



**APPROPRIATE ASSESSMENT (AA) SCREENING DECISION AND ANNEX IV SPECIES ASSESSMENT  
KINSALE HEAD AND BALLYCOTTON GAS FIELDS**

***I. Project Proposal***

By application dated 13<sup>TH</sup> October 2021, to the Department of the Environment, Climate and Communications (DECC), PSE Kinsale Energy Limited hereafter referred to as (**PSE**) has sought Ministerial approval for:-

- An addendum to Plan of Development in accordance with Sections 13 and 13A of the Petroleum and Other Minerals Development Act 1960, as amended, to decommission certain facilities; and
- Consent under Section 5(2) of the Continental Shelf Act 1968, as amended, to alter certain facilities in a designated area

The Kinsale Head gas fields and facilities form part of the greater Kinsale Area gas fields and facilities. PSE is completing the decommissioning of the Kinsale Area gas fields and facilities, which have come to the end of their productive life, having been in production since 1978. The Kinsale Area gas fields and facilities are made up of (1) the Kinsale Head gas fields and facilities and (2) the Seven Heads gas field and facilities. Together, the decommissioning of the entirety of the Kinsale Area gas fields and facilities is collectively referred to as the Kinsale Area Decommissioning Project (KADP). The Kinsale Area gas fields and facilities are located in the Celtic Sea, between approximately 40 and 70km off the County Cork coast and onshore at Inch, Co. Cork.

There have been 2 previous consents issued on the KADP and this current consent No. 3 covers the decommissioning of certain facilities in the Kinsale Head and Ballycotton gas fields, located within the Kinsale Head Petroleum Lease area in offshore petroleum licensing Blocks 48/20, 48/25, 49/16 and 49/21. One of the consents referenced here also included activity in the Seven Heads area, and a further application is being made by a related company to the applicant (PSE Seven Heads Limited) in relation to decommissioning in Seven Heads gas field. The activities covered by this application are:

- To leave *in-situ* all infield pipelines and umbilicals associated with the Kinsale Head gas fields
- To leave *in-situ* the 24" export pipeline (offshore and onshore section) and to fill the onshore section with grout
- To use engineering materials (Rock Placement) to protect the pipelines and umbilicals in situ

Consent Application No. 3 has been submitted on the basis that none of the pipelines or umbilicals will be re-used.

This application covers only the facilities noted above and detailed in Decommissioning Plan - Kinsale Head Petroleum Lease - Consent Application No.3. Consent Application No. 1 covered the removal of topsides structures, subsea production structures, wellheads, spool pieces, umbilical jumpers and all associated protection materials. Consent Application No. 2 covered the removal of the Kinsale Alpha and Bravo jackets. This application covers the remaining facilities to be decommissioned

## **II. DECC Assessment Process**

The Environment Assessment Unit (**EAU**), a functionally separate and independent unit of DECC is responsible for carrying out environmental screening and any environmental assessments determined as being required following screening, in accordance with the requirements set out in Directive 2011/92/EU, as amended by Directive 2014/52/EU (**EIA Directive**) and Directive 92/43/EEC, as amended, (**Habitats Directive**), in the context of applications within an existing petroleum lease (such as the present **PSE** application) that seek Ministerial approval to conduct a programme of works in relation to an existing offshore gas pipeline and associated infrastructure.

EIA – In Ireland, environmental assessments of such applications are carried out by the EAU in accordance with the EIA Directive. Where the activities the subject of the application fall outside the projects listed in Annex I of the EIA Directive, an EIA Screening Assessment and Determination is carried out by the EAU in the first instance, as to whether the activities the subject of the application would, or would not, be likely to have significant effects on the environment by virtue, *inter alia*, of their nature size and location. Where it has been determined, following screening, that the activities the subject of the application, are likely to have significant effects on the environment, an environmental impact assessment is required.

