

# Submission HLG 00392-21: FS007028 Drogheda Port Company - Maintenance Dredging

TO: Minister of State Burke  
STATUS: Completed  
PURPOSE: For Decision

AUTHOR:  
OWNER:  
REVIEWERS:



DIVISION: Foreshore  
DECISION BY:

## Final comment

Approved by minister, 29/10/2021

## Action required

Ministerial approval is sought to grant a Foreshore Licence to Drogheda Port Company.

## Executive summary

The approval of the Minister is sought to grant a Foreshore Licence to Drogheda Port Company, under section 3 of the Foreshore Act 1933, as amended, up until October 2029, for the purpose of carrying out maintenance dredging at the commercial estuary and seaward approaches to the River Boyne, County Louth.

## Detailed information

### PROJECT OVERVIEW

Drogheda Port Company submitted an application to the Department of Housing, Local Government and Heritage for a foreshore licence under section 3 of the Foreshore Act 1933, as amended, up until October 2029. The purpose of this licence is for carrying out maintenance dredging at the commercial estuary and seaward approaches of the River Boyne, County Louth, 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.

### **Location**

The activity is at the commercial estuary of the River Boyne and the seaward approaches at Drogheda Port, Drogheda, County Louth.

### **Brief Description of Proposed Works**

The extent of the areas to be dredged are shown on Drawing No. PH19002S\_D01 "Dredge Area" (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 requirement with this area are presented in the table on pg. 4 of the "Description of Proposed Works" (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 previous foreshore licence (2013-2021) and are shown in Table 1 "Estimated Annual Quantities" on pg. 6 (Attachment A) and are as follows:

- Channel from town to sea including  
all berths and swing basins 3,000m<sup>3</sup> (4,800T)
- Entrance and seaward approaches 9,000m<sup>3</sup> (14,400T)
- Contingency 100,000m<sup>3</sup> (16,000T)
- **Totals 220,000m<sup>3</sup> (35,200T)**

These quantities are based on the averages over the previous 8-year history (i.e. over period of previous licence). The contingency of 100,000m<sup>3</sup> 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 of a reality with changing weather patterns and increased severity of certain storm events. The contingency also allows for unexpected weather events at the river mouth 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 of the vessel while dredging and in transport to the dumpsites with the usual method of disposal of material via bottom door discharge. Typical Trailer Suction Dredging Illustration and specific details are shown in Attachment H. Further details of the proposed development are outlined in the application form and associated documentation below.

For further information please see the following link to the application documentation submitted by Drogheda Port Company: [Application and Supporting Documentation](#).

The application form submitted by Drogheda Port Company is attached at **Tab 1**. Foreshore licence maps indicating the location of the proposed works are attached at **Tab 2** and **Tab 3**.

- Drawing No. PH19002S\_D01 "Dredge Area"
- Drawing No. PH19002S\_D02 "Offshore Dump Sites"

#### COMPANION CONSENTS

Planning permission for this activity is not required.

The Environmental Protection Agency (EPA) have granted a Dumping at Sea (DAS) permit to Drogheda Port Company on 11 February 2021 (**Tab 4**).

#### PUBLIC CONSULTATION

A public notice concerning the application was published in the Irish Independent and the Drogheda Independent on 21 July 2020, respectively. The consultation period ran from 21 July 2020 to 19 August 2020; 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.

No submissions were received under the consultation period.

#### PRESCRIBED BODIES CONSULTATION

Written submissions on the proposed activity were received from:

- Department of Housing, Local Government and Heritage (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 principle 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 suggested conditions to be included in any

foreshore licence, if granted, to address their specific interests (**Tab 5**).

Detailed responses to the prescribed bodies observations were received from the Applicant and these have been considered as part of the overall assessment of the proposed application by the MLVC. The Applicant's responses to the prescribed bodies observations are attached at **Tab 6**.

