

**FS007223**

**REPORT OF THE MARINE LICENCE VETTING COMMITTEE (MLVC)**

**On**

**FORESHORE LICENCE APPLICATION FOR DUNDALK PORT MAINTENANCE  
DREDGING**

**APPLICANT: O'HANLON & SONS**

## **The marine licence vetting committee (MLVC)**

The MLVC is a non-statutory multi-disciplinary committee which is convened, as required, for the purposes of undertaking a technical, including environmental, assessment of an application under the Foreshore Act 1933, as amended..

the Foreshore Section of the Department of Housing, Local Government and Heritage (DHLGH) requested the MLVC to undertake the technical assessment detailed below.

### **MLVC Report**

#### **1. Project Overview**

O'Hanlon & Sons have applied for a Foreshore Licence under Section 3 of the Foreshore Act, as amended, for a term of 10 years from 2022 to 2031 inclusive, to carry out maintenance dredging to restore depth in the navigation channel for safe vessel access to/from Dundalk Port, County Louth.

Dundalk Port is owned by Dublin Port Company (DPC) and leased to O'Hanlon and Sons. Due to ongoing sediment accretion in the approaches to Dundalk Port, vessel access has become limited. This is having a negative impact on the Port's trade and therefore maintenance dredging is required in the areas of Soldiers Point, and Buoy 15 to restore depth in the channel and safe vessel access. The remaining commercial ports are categorised as Ports of Regional Significance. Dundalk Port is a commercial port categorised as a Port of Regional Significance in the National Ports Policy, the policy is to facilitate a competitive and effective market for maritime transport services in Ireland.

**Location:** Navigational channel to/from Dundalk Port, County Louth

#### **2. Brief description of works**

It is proposed to carry out maintenance dredging in the areas of Soldiers Point, and Buoy 15 in the navigation channel to/from Dundalk Port. A hydrographic survey was completed in the navigation channel in September 2020 and the depths over the area to be dredged ranges up to 0.8m above Chart Datum, severely restricting tidal access to the Port. It is planned to dredge the sea-bed to at least 0mCD and if possible restore the historical navigation levels of 0.75m below CD during the maintenance dredging operations. The estimated volume of material to be removed is 5,000m<sup>3</sup> per year. It is proposed that the Foreshore License will run for a 10 year period from 2022 to 2031 inclusive. The applicant proposes to use Trailer Suction Hopper Dredger (TSHD) "*Argus*" (or similar) to carry out the dredging operations.

The works will be undertaken by industry best practice including the following measures:

- Dredging will be undertaken as efficiently as possible so that the number of dredger movements is minimized;
- There would be no ancillary waste deposited into the sea from the dredger at any time;
- Maintaining a low speed during dredging;
- Bilge water and waste water from the dredger would be brought onshore for proper removal and disposal by a licensed waste contractor;
- Contractors working on site during the operation would be responsible for the collection, control and disposal of all wastes generated by the works;
- Refuelling of the dredging vessel would take place at the quayside using suitable hoses etc. to avoid any spillages; and
- Dredging would be carried out over a period outside of the months of March to May, which is the migratory period of juvenile salmon (smolts).

The material (primarily clean fine to medium sand with an average grain size of 0.21mm) to be dredged is good quality sediment and will be landed ashore at Dundalk Port for beneficial reuse.

The proposed area of foreshore associated with the works is 8.72Ha.

### **3. Relevant Statutory Consents and Government Policies/Programmes**

No marine disposal permit is required for this activity so a Dumping at Sea permit is not being required/sought from the Environmental Protection Agency (EPA).

Planning Permission under the Planning and Development Act 2000, as amended, is not required for this activity.

### **4. Public Participation**

**Public Consultation Process:** The Foreshore Section of the DHLGH conducted the public consultation. All consultation was undertaken to conform to the requirements of the Section 19 of the Foreshore Act 1933 as amended and the European Directive 2003/35/EC (known as the Public Participation Directive or “PPD”).