AA / Habitats Assessments – The European Communities (Birds and Natural Habitats) Regulations 2011 – 15 (S.I. 477 of 2011, as amended) (**Birds and Natural Habitats Regulations**) give effect to the Habitats Directive as a matter of Irish law and require, inter alia, that a public authority carry out screening for Appropriate Assessment of a plan or project for which an application for consent is received. Where a public authority determines, following screening, that an Appropriate Assessment is required, the Birds and Natural Habitats Regulations require that the assessment carried out by a public authority include a determination pursuant to Article 6(3) of the Habitats Directive as to whether or not the plan or project would adversely affect the integrity of a European site. The EAU is responsible for carrying out Stage 1 AA screening assessments, and any Stage 2 Appropriate Assessment determined as being required following screening, in accordance with the Birds and Natural Habitats Regulations, in respect of applications, such as this one, to carry out works including decommissioning in relation to an existing offshore gas pipeline and associated infrastructure.

On receipt of an application, the Geoscience Regulation Office (**GSRO**) – previously the Petroleum Affairs Division – in DECC places the application on the DECC website for public consultation and refers the application, and any associated responses to the consultation, to the EAU for the purposes of carrying out its environmental assessments.

On the completion of all environmental assessments by the EAU and after incorporating any suggested conditions which may be recommended by the EAU, the application will then be evaluated by the GSRO in the Department who will make a recommendation to the Minister regarding whether consent should be given for the activities applied for.

### **III. Independent Expert Advisors**

DECC has further engaged Ramboll UK Limited (herein referred to as **Ramboll**) as independent expert environmental advisors to provide advice to the EAU with regard to the carrying out of statutory environmental assessments of applications for permission to carry out works within an existing petroleum licence, such as the present application by PSE.

Ramboll has conducted an independent assessment of the information provided by the PSE, having regard to the Habitats Directive, the Birds Directive, the Birds and Natural Habitats Regulations and relevant jurisprudence of the EU and Irish courts. The expert report prepared by Ramboll, having carried out an external review of the Appropriate Assessment Screening and Article 12 Assessment Reports, carried out by Hartley Anderson/ARUP on behalf of the PSE, is shown at Appendix 1.

### **IV. AA Screening: Legislative Background**

The Appropriate Assessment process (AA) is an assessment of the potential for adverse or negative effects of a plan or project, in combination with other plans or projects, on the conservation objectives of a European Site. The focus of AA is targeted specifically on Natura 2000 sites and their conservation objectives.

Article 6(3) and 6(4) of the **Habitats Directive** place strict legal obligations on Member States regulating the conditions under which development that has the potential to impact on European Sites can be implemented and requiring that an Appropriate Assessment be carried out of plans or projects, not directly connected with or necessary to the management of a site as a European Site, but which are likely to have a significant effect thereon, either individually or in combination with other plans or projects. An AA Screening assessment is carried out to determine whether a plan or project is likely to have a significant effect on a European Site.

- Article 6.3 states that: *“Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.”*
- Article 6.4 states: *“if, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.*

*Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest.”*

In giving effect to the above as a matter of Irish law, the European Communities (Birds and Natural Habitats) Regulations 2011-21 (S.I. 477 of 2011, as amended) (**Birds and Natural Habitats Regulations**) provide as follows in relation to the requirement to carry out AA Screening:-

Regulation 42(1) of the Birds and Natural Habitats Regulations states that: “A screening for *Appropriate Assessment of a plan or project for which an application for consent is received, or which a public authority wishes to undertake or adopt, and which is not directly connected with or necessary to the management of the site as a European Site, shall be carried out by the public authority to assess, in view of best scientific knowledge and in view of the conservation objectives of the site, if that plan or project, individually or in combination with other plans or projects is likely to have a significant effect on the European site*”.

Regulation 42(2) provides that: “A public authority shall carry out screening for *Appropriate Assessment under paragraph (1) before consent for a plan or project is given, or a decision to undertake or adopt a plan or project is taken*”.