## ENVIRONMENTAL ASSESSMENT

### **Independent Environmental Consultant (IEC)**

In addition to the Department's in-house Marine Advisor (environment), the Department engaged the services of Ove Arup & Partners Ireland Limited ("Arup") with Hartley Anderson Limited, 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. The following reports have been submitted:

- Appropriate Assessment Screening and Appropriate Assessment Report, May 2021 (**Tab 7**)
- Environmental Report, March 2021 (**Tab 8**)

### **Screening for Appropriate Assessment (Stage 1)**

As part of the assessment of the foreshore licence application Arup, with Hartley Anderson Ltd, were commissioned as Independent Environment Consultants ("IEC") to conduct a Screening for Appropriate Assessment (stage 1 screening) and if required, an Appropriate Assessment (stage 2), of the likelihood of significant impact on Natura 2000 sites from the application for a foreshore licence.

A number of application documentation submitted by Drogheda Port Company were considered and have informed the Screening for Appropriate Assessment, which included:

- Application Form
- Attachment A - Description of Works
- Attachment B - Hydraulic Modelling
- Attachment C - Dredging History 2001 to 2019
- Attachment D - Dredging after Weather Events
- Attachment E - Dredging Extent Map
- Attachment F - Loading Area
- Attachment G - Loading Area Co-ordinates
- Attachment H - Trailer Suction Dredging Illustration
- Attachment I - Location of Dumpsites
- Attachment J - Hydrographic Survey Dumpsite A1
- Attachment K - Hydrographic Survey Dumpsite A2
- Attachment L - Report on Drogue Release at Offshore Dumpsite
- Attachment M - EPA and SFPA Correspondence
- Attachment N - Environmental Report (AWN 2019)
- Attachment O - Marine Institute Sampling and Analysis Plan
- Attachment P - Sediment Sampling and Analysis Report
- Attachment Q-A - Approaches to the River Boyne
- Attachment Q-B - River Boyne to Drogheda
- Attachment R - Natura Impact Statement (Scott Cawley 2019)
- Attachment S - Previous Dredge Licence
- Attachment T - Dumping at Sea Permit S0015-02
- Attachment U - BSM Letter re Planning
- Attachment V - Longitudinal Section
- Attachment Y - 2003 Correspondence with DEHLG
- Attachment Z-1 - Options for Disposal

### **Prescribed Bodies Consultation**

- Consolidated Prescribed Bodies Observations

- [Applicant's Response to Prescribed Bodies Observations](#)

The Independent Environmental Consultants completed the Screening for Appropriate Assessment report in May 2021, outlined in section 3 of the document entitled "*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. The MLVC agrees with and accepts the Screening for Appropriate Assessment and its conclusions.

This Screening for Appropriate Assessment report, along with all relevant material, was considered by the Department's Marine Advisor (environment) who concurred with the findings of the IECs Screening for Appropriate Assessment and its conclusions. It was recommended that the Minister accepts and adopts the Screening for Appropriate Assessment report and reaches the following Determination:

**Appropriate Assessment Screening (Stage 1) - Determination:** Minister of State Burke, upon a review of all materials of the application and the recommendation made by the Departments Recommending Officer (environment), accepted and adopted the IEC Screening for Appropriate Assessment and its conclusions and determined that an Appropriate Assessment was required. On 19 October 2021, the Minister determined the following (related submission link [HLG 00376-21](#)):

*In accordance with Article 6(3) of the EU Habitats Directive (Directive 92/43/EEC) and Regulation 42(1) of the European Communities (Birds and Natural Habitats) Regulations 2011 as amended ('The Regulations'), the Department of Housing, Local Government and Heritage has undertaken Screening for Appropriate Assessment (AA) to assess, in view of best scientific knowledge and the conservation objectives of relevant European sites, if the proposed project for the maintenance dredging within the commercial estuary of the River Boyne and the disposal of the material at sea, individually or in combination with other plans or projects would be likely to have a significant effect(s) on a European site(s).*

*In accordance with Regulation 42(6) of the European Communities (Birds and Natural Habitats) Regulations 2011 SI 477 as amended, the Department of Housing, Local Government and Heritage has made a determination following screening that an Appropriate Assessment is required as the project individually or in combination with other plans or projects is likely to have a significant effect on any European sites. The risk of likely significant effects on European sites cannot be excluded on the basis of objective evidence. This determination is based on the location, scale, extent and duration of the purposed development, including temporary works, and has not taken account of measures intended to avoid or reduce significant effects on European sites.*

In addition to the Screening for Appropriate Assessment, and with respect to the Habitats Directive 92/43/EEC, a risk assessment of the effects to species listed in Annex IV which occurs within the project site is described in Section 5 (this is referred to as "Article 12 Conclusion" by the IEC) in the "*Appropriate Assessment Screening and Appropriate Assessment*" report (**Tab 7**). It was concluded that this project will not give rise to significant impacts to Annex IV species. The MLVC accepts and adopts this conclusion.

