the applicant's Stage 2 Appropriate Assessment. Mitigation measures for the impacts of pollution were considered. The measures identified are appropriate mitigation to avoid significant adverse effects on the conservation objectives of Natura 2000 sites within the Zone of Influence.

Appropriate Assessment Conclusions and Determination - The IEC concludes that the proposed development, individually or in-combination with other plans or projects, will not adversely affect the integrity of European sites, in view of the said sites' conservation objectives.

Having considered the application by Drogheda Port Company, the submissions from the public and prescribed bodies' consultations and the IEC's Appropriate Assessment Screening and Appropriate Assessment Report dated May 2021, the MLVC accepts and adopts the Marine Advisors (Recommending Officers) Appropriate Assessment Conclusion Statement and Determination. The Consent Authority (DHLGH) must publish this Appropriate Assessment Conclusion Statement and Determination as part of their obligations under the Directive.

Under the Habitats Directive 92/43/EEC those species listed in Annex IV require strict protection wherever they occur. I agree with and adopt the IEC's conclusion on the risk assessment for Annex IV species (referred to as an Article 12 Assessment) that this project will not give rise to significant impacts to Annex IV species. The MLVC accepts and adopts this conclusion.

8.0 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

9.0 Public Interest

Sections 2 and 3 of the 1933 Foreshore Act, as amended, state 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: Yes, Drogheda Port is an active regional port. The continued commercial development of Drogheda port supports regional development.
- Is there a public use element to the project?
MLVC comment: There are no direct public use elements to the project.
- Does the project impact on existing public access/use and amenity of the foreshore?
MLVC comment: The project will have no significant short or long term impact on public access/use and amenity of the foreshore.
- Does the project impact on any potential future use of foreshore?
MLVC comment: The MLVC is not aware of any planned public infrastructure project for this area of foreshore.
- Does the plan or project contribute to the sustainable economic development of the local area or wider economy?
MLVC comment: Yes, Drogheda Port and its continued operation is central to the sustainable development of the local and wider economy.
- 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

Conclusions and Recommendations

9.0 MLVC Considerations

The following documentation was submitted in support of the application.

- Cover letter of 06/12/2019 to Foreshore Section
- Completed Foreshore Licence application form, updated 08/07/2020, including 'supporting notes/documentation'.
- Various attachments as follows:
 - A. Description of Proposed Works
 - B. RPS – "Drogheda Port Company Maintenance Dredging Licence Application Hydraulic Modelling Study", dated 25/05/2019
 - C. Dredging History 2001-2009
 - D. Dredging after Weather Events
 - E. Dredging Extent (MAP)
 - F. Loading Area
 - G. Loading Area Coordinates
 - H. Trailer Suction Dredger Illustration
 - I. Location of Maintenance Dredging Dumpsites (MAP)
 - J. Hydrographic Survey Dumpsite A1
 - K. Hydrographic Survey Dumpsite A2
 - L. Survey Report on Drogue Release at Drogheda Offshore Dumpsite
 - M. EPA and SFPA Correspondence
 - N. Environmental Report for Maintenance Dredging at Drogheda Port (AWN Consulting), dated 06/12/2019

- O. Marine Institute Sampling and Analysis Plan (as submitted to Marine Institute, dated 22/01/2020)
 - P. Sediment Sampling and Analysis Report (Aquafact, dated July 2019)
 - Q. British Admiralty Charts
 - R. Natura Impact Statement (Scott Cawley, dated 22/11/2019)
 - S. Foreshore Licence FS005747 (existing)
 - T. Dumping at Sea Permit No S0015-02 (existing)
 - U. Brady Shipman Martin – Planning Permission Letter
 - V. Longitudinal Section Drawing No PH19002S_D03, dated 30/10/2019
 - W. Certification of Incorporation
 - X. Company’s Memorandum and Articles of Association
 - Y. Correspondence from DEHLG – Archaeology
 - Z. Correspondence from NPWS
 - Z-1 Options for Disposal – excerpts from “Environmental Statement – Options for Disposal of Dredge Material – re previous Capital Dredging Scheme (still relevant)
- Previous studies and modelling to earlier dredging programmes (still considered relevant):
 - Drogheda Port Company 5-year maintenance dredging programme, September 2001 – Kirk McClure and Morton (the studies and modelling output from that application are still considered relevant to the current application).
 - Sediment Plume Analysis extract from 1997 (for the then Capital Dredging project).