The Birds and Natural Habitats Regulations further provide as follows at Regulation 42(6) and 42(7):-

6. *The public authority shall determine that an Appropriate Assessment of a plan or project is required where the plan or project is not directly connected with or necessary to the management of the site as a European Site and if it cannot be excluded, on the basis of objective scientific information following screening under this Regulation, that the plan or project, individually or in combination with other plans or projects, will have a significant effect on a European site.*

7. *The public authority shall determine that an Appropriate Assessment of a plan or project is not required where the plan or project is not directly connected with or necessary to the management of the site as a European Site and if it can be excluded on the basis of objective scientific information following screening under this Regulation, that the plan or project, individually or in combination with other plans or projects, will have a significant effect on a European site.’*

**V. PSE Application: Assessment Process**

The following documents were submitted with the application (along with cover letters):-

- (i) Kinsale Area Decommissioning Project – Report for the purposes of Appropriate Assessment Screening and Article 12 Assessment Screening. 14 June 2018. Ref 253993-00-REP-14;
- (ii) Kinsale Area Decommissioning Project – Appropriate Assessment Screening and Article 12 Screening Addendum. 8 August 2019. Ref 253993-00-REP-23;
- (iii) Kinsale Area Decommissioning Project – Appropriate Assessment Screening and Article 12 Screening Addendum No. 2. 30 September, 2021. Ref 253993-00-REP-26;
- (iv) Kinsale area Decommissioning Project - Addendum to Appropriate Assessment Screening and Article 12 Assessment. January 2022.
- (v) Addendum to Appropriate Assessment Screening and Article 12 Assessment. January 2022 (reissued 22 April, 2022)
- (vi) Kinsale Area Decommissioning Project - Pre-survey Fisheries Assessment Report. January 2022
- (vii) Kinsale Area Decommissioning Project – Decommissioning Plan. Seven Heads Lease . Dated 30 September 2021. Ref 253993-00-REP-29.

## **Vi. Notified Bodies**

Notification of the PSE application was issued to the following organisations:

- National Parks and Wildlife Service, (Department of Housing, Local Government and Heritage);
- Cork County Council;
- Office of Public Works;
- Minister for Agriculture, Food and the Marine;
- Health and Safety Authority;
- Bord Iascaigh Mhara,
- The Environmental Pillar;
- The Heritage Council;
- An Taisce;
- Minister for Tourism, Culture, Arts, Gaeltacht, Sports and Media);
- Minister for Rural and Community Development;
- Minister for Transport;
- Sea Fisheries Protection Authority;
- The Irish Whale and Dolphin Group
- Marine Institute
- Environmental Protection Agency

Four responses to the notification were received from (1) the Sea Fisheries Protection Authority dated 3<sup>rd</sup> November, 2021, (2) Department of Transport - GCU - Reform Communications and Emergency Planning Division dated 17<sup>th</sup> November, 2021 who informed us that they had no observations, (3) the Irish Whale and Dolphin Group dated 17<sup>th</sup> November, 2021, and (4) the Department of Housing, Local Government and Heritage dated 31<sup>st</sup> December, 2021.

The notified bodies' responses received (including the project specific observations) are shown in the Ramboll Report at Appendix 1 (Section 2.4.1).

## **Vii. Initial Public Consultation**

The PSE application and accompanying documents were published on the Department website on 14<sup>th</sup> October 2021 and the public invited to make submissions thereon during a 30 day public consultation period ending on 17<sup>th</sup> November 2021. Four responses were received from the public in response to the public consultation on the PSE application as follows:-

1. Response from Simply Blue Energy dated 17<sup>th</sup> November, 2021
2. Response from dCarbonX Ireland Ltd dated 15<sup>th</sup> November, 2021
3. Response from SLR Consulting Ireland on behalf of Mag Mell Energy Ireland Ltd dated 11<sup>th</sup> November, 2021
4. Response from SLR Consulting Ireland on behalf of Predator Oil and Gas Holdings Plc dated 11<sup>th</sup> November, 2021

Following a review of their application PSE submitted additional information which was published on the Department website. The public were invited to make further submissions during the period 31<sup>st</sup> January 2022 to the 7<sup>th</sup> March, 2022. One response was received as follows:-

1. Response from Not Here Not Anywhere dated 7<sup>th</sup> March, 2022.

The consultation responses received (including the project specific observations) are shown in the Ramboll Report at Appendix 1 ( Section 2.4.2).