The risk assessment of effects to species listed in Annex IV is separate to and does not form part of the Appropriate Assessment Screening report which has examined the Natura 2000 sites and their qualifying interests.

### **Appropriate Assessment (Stage 2)**

As a result of the outcome of the Screening for Appropriate Assessment, Arup, with Hartley Anderson Limited, completed the Appropriate Assessment in May 2021, their conclusions are outlined in section 4 of the "*Appropriate Assessment Screening and Appropriate Assessment*" report. It found that the measures identified are appropriate mitigation to avoid significant effects on the conservation objectives of Natura 2000 sites within the Zone of Influence.

Therefore, it was concluded 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. The MLVC agrees with and accepts the Appropriate Assessment and its conclusions.

This Appropriate Assessment report, along with all relevant material, was considered by the Department's Marine Advisor (environment) and a recommendation has been made that the Minister accepts and adopts the Appropriate Assessment report and reaches the following Appropriate Assessment Determination:

**Appropriate Assessment (Stage 2) - Determination:** Minister of State Burke, upon a review of all materials of the application and the recommendation made by the Department's Recommending Officer (environment), accepted and adopted the IEC Appropriate Assessment and its conclusions. On 21 October 2021, the Minister determined the following (related submission link [HLG 00384-21](#)):

*In accordance with Regulation 42(6) of the European Communities (Birds and Natural Habitats) Regulations 2011 SI 477 as*

amended, the Department of Housing, Local Government and Heritage made a determination following screening that an Appropriate Assessment was required as the project individually or in-combination with other plans or projects is likely to have a significant effect on any European sites.

The Appropriate Assessment identified accidental pollution as a result of the proposed works as the only risk to Natura 2000 sites within the Zone of Influence. Mitigation includes the Drogheda Port's Pollution and Response Plan, as per the International Convention on Oil Pollution Preparedness, Response and Co-operation 1990 Harbour Authorities. Dredging vessels also have their own approved Pollution Plans with retained pollution response equipment on board. An emergency spill kit and oil spill containment equipment will be held on board by dredge operators to be able to deal with potential oil spills during dredging operation. An Environmental Liabilities Risk Assessment (2015) has been prepared by Aquafact International Services Ltd and is in-use for dredging and disposal operations at Drogheda Port.

The implementation of such measures is considered appropriate mitigation to avoid significant effects on the Natura 2000 sites identified within the Appropriate Assessment process.

It is therefore concluded that the proposed project, either alone 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.

The MLVC accepts and adopts IECs Screening for Appropriate Assessment, Appropriate Assessment report and its conclusions and the recommendations of the Marine Advisor (environment) including statutory declarations. A copy of all the material which was considered and informed the Appropriate Assessment report prepared by the IEC is linked above.

### **Environmental Impact Assessment (EIA) Regulations**

The proposed project does not fall within the class defined under Annex I or Annex II of the EIA Directive. The Consent Authority (DHLGH), Marine Advisor (environment), completed an EIA Pre-Screening Declaration as part of their obligations under the EIA Directive report attached. The MLVC agrees with this recommendation and it has been considered as part of the assessment and these findings were also adopted. The EIA Pre-Screening document is attached at **Tab 9**.

