



NOTICE OF DETERMINATION

The Minister of State, Department of Housing, Local Government and Heritage with special responsibility for Planning and Local Government (“the Minister”) hereby gives notice that he has determined an application dated 11 March 2022 for a licence under Section 3(3) of the Foreshore Act, 1933 (as amended) made by Donegal County Council (“the Applicant”) in respect of temporary dredging and beach nourishment at Magheraroarty Pier, Co Donegal (Application Reference Number FS007526).

DETERMINATION

The Minister has determined pursuant to the provisions of the Foreshore Act, 1933 (as amended) to grant a Foreshore Licence to the Applicant in respect of the development described in the application, subject to the conditions set out in the Foreshore Licence.

MAIN REASONS AND CONSIDERATIONS

The Minister has had regard to the following matters in determining the application for a Foreshore Licence:

- the application for the Foreshore Licence together with accompanying materials;
- the submissions received from prescribed bodies and the applicant’s responses;
- the submissions received during the public consultation and the applicant’s responses
- the consent conditions to be attached to the Foreshore Licence, if granted; and
- the nature of the proposal and its objective
- the screening for appropriate assessment of the proposed developments under domestic and EU law, including the Birds Directive and the Habitats Directive, and its conclusions and recommendations in this regard;
- the screening for environmental impact assessment of the proposed works domestic and EU law, including the EIA Directive, and its conclusions and recommendations in this regard;
- the environmental assessment of the proposed works by the Marine Licence Vetting Committee (“MLVC”) under domestic and EU law, including the EIA, Birds and Habitats Directives, and its conclusions and recommendations in this regard;
- the advice of the Marine Environment and Foreshore Section of the Department of Housing, Local Government and Heritage.

Having had regard to the foregoing, and in particular having regard to the consent conditions attached to the Foreshore consent, and having agreed with the recommendation of the MLVC, the Minister is satisfied (i) that the proposed development on the foreshore would not have significant impacts on human health and safety, (ii) that the proposed development on the foreshore would not have a significant impact on the marine environment or the adjacent European Sites; and (iii) that it is in the public interest to grant the Foreshore consent having regard to the nature of the proposal.

The following information is available on the website of Department of Housing, Local Government and Heritage at:

<https://www.gov.ie/en/foreshore-notice/6da98-fs007084-application-for-foreshore-licence-for-dredging-and-beach-nourishment-at-magheraroarty-pier-co-donegal/>

- (i) Notice of Determination;
- (ii) MLVC Report and Appendix thereto;

- (iii) Information on the public participation process, including copies of all submissions received and the applicant's responses to those submissions;
- (iv) Submissions made by prescribed bodies and the applicant's responses to those submissions;
- (v) Application for a Foreshore Licence together with supporting materials.

This material may also be inspected free of charge at the following office of the Department:

Foreshore Section
Department of Housing, Local Government and Heritage
Newtown Road
Wexford

Tel: 1890 20 20 21

Email: foreshore@housing.gov.ie

REVIEW PROCEDURE

A review procedure is available before the High Court whereby the substantive or procedural legality of the Minister's determination may be challenged. The review procedure is governed by Order 84 of the Rules of the Superior Courts, 1986 (S.I. 15 of 1986, as amended by S.I. 691 of 2011). A person wishing to avail of the review procedure must first file (i) a statement of grounds; and (ii) a verifying affidavit, in the Central Office of the High Court. It is then necessary to make an application for leave to a judge of the High Court.

An application for leave to apply for judicial review shall be made within three months from the date when grounds for the application first arose under Section 21(1) of the Order 84 of the Rules of the Superior Courts as amended by S.I No 691 of 2011. The time-limit for such a review commences from the Date of Publication of this Notice of Determination. Practical information on the review mechanism can be obtained from the Citizens Information's website at citizensinformation.ie.

Section 50B of the Planning and Development Act, 2000 as amended applies inter alia to Judicial Review Proceedings. The matter of costs is addressed under Subsections (2),(2A),(3) &(4). Notwithstanding anything contained in Order 99 of the Rules of the Superior Courts (S.I. 15 of 1986) and subject to subsections (2A), (3) &(4), in proceedings to which this section applies, each party to the proceedings (including any notice party) shall bear its own costs. The full text of Section 50B is available at:

<http://www.irishstatutebook.ie/2010/en/act/pub/0030/sec0033.html#sec33>

Part 2 Environment (Miscellaneous Provisions) Act 2011, Costs of Certain Proceedings to be Borne by Each Party in Certain Circumstances:

<https://www.irishstatutebook.ie/eli/2011/act/20/section/3/enacted/en/html#part2>