### **Viii. Further Information Received and Supplemental Consultation**

Having reviewed the PSE application and accompanying documents, and the responses received to the public consultation, Ramboll recommended that further information be obtained from PSE in relation to their application on the basis that insufficient information had been provided with the application to enable an AA Screening Assessment and Determination be made in respect of the proposed geotechnical investigation. Adopting that recommendation, additional information was sought from the applicant on 8<sup>th</sup> April, 2022. The Department website was updated to reflect the position and the bodies who submitted observations following the initial consultation were notified of the decision to request further information.

On 25<sup>th</sup> April 2022, the applicant responded by submitting further information to address the DECC queries, and the adequacy of the applicant responses were assessed in conjunction with Ramboll and on 26<sup>th</sup> April 2022, the supplemental information received from the applicant was posted on the Department website for comment by 10<sup>th</sup> May 2022. Two further responses were received from the EPA dated 10<sup>th</sup> May 2022 and the Department of Transport - GCU - Reform Communications and Emergency Planning Division dated 5<sup>th</sup> May 2022 who informed us that they had no observations. Any points raised have been considered as part of the EIAR assessment process.

The observations made in the submissions received during the supplemental public consultation are also shown in Section 2.4 of the Ramboll Report. General consultation responses, and project specific responses on policy are shown in Appendix A and B respectively, and project specific consultation responses are shown in Table 2.1, which are all in the Ramboll Report (at Appendix 1 to this Determination).

### **IX. AA Screening Assessment and Determination**

The AA screening process has been conducted in accordance with Articles 6.3 and 6.4 of the Habitats Directive (92/43/EEC), the Birds and Habitats Regulations and the principles established in case law interpreting the Directive and Regulations, which provide the decision making framework and tests for carrying out screening for appropriate assessment.

Per Regulation 42(6) of the Bird and Habitats Regulations, an Appropriate Assessment of a plan or project is required where it cannot be excluded, on the basis of objective scientific information following screening, that the plan or project, individually or in combination with other plans or projects, will have a significant effect on a European Site.

I have carefully considered the following documents in carrying out the AA Screening assessment of the application made by PSE ('the applicant'):-

- Documents provided by the applicant – in particular, Kinsale Area Decommissioning Report for the purposes of Appropriate Assessment Screening and Article 12 Assessment Screening. 14<sup>th</sup> June 2018 and Addenda as noted above ;
- Appropriate Assessment Screening Determination for PSE prepared by Ramboll (Appendix 1);

- Submissions received from the notified bodies and the public

In carrying out the AA screening assessment, I considered the different project elements that are likely to give rise to impacts on the conservation objectives and or qualifying features of a Natura site. In this context the following elements were considered:

- Project Description including the spatial extent, supporting infrastructure, transportation requirements, physical changes that will result from the project, emissions and waste, resource requirements and duration of each phase;
- Effects of the proposed development in combination with other plans or projects;
- Identification of relevant European sites and species;
- Assessment of likely significant effects (LSE).

Based on careful consideration of the documentation highlighted above, I agree with and adopt the conclusions reached in the Ramboll Report (at Appendix 1) regarding the adequacy of the information provided by the applicant and am satisfied that the applicant has provided sufficient information to enable an AA Screening Assessment of the decommissioning of the Kinsale Head gas fields (Consent No. 3).

I further agree with, and adopt the responses to the observations received from notified bodies and the responses to the project specific observations received during the public consultation process (as set out in section 2.3.4 of the Ramboll Report).

As regards the additional observations received during the public consultation process, with regard to climate, energy storage, environment and general comments on policy and securing energy supply (set out in Appendix B of the Ramboll Report), I agree that these are outside the scope of the AA Screening Assessment process.

