

Submission HLG 00297-22: FS007037 Cork County Council - Screening for Appropriate Assessment Determination

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

AUTHOR:
OWNER:
REVIEWERS:



DIVISION: Foreshore
DECISION BY:

Final comment

Signed by minister, 23/06/2022

Action required

Ministerial determination on the Screening for Appropriate Assessment and signing of the Screening for Appropriate Assessment Determination statement.

Executive summary

Cork County Council, under section 3 of the Foreshore Act 1933, has submitted a foreshore licence application for the purposes of carrying out maintenance dredging at Ballycotton Harbour, Ballycotton, Co. Cork.

As part of the assessment of this application the Minister is required to make a Screening for Appropriate Assessment determination in accordance with Article 6(3) of the EU Habitats Directive and Regulation 42(1) of the European Communities (Birds and Natural Habitats) Regulations 2011, as amended.

Having considered all relevant materials, a recommendation has been made that the Minister adopts the Screening for Appropriate Assessment report and reaches the following determination:

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 proposed development, including temporary works, and has not taken account of measures intended to avoid or reduce significant effects on European sites.

Detailed information

Background

Cork County Council submitted a foreshore licence application to the Department of Housing, Local Government and Heritage for a Foreshore Licence under section 3 of the Foreshore Act 1933, as amended, for 5 years. The purpose of this licence is for carrying out maintenance dredging at Ballycotton Harbour, Ballycotton, County Cork.

Ballycotton Harbour is located approximately 40km (by road) east of Cork City. The harbour is utilised on a regular basis by a number of commercial fishing vessels and is also the base for a RNLI Trent Class All-weather Lifeboat. The harbour is also the landing point for seasonal tours of the adjacent Ballycotton Lighthouse and maintenance access for the Commissioner of Irish Lights. The harbour is heavily silted which is restricting the usage of the harbour at low tides. There is regular grounding of fishing vessels and the pontoon, and the all-weather RNLI Lifeboat is unable to launch, or access the pier and pontoon for casualty removal, at a number of low tides.

The works will comprise:

- Dredging of the area to bedrock or -3.5m below Chart Datum, which is shallowest.

- Dredging remainder of the harbour to bedrock or -2.5m below Chart Datum, which is shallowest.
- Disposal of suitable dredged materials at the previously used dumping site to the south of Power Head, 16km southwest of Ballycotton.
- Disposal of contaminated dredged material to a licensed landfill facility.

Public Consultation

A public notice concerning the application was published in the Irish Examiner and the Southern Star on 26th July 2021, respectively. The consultation period ran from **26th July 2021 to 24th August 2021**; 30 calendar days from the date of publication.

The application and associated supporting documentation were available to view by members of the public at:

- Midleton Garda Station
- Cork County Council Planning Department
- Midleton Library, and
- The Department's website

No submissions were received under the consultation period.

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 received from:

- Department of Housing, Local Government and Heritage – Marine Advisor
- Department of Housing, Local Government and Heritage – Underwater Archaeology (Response 1) and National Parks and Wildlife Service
- Department of Housing, Local Government and Heritage – Underwater Archaeology (Response 2)
- Department of Agriculture, Food and the Marine
- Marine Institute
- Marine Survey Office
- Inland Fisheries Ireland
- Sea Fisheries Protection Authority

Observations were forwarded to the applicant **(Tab 8)** and there were no objections in principle to the proposed works. The applicant provided a response to the Prescribed Bodies Observations **(Tab 9)**.

Environmental Assessment

As part of the assessment of the foreshore licence application Arup Consultants, with Hartley Anderson Ltd, ("Arup") were commissioned as Independent Environmental 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 documents submitted by Cork County Council informed the Screening for Appropriate Assessment report, including:

- Application Form **(Tab 5)**
- Foreshore Licence Map 1 **(Tab 6)**
- Foreshore Licence Map 2 **(Tab 7)**
- Natura Impact Statement
- Marine Mammal Risk Assessment
- Consolidated Prescribed Bodies Observations **(Tab 8)**
- Consolidated Applicant Responses to Prescribed Bodies Observations **(Tab 9)**

These documents are also available on the Department's website at the following link:

Screening for Appropriate Assessment

The Independent Environmental Consultants completed the Screening for Appropriate Assessment report in March 2022, 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 is required**. The Department's Marine Advisor (Environment) agrees with and accepts the Screening for Appropriate Assessment and its conclusions.

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

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 dredging of Ballycotton Harbour, Ballycotton, Co. Cork, 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 proposed development, including temporary works, and has not taken account of measures intended to avoid or reduce significant effects on European sites.

Risk Assessment of Annex IV Species

The IEC conducted an independent assessment of the information provided by the Applicant to carry out a Risk Assessment of Annex IV species. With implementation of mitigation measures, it is very unlikely that there will be negative residual impacts from the proposed works on Annex IV species in the area. It is also very unlikely that any animals will be injured or killed as a result of the proposed works.

A copy of material, which informed the Screening for Appropriate Assessment prepared by the Independent Environmental Consultants, is linked above. The Screening for Appropriate Assessment prepared by Hartley Anderson Limited on behalf of Arup (**Tab 1**) and Risk Assessment of Annex IV Species (**Tab 2**); the adoption of the report is recommended.

The Marine Advisor (Environment) report is attached at **Tab 3**, recommending adoption.

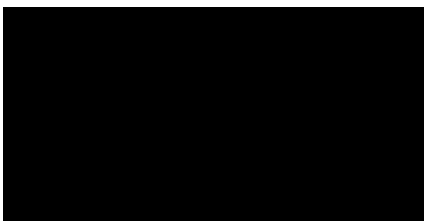
The Screening for Appropriate Assessment Determination, prepared by the Department's Recommending Officer, **for Ministerial determination and signature**, is attached at **Tab 4**.

Related submissions

There are no related submissions.

User details

INVOLVED



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