10.0 **MLVC Conclusions** and Recommendation

The Port of Drogheda is an active port with regular and ongoing shipping movements. It is a port of national significance. Due to the marine conditions at the approaches to the port, it is in need of continued and regular dredging in order to allow for safe navigation of shipping. This activity has been ongoing for a substantial length of time and has been the subject of continued licensing in accordance with the Foreshore Act 1933, as amended.

There is a clear health and safety requirement to allow for the continued safe navigation to access Drogheda Port, particularly in view of ongoing shipping movements and the tidal and marine conditions on the approaches to the port.

The possible environmental effects of dredging at this location have been extensively considered and concluded that there will be no adverse effects on European sites.

In conclusion, it is considered prudent and reasonable to approve a foreshore licence for the period applied for to allow for the continued necessary dredging at Drogheda port, as outlined in their application in the interests of safe shipping navigation.

11.0 **Proposed Foreshore Consent Conditions**

1. The Licensee shall use that part of the foreshore at Drogheda Port, the subject area of this licence, for the purposes as outlined in the FS7028 application and for no other purpose whatsoever.

2. The Licensee shall notify the Department of Housing, Local Government and Heritage two weeks in advance of the commencement of the works on the foreshore.
3. On completion of the works the Licensee shall ensure that all plant, machinery and equipment is removed and the foreshore reinstated to its original condition.
4. No refuelling of equipment, machinery or plant shall take place on the foreshore during the course of the works.
5. No storage of machinery or plant shall take place on the foreshore during the course of the works.
6. No material shall be stockpiled on the foreshore or areas adjacent to the foreshore during the course of the works.
7. The Licensee shall ensure that appropriate methods of operation are adopted in order to ensure that no spillages of fuel, hydrocarbons, cement or other leakages to the foreshore occur during the works.
8. The Licensee shall be permitted to dredge up to 220,000m³ of material per annum, as set out in the table on pg. 6 of Attachment A – “Description of Proposed Works”.
9. The Licensee shall sell a maximum of 60,000m³ of material per annum obtained only from Extraction Area to any and all third parties to be utilised for construction-related purposes.
10. The Licensee shall maintain a retention of at least 30,000m³ of material per annum within the coastal cells (A1 and A2) in accordance with the recommendations as set out at 4.0 Conclusions in the Report “Maintenance Dredging Licence Application Hydraulic Modelling Study”, dated 25/05/2019.
11. The Licensee shall be prohibited from the disposal of any material at Dumpsite A2 during the months of July and August in any year for which this Licence remains valid.
12. The Licensee shall adopt where relevant, unless otherwise varied or directed by other condition(s) in this Licence, mitigation measure as set out in the submitted Natura Impact Statement (NIS).
13. The Licensee shall furnish the full names and registration numbers of all vessels involved in the operations to the Marine Survey Office, Dublin to ensure compliance with Irish load line and other relevant vessel certification.
14. The Licensee shall arrange the publication of a marine notice through the Maritime Safety Directorate giving a general description of the operations and approximate dates of commencement and completion of the operations thereof.

15. The Licensee shall, where appropriate, consult with the Maritime Safety Directorate, Department of Transport, Leeson Lane, Dublin 2, as it pertains to marine notice, lighting and markings to be carried out.
16. The Licensee shall ensure that all vessels/floating plant shall have appropriate certification from the Marine Survey Office.
17. The Licensee shall advise the UK Hydrographic Office of any dredging activity, in order for the updating of charts.
18. The Licensee shall carry out no dredging within 10m of the following sites:
 - (a) The wreck known as the “Boyne Boat”, located in close proximity to the Queensborough navigational beacon; and
 - (b) The wrecks of the four barges, located adjacent to the turning area at Harbourville, Stagreenan.
19. The Licensee shall forward a chart to the National Monuments Service showing the above exclusions in relation to the dredging area in advance.
20. The Licensee shall keep and maintain at its registered office for inspection by the Licensor, detailed written records of all dredging operations (which records may also be maintained in electronic form), to include but not limited to the following:
 - (a) A total quantity of the material dredged;
 - (b) The total quantity of material brought on-shore;
 - (c) The total quantity of material disposed of at sea;
 - (d) The identities of the parties to whom the Licensee has sold the material.
 - i. The foregoing records to be produced on demand to the Licensor and in any event not later than one week from the Licensor’s request.
21. The Licensee shall, on the anniversary of the Commencement Date and on every subsequent anniversary, supply the Licensor with the following:
 - (a) Up-to-date detailed records of the total quantity of material sold to any and all third parties; and
 - (b) Up-to-date certified annual audited accounts providing full details of the monetary proceeds arising from the sale of the material.