The applicant's AA screening report identified the following sources of potential impact for further consideration in the determination of likely significant effects (LSE):-

- the physical presence of vessels in field and in transit;
- underwater noise from vessels, cutting, rock placement and post-decommissioning survey (note that no explosive cutting is proposed);
- physical disturbance from rig placement, rig and vessel anchoring, and infrastructure removal and rock placement;
- discharges to sea;
- accidental events;
- waste recycling, reuse and disposal;
- atmospheric emissions;
- noise associated with the demolition of Inch terminal; and
- dust emissions associated with the terminal demolition works.

Following initial assessment examining connectivity of the project with European Sites, the applicant assessment of LSE concluded that the decommissioning activities are not considered to result in likely significant effects (alone or in-combination) on the Conservation Objectives of any relevant Natura 2000 site within the Zones of Influence considered. Furthermore the applicant concluded that it is not considered necessary to undertake any further stage of the Appropriate Assessment process. This conclusion is based on no mitigation measures designed to avoid or reduce the harm of the project on any site.

In carrying out an independent AA Screening Assessment of the proposed decommissioning activities, Ramboll comprehensively examined the AA screening assessment carried out on behalf of the applicant and the conclusions reached in the applicant report. In the Ramboll Report (Appendix 1) they agree with the applicant assessment that Appropriate Assessment is not required as no likely significant effects on European sites have been identified, having regard to the potential connectivity with sites, relevant conservation objectives and the potential for in combination effects and will not cause significant disturbance to Annex IV species described.

The Ramboll report ultimately concludes that Appropriate Assessment is not required as no likely significant effects on European Sites have been identified, having had regard to the potential connectivity with sites, relevant conservation objectives and the potential for in combination effects.

I agree with and adopt the AA Screening Assessment carried out by Ramboll in respect of the PSE application and the conclusions reached in the Ramboll Appropriate Assessment Screening Report for PSE (at Appendix 1 to this Determination).

Accordingly, I am satisfied and have decided that the application to decommission the Kinsale and Ballycotton gas fields (Consent 3) by PSE will not require Appropriate Assessment as it can be excluded on the basis of objective scientific information (following screening) that the proposed decommissioning activities, individually or in combination with other plans or projects, will have a significant effect on European Sites. No likely significant effects on European Sites have been identified, following screening, having had regard to the potential connectivity with sites, relevant conservation objectives and the potential for in combination effects.

Further, PSE must seek approval from the Department prior to commencement of the proposed activities for the vessel(s) to be used in the decommissioning activities. Confirmation will be required that the survey equipment and methodology are equivalent to that described in the PSE documentation and that the description of the development used to inform the AA Screening is still valid. Accordingly, this decision is further contingent on this requirement also being included as a condition of any consent granted in respect of this application.

**X. Annex IV Species Assessment: Legislative Background**

Article 12(1) of the Habitats Directive provides that:

*“Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:*

- (a) all forms of deliberate capture or killing of specimens of these species in the wild;*
- (b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;*
- (c) deliberate destruction or taking of eggs from the wild;*
- (d) deterioration or destruction of breeding sites or resting places.”*

Regulation 29 of the Birds and Natural Habitats Regulations transposes Article 12 into Irish law and provides that:



*“29. (1) Where the Minister has reason to believe that any activity, either individually or in combination with other activities, plans or projects, is of a type that may—*

- (a) have a significant effect on a European Site,*
- (b) have an adverse effect on the integrity of a European Site,*
- (c) cause the deterioration of natural habitats or the habitats of species or the disturbance of the species for which the European Site may be or has been designated pursuant to the Habitats Directive or has been classified pursuant to the Birds Directive, insofar as such disturbance could be significant in relation to the objectives of the Habitats Directive,*
- (d) cause pollution or deterioration of habitats within the meaning of the second sentence of Article 4(4) of the Birds Directive, or*
- (e) have an adverse effect on the conservation status of—*