The public consultation period ran from 20<sup>th</sup> of July 2021 to the 19<sup>th</sup> of August 2021.

The public notice appeared in the “Irish Daily Star” and “Dundalk Democrat” newspapers of 20<sup>th</sup> July 2021 and the application documentation was made available for inspection by the public at Louth County Council, Crowe St, Townparks, Dundalk, Co. Louth and Dundalk Garda Station, The Crescent, Demesne, Dundalk, Co. Louth for the full public consultation period.

**Public Consultation Submissions:** During the Public Consultation period there was no submissions made by members of the public.

### **5. 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 requested and received from:

- Department of Housing, Local Government and Heritage (Marine Advisor)
- Department of Housing, Local Government and Heritage (Underwater Archaeology)
- Department of Agriculture Food and the Marine (Aquaculture)
- Marine Institute
- Inland Fisheries Ireland
- Sea Fisheries Protection Authority
- Marine Survey Office
  
- Department of Housing, Local Government and Heritage (Nature Conservation) -

No response was received from the (Nature Conservation).

Issues raised:

The prescribed bodies that responded confirmed no objection to the project and provided commentary which is listed in the Consolidated Prescribed Bodies document on the Depts. website. A number of the submissions from the Prescribed Bodies raised particular observations and put forward suggested conditions to be included in any consent issued.

The MLVC reviewed and assessed these submissions and have incorporated all relevant and necessary conditions in the proposed Consent Conditions set out in Section 12 below.

## 6. Environmental Assessments

**Independent Environmental Consultant (IEC):** In addition to the Department's in-house Marine Advisor (environment), the Department engaged **Ove Arup & Partners Ireland Ltd** as IEC to provide assistance with regard to the statutory and non-statutory environmental assessments of this Foreshore Lease 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.

**Environmental Impact Assessment Regulations:** The proposed project does not fall within the classes defined under Annex I or Annex II of the EIA Directive and therefore an Environmental Impact Assessment Report (EIAR) is not required. The Consent Authority (DHLGH) completed an examination for EIA as part of their obligations under the EIA Directive. It is concluded that an EIAR is not required for this application..

**Article 6(3) of Directive (92/43/EEC) (as amended) (Habitats Directive):** Following a review of the proposed project, the IEC completed a Screening for Appropriate Assessment which concluded that a Stage 2 Appropriate Assessment was not required as the project, individually or in combination with other plans or projects, is not likely to have a significant effect on any European site.

Having considered the application by O'Hanlon & Sons, the IEC's Screening for Appropriate Assessment Report and the Departments Marine Advisor's environmental report (22/03/2022) the the Screening for Appropriate Assessment and its conclusions is adopted and forms part of this recommendation report. The Consent Authority (DHLGH) completed a Screening for Appropriate Assessment Determination as part of their obligations under the Habitats Directive.

**Risk Assessment of Annex IV Species of Directive (92/43/EEC) (as amended) (Habitats Directive):** Under the Habitats Directive 92/43/EEC those **species listed in Annex IV** require strict protection wherever they occur. A risk assessment of the effects to species listed in Annex IV which occurs within the project site was undertaken by the IEC (*referred to as Article 12 Risk Assessment, by the IEC*). It concluded that the proposed dredging works will not give rise to the capture, killing or disturbance to species listed under Annex IV of the Habitats Directive. The report is considered to be comprehensive and the the IECs conclusion is accepted and forms part of this report assessing this application.

### **Non-Statutory Environmental Assessment:**

A Non-statutory Environmental Report was prepared by the IEC which concluded that due to the nature, scale and location of the proposed maintenance dredging is such that, with the implementation of the proposed mitigation measures and the recommended condition, there is no real likelihood of significant effects on the environment arising from it. Having considered that report it is considered that a valid assessment has been undertaken and that his report forms part of the overall assessment of the proposed application.