### MARINE LICENCE VETTING COMMITTEE (MLVC)

#### **MLVC Consideration**

The Marine Licence Vetting Committee Report is attached at **Tab 10**. The following documents were considered and assessed:

- Letter to Department - 06 December 2019
- Application Form
- Attachment A - Description of Works
- Attachment B - Hydraulic Modelling
- Attachment C - Dredging History 2001 to 2019
- Attachment D - Dredging after Weather Events
- Attachment E - Dredging Extent Map
- Attachment F - Loading Area
- Attachment G - Loading Area Co-ordinates
- Attachment H - Trailer Suction Dredging Illustration
- Attachment I - Location of Dumpsites
- Attachment J - Hydrographic Survey Dumpsite A1
- Attachment K - Hydrographic Survey Dumpsite A2
- Attachment L - Report on Drogue Release at Offshore Dumpsite
- Attachment M - EPA and SFPA Correspondence
- Attachment N - Environmental Report (AWN 2019)
- Attachment O - Marine Institute Sampling and Analysis Plan
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- Attachment Q-A - Approaches to the River Boyne
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- Attachment T - Dumping at Sea Permit S0015-02
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- Attachment V - Longitudinal Section

- [Attachment Y - 2003 Correspondence with DEHLG](#)
- [Attachment Z-1 - Options for Disposal](#)

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).
- [Prescribed Bodies Observations](#)
- [Applicant's Responses to Prescribed Bodies Observations](#)
- Independent Environmental Consultants submissions, including:
  - [Environmental Appraisal Report, dated March 2021](#)
  - [Appropriate Assessment Screening and Appropriate Assessment Report, dated May 2021](#)
- The Department's Marine Advisor's (environment) Report with Statutory Declaration, dated 28 September 2021. This report is included as Appendix 1 of the MLVC report (**Tab 10**).

The MLVC reviewed both technical and scientific aspects of the documentation submitted by Drogheda Port Company. The MLVC is satisfied that the purpose and objective of the proposed maintenance dredging of the Boyne Estuary and seaward approaches are adequately explained.

In addition, the MLVC is satisfied that the environmental information provided is sufficient to allow an assessment of the environmental effects of the proposed maintenance dredging to be carried out and to make a recommendation.

In its consideration of the case, the MLVC has responded where issues were raised during the public and prescribed bodies consultations by way of site specific conditions. Significant appropriate consideration has been given to environmental matters by Independent Environmental Consultants and the MLVC.

The MLVC concluded that Drogheda Port 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.

The MLVC concluded that 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.

Therefore, the MLVC recommends that the Minister issues a foreshore licence for maintenance dredging works as set out in the application. Any foreshore licence issued shall be subject to the appropriate conditions attached at **Tab 11**.

## FINANCIAL CONSIDERATIONS

### **Licence Fee:**

Drogheda Port Company has accepted a foreshore licence fee, which is a standard maintenance dredging licence fee, of [REDACTED]

### **Beneficial Reuse Charge:**

Drogheda Port Company has accepted, without prejudice, to the beneficial reuse charge of [REDACTED] in principle. However, Drogheda Port Company have stated their intention to seek further engagement with the Valuation Office regarding their assessment of the charge value.

This application is deemed to be in the public interest and it is recommended that the proposed beneficial reuse charge should be included in the licence proper.

Following on from further engagement with the Department, Valuation Office and Drogheda Port Company, and upon receipt of legal advice received, an addendum to the licence on this element can be provided for separately, should it be required.

#### AGREEMENT OF APPLICANT

Drogheda Port Company has agreed to the specific conditions which would be attached to the licence, if granted.

#### RECOMMENDATION

Having regard to:

- The application for a Foreshore Licence together with accompanying documents;
- The submissions received from prescribed bodies (statutory consultees);
- The public consultation undertaken;
- The Applicant's responses to the prescribed bodies observations;
- The IEC's Appropriate Assessment Screening and Appropriate Assessment Report;
- The IEC's Environmental Appraisal Report;
- The EIA Pre-Screening performed;
- The Department's Marine Advisor's (environment) report with Statutory Declarations;
- The Screening for Appropriate Assessment and Appropriate Assessment Determinations;
- 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 development on the foreshore would not have a significant negative impact on the marine environment and would not adversely affect the integrity of the Natura 2000 sites and the proposal is in the public interest.

It is recommended that the 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, Drogheda Port Company will be informed accordingly, an appropriate licence will issue for execution 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

**HLG 00376-21:** FS007028 Drogheda Port Company – Screening for Appropriate Assessment Determination

**HLG 00384-21:** FS007028 Drogheda Port Company - Appropriate Assessment Determination and Conclusion Statement

#### User details

INVOLVED: 

READ RECEIPT: 