- (i) animal species listed in Annex IV(a) to the Habitats Directive in their natural range pursuant to Article 12 of the Habitats Directive,*
- (ii) plant species listed in Annex IV(b) to the Habitats Directive pursuant to Article 13 of the Habitats Directive,*
- (iii) species of wild fauna and flora listed in Annex V to the Habitats Directive pursuant to Article 14 of the Habitats Directive,*
- (iv) naturally occurring birds in the wild state,*

*the Minister shall, by notice, subject to paragraph (2), where he or she considers appropriate, direct that the activity shall not be carried out, caused or permitted to be carried out or continue to be carried out by any person in the European Site or part thereof or at any other specified land or may restrict or regulate the activity in the European Site or part thereof or at any other specified land, and each such notice shall be accompanied by a statement of the Minister’s reasons for making the decision.”*

#### **XI. Annex IV Species Assessment: Determination**

An assessment of impacts (potential impacts and in combination impacts) on Annex IV species, in accordance with Article 12 of the Habitats Directive, was carried out by Hartley Anderson/ARUP on behalf of PSE. This is contained in Section 4 of the Appropriate Assessment Screening and Article 12 Assessment Screening Reports. The conclusion reached in that assessment is that the localised scale and duration of the works will not result in the deliberate disturbance or destruction of any of the species listed in Annex IV of the Habitats Directive which may be present in the study area.

Ramboll carried out an assessment of the information submitted by PSE in respect of the proposed decommissioning activities for the purposes of Article 12 / Annex IV of the Habitats Directive. The outcome of the Ramboll assessment is also detailed in the Ramboll Report (at Appendix 1).

In this regard, the Ramboll Report agrees with the assessment carried out by Hartley Anderson/ARUP on behalf of PSE and concludes that the proposed decommissioning activities are not likely to have adverse effects on the favourable conservation status of any of the Annex IV species that may be present in the investigation area and will not cause significant disturbance to the Annex IV species described.

I agree with and adopt the conclusions in the Ramboll report in relation to impacts on Annex IV species. Accordingly, I am satisfied that the assessment for Annex IV Species is of an acceptable standard and am further satisfied that the proposed decommissioning activities will not adversely

affect the favourable conservation status of any Annex IV species that may be present in the investigation area, should approval be granted for the PSE application.

## **XII. Conclusion**

As set out in the AA Screening Assessment Determination at Section IX above, it can be concluded, and I conclude, for the purposes of Regulation 42(1) and in accordance with Regulation 42(7) of the Birds and Natural Habitats Regulations that an Appropriate Assessment is not required in respect of the proposed decommissioning activities, as it can be excluded, on the basis of objective scientific information, following screening that the proposed decommissioning works, individually or in combination with other plans or projects, will have a significant effect on a European Site.

Further, PSE must seek approval from the Department prior to commencement of the proposed activities for the vessel(s) to be used in the decommissioning activities. Confirmation will be required that the survey equipment and methodology are equivalent to that described in the PSE documentation and that the description of the development used to inform the AA Screening is still valid. Accordingly, this decision is further contingent on this requirement also being included as a condition of any consent granted in respect of this application.

In addition, as set out in the Annex IV Species Assessment Determination at Section XI above, I further conclude that the assessment for Annex IV species is of an acceptable standard, such that I am satisfied that the proposed decommissioning activities will not adversely affect the favourable conservation status of any Annex IV species that may be present in the investigation area, should approval be granted in respect of the PSE application.

Jean Clarke, 27<sup>th</sup> July, 2022



Environment Assessment Unit  
Department of the Environment, Climate and Communications

## **Judicial Review**

Please note that the validity of this AA Screening Determination may be questioned by Judicial Review under Order 84 of the Rules of the Superior Courts (S.I. No.15 of 1986), as amended. Any application for leave to apply for judicial review must be made promptly and in any event within three months from the date of the Determination. Practical information on judicial review can be obtained from the Citizens Information Board, Ground Floor, Georges Quay House, 43 Townsend Street, Dublin 2 or online ([www.citizensinformation.ie](http://www.citizensinformation.ie)) or from the Courts Website ([www.courts.ie](http://www.courts.ie)).