



Prescribed Body Consultation for Appropriate Assessment (FS006970)

1. Marine Institute
2. Inland Fisheries Ireland
3. Department of Housing, Local Government and Heritage, NPWS
4. Department of Housing, Local Government and Heritage, UAU
5. Marine Survey Office
6. Department of Housing, Local Government and Heritage, Marine Advisor (Engineering)
7. Department of Housing, Local Government and Heritage, Marine Advisor (Environment)
8. Department of Agriculture, Food and the Marine
9. Sea Fisheries Protection Agency
10. Applicant response to PBCs



1. Marine Institute

I have reviewed the AA screening conclusion for this applications and agree that a full AA is required for this project. There appears sufficient information in relation to the likely interactions and therefore, environmental effects to carry out this assessment. The MI agree with the proposed mitigation measures identified in the NIS report (relating to otter and seal). In relation to cumulative effects, it is possible that disturbance from ongoing aquaculture operations (travel to and from sites) in Glengarriff harbour may act in-combination with the proposed activity to disturb seal. However, published literature from studies conducted in inner Bantry Bay (Roycroft et al 2007) has identified that seal are habituated to rope mussel aquaculture operations and therefore, unlikely to be considered disturbed by these operations. On this basis, it is unlikely that there will be any in-combination effects with the proposed activity. In relation to otter, by virtue that they are primarily active during early morning and evening will mean that they are unlikely to interact with aquaculture operators and therefore will avoid disturbance. The structures associated with suspended mussel culture will unlikely impede movement of otter and may serve to attract prey items for otter.

2. Inland Fisheries Ireland

We have no further comment to make.

3. Department of Housing, Local Government and Heritage, NPWS

The comments uploaded previously on this application are still relevant to the application and that there are no additional comments required

4. UAU

The following are the recommendations of the Underwater Archaeology Unit of the National Monuments Service, in keeping with the mitigation strategy proposed in the UAIA:

Archaeological Monitoring:

Archaeological monitoring is to be carried out during dredging works and to take the following format:

- The services of a suitably qualified and suitably experienced underwater archaeologist (with experience in the archaeological monitoring of marine dredging operations) to be engaged to carry out the archaeological monitoring works programmes.*
- The archaeological monitoring should be licensed by this Department and a detailed method statement is to accompany a licence application.*



- *The method statement is to lay out the monitoring strategy for the location of the dredging works.*
- *A communication strategy is to form part of the monitoring strategy to ensure full communication is in place between the monitoring archaeologist and the plant operators at all times during works.*
- *The archaeological personnel undertaking the monitoring will be in a position to monitor directly all elements of the dredging works, to ensure they have unobstructed views of the dredging plant head, and the plant and machinery operators should be prepared to facilitate the archaeological personnel in the undertaking of their monitoring work.*
- *As part of the Finds Retrieval Strategy in the methodology, 25% of the dredged material removed is to be spread and metal detected to assess the artefacts-bearing potential. If large quantities of artefacts are present, then the percentage of material being assessed may be increased. Similarly if, after an agreed period of time, there is minimal artefactual evidence, the archaeological assessment of the dredged spoil may be scaled down. The methodology should seek to have a representative percentage assessed from all areas, i.e. from the area immediate to the pier, from the approach channel, etc.*
- *Sufficient archaeological personnel will be in place to cover all aspects of the monitoring and assessment of the dredging works (i.e. monitoring of dredgings and assessment of dredged spoil).*
- *Should potential archaeology be identified during the dredging works, then the dredging is to be suspended in that location pending full resolution of the archaeology, which may include archaeological assessment, testing, avoidance/preservation in situ or full excavation.*
- *In the event that potential archaeology is identified and dredging works have to be suspended, the Underwater Archaeology Unit should be contacted immediately to ensure the least delays to works are incurred.*

Reason: To ensure the continued preservation

5. Marine Survey Office

We have no further comments to make on the below notification, noting that the local harbour master has been consulted and the contractor will comply with any instructions from the harbour master.

6. Department of Housing, Local Government and Heritage, Marine Advisor (Engineering)

No further comment



7. Department of Housing, Local Government and Heritage, Marine Advisor (Environment)

This pier is within the Glengarriff Harbour and Woodland SAC [IE00090]. This site hosts the only sizeable area of old oak woodland remaining in west Cork. Bird life here is diverse, with species such as Sparrowhawk, Peregrine, Long-eared Owl, Woodcock, Heron, Jay, Dipper, Willow Warbler, Chiffchaff and Wood Pigeon. In addition to the woodlands, the harbour is of great interest. This sheltered inlet of Bantry Bay supports the largest colony of Common Seals in the south-west of Ireland. The woods, and the river flowing through it, are home to a range of mammal species, including Otter.

Assessment Process

*The Minister for Housing, Local Government and Heritage, 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 92/43/EEC (**Habitats Directive**) and Directive 2009/147/EC (**Birds Directive**), in respect of applications under the The Foreshore Act 1933, as amended.*

Habitats Directive

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 (Natura 2000 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 to regulate the conditions under which development that has the potential to impact on European Sites can be proceed. It requires 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 (S.I. 477 of 2011, as amended) (**Birds and Natural Habitats Regulations**) provide as follows:- 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 consenting 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.



Furthermore, under section 42A (13) of S.I. No. 293 of 2021 an Appropriate Assessment, including the specified public consultation, must be carried out before the public authority makes a decision to undertake or adopt the proposed plan or project.

Risk Assessment for Annex IV Species

Article 12 of the Habitats Directive (92/43/EEC) affords strict protection to species listed in Annex IV of the Directive wherever they occur. Outside of designated Natura 2000 sites, the waters around Ireland's coast are a suitable habitat for a number of Annex IV species. Where necessary a Risk Assessment for adverse effects of the proposed works on these species must be undertaken and a report produced.

The purpose of the Risk Assessment is to examine the possibility that the proposed project either individually or in combination with other plans and projects, may result in the deliberate disturbance or destruction of any of the species listed in Annex IV which may be present in the works area. The Risk Assessment should take into account the status (e.g. as indicated in the latest Article 17 reporting for Ireland, NPWS 2019) and sensitivities of relevant Annex IV species to potential impacts associated with the proposed project.

The Risk Assessment for Annex IV Species should be precise, with definite findings, mitigation and conclusions removing all reasonable scientific doubt as to the effects of the proposed project on any Annex IV species. This assessment is separate to that undertaken under Article 6.3.

Conclusion/Recommendation

In principle I have no objections to this application. On completion of this consultation process and the work of the Independent Environmental Consultants, I will furnish my final report with determinations. This may include case specific conditions and will have regard to the information obtained during public and prescribed bodies' consultation.

8. Department of Agriculture, Food and the Marine

I refer to your reminder received on 7th October, 2022 on this application and your request today for final comments, please note that of the responses received from our consultees the Dept of Agriculture Food and the Marine has no further observations to make on this application.

9. Sea Fisheries Protection Agency

No Comment



10. Applicant Response to PBCs

We have reviewed the observations and have no comments to add