## **7. Estate Management**

All foreshore is presumed state owned unless proven otherwise. In this case there are no known established claims of private ownership of the foreshore at this location providing no claims of private ownership were raised during the application and public consultation process. Therefore, the foreshore the subject of this application is state owned. Accordingly Section 3 of the Foreshore Act applies for the proposed dredging operation. The licence area for the proposed works is shown outlined in red on the following map submitted by the applicant:

- Map No: **595-FL-5 Rev O** entitled **Foreshore Licence Map** and Dated **24/05/2021**

The proposed area of foreshore associated with the works is 8.72Ha.

The applicant shall use that part of the foreshore, the subject matter of the application for the purposes as outlined in the application and for no other purposes whatsoever. Where relevant the foreshore and adjacent seashore area shall be restored to its natural state on completion of the works to the satisfaction of the Department of Housing, Local Government and Heritage.

## **8. National Marine Planning Framework (NMPF)**

Section 74 of the Planning and Development (Amendment) Act 2018 sets out that “A public body shall adopt such measures as (a) are consistent with its functions, and (b) necessary to secure the objectives of the National Marine Planning Framework”. In this context, “functions” includes the giving of any consent or approval, or the grant or issue of licences, certificates or other like documents, under any enactment for the purposes of any such development or activity, or any such proposed development or activity as well as the regulation of any such development or activity. The National Marine Planning Framework (NMPF) is a national plan for Ireland’s marine area including the Foreshore. It sets out, over a 20-year horizon, how we want to use, protect and enjoy our marine area. The NMPF sits at the top of the hierarchy of plans and sectoral policies for the marine area and provides a coherent framework in which those sectoral policies and objectives can be realised. All decisions on individual applications determined under the Foreshore Act, must secure and be consistent with the objectives of the plan, similar to the way that terrestrial plans form part of the decision-making tool-kit in the on-land planning process. NMPF objectives are supported by specific policies that articulate factors that can form part of objective consideration.

An NMPF Policy Compliance Assessment Report was prepared by the Independent Environmental Consultant. Having considered the IEC’s report and its conclusions and having reviewed and assessed this application against the objectives of the NMPF, the MLVC is satisfied the proposed activity does not act significantly against any objective within the NMPF. Furthermore, the project is aligned and secures key sectoral/activity objectives set out in Section 18 under Ports, Harbours and Shipping. Accordingly, the proposed maintenance dredging is aligned with, and secures the relevant objectives set out in the NMPF.

## 9. Public Interest

Section 2 and 3 of the 1933 Foreshore Act, as amended, states that a lease or licence of state foreshore may be granted “If, in the opinion of the Minister, it is in the public interest”. As foreshore is a finite and valuable national resource and public amenity, it is important that each plan and project is fully assessed to ensure, that if consented to, it is a sustainable and proper use of that finite and valuable resource. Having considered and assessed the relevant issues associated with the proposed dredging, while taking note that the state owned foreshore is finite resource which must be utilised sustainably, the MLVC are satisfied that the proposed works are in the Public Interest.

## 10. MLVC Conclusions and Recommendation

Dundalk port is an active commercial port. The maintenance of safe navigation is a vital health and safety matter for the safe and continued use of Dundalk Harbour. Given the hydrological processes in the local marine area, regular dredging is required and this application is for the continuation of this necessary activity.

Submissions by the prescribed bodies have been considered and responded to by way of attached conditions. The necessary consideration of environmental matters, including by the Departments Marine Advisor (Environment), has been comprehensively undertaken and it is concluded that from an environmental directive compliance the proposed application is appropriate and acceptable.

It is considered that subject to compliance with the specific conditions set out below, including those suggested by the Marine Advisor (Environment), the proposed works would will not adversely affect Fishing, Navigation or the Environment and is in the Public Interest.

Therefore, it is **recommend that the Minister issues** a Foreshore Licence to O'Hanlon and Sons Ltd to carry out maintenance dredging at Dundalk Port, Co. Louth. Any Foreshore