22. The Licensee shall, if required by the Licensor, supply certified invoices (to include Value Added Tax, if so required by the Licensor) concerning the sale of the material within one week of the Licensor's request.
23. The Licensee shall, for the avoidance of doubt, continue with full force and effect even in circumstances where no material has been sold by the Licensee to a third party.
24. The Licensee shall carry out sampling and chemical analysis of the dredged material at least once every 5 years.
25. The Licensee shall not carry out dredging activities during the low water periods between March and May.

APPENDIX 1

Environmental Report and Statutory Declarations

Re: Foreshore Licence Application for the maintenance dredging within the commercial estuary of the River Boyne and disposal of material at sea. FS007028.

Applicant: Drogheda Port Company

I have reviewed the application and all the environmental documents associated with the Foreshore Application FS007028 by Drogheda Port Company for the maintenance dredging within the commercial estuary of the River Boyne and disposal of material at sea. My comments on, and recommendations for, this application are as follows:

Independent Environmental Consultant (IEC): The Department engaged **Ove Arup & Partners Ireland Ltd** as an 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, EIA Directive, 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. However the Consent Authority (DHLGH) must complete an EIA Pre-Screening Declaration as part of their obligations under the EIA Directive, this declaration document is attached.

Article 6(3) of Directive (92/43/EEC) (as amended) (Habitats Directive): Following a review of the proposed project, the IEC assessed and endorsed the applicant's **Appropriate Assessment Screening and Appropriate Assessment** which concluded that likely significant effects could not be ruled out for a number of SACs that lie within the Zone of Influence. Therefore a Stage 2 Appropriate Assessment was required.

Having considered the application by Drogheda Port Company and the IEC's for Appropriate Assessment Screening and Appropriate Assessment Report I agree with and accept the Screening for Appropriate Assessment and its conclusions. Please find attached my signed Recommending Officer's **Screening for Appropriate Assessment Determination**, this requires the signature of the Minister as part of the decision-makers obligations under the Habitats Directive.

As a result of the outcome of the Screening for Appropriate Assessment, the IEC carried out a review of the applicant's **Stage 2 Appropriate Assessment**. Mitigation measures for the impacts of pollution were considered. The measures identified are appropriate mitigation to avoid significant effects on the conservation objectives of Natura 2000 sites within the Zone of Influence.

Appropriate Assessment Conclusions and Determination - The IEC concludes that the proposed development, individually or in-combination with other plans or projects, will not adversely affect the integrity of European sites, in view of the said sites' conservation objectives.

Having considered the application by Drogheda Port Company, the submissions from the public and prescribed bodies' consultations and the IEC's Appropriate Assessment Screening and Appropriate Assessment Report dated May 2021, I agree with and accept the Appropriate Assessment Determination. Please find attached my signed Recommending Officer's **Appropriate Assessment**

Conclusions and Determination, this requires the signature of the Minister as part of the decision-makers obligations under the Habitats Directive.

Under the Habitats Directive 92/43/EEC those **species** listed in **Annex IV** require strict protection wherever they occur. I agree with and adopt the IEC's conclusion that this project will not give rise to significant impacts to Annex IV species.

Request for Further Information

No requests for further information was made during the decision making process.

Conclusion/recommendations:

Having considered the information submitted in support of the application, I have no objection to the granting of a Section 3 Licence subject to the following conditions:

1. Mitigation measures as outlined in Section 6 of the Natura Impact Statement shall be strictly adhered to.

Signature and Date of Recommending Officer:  28th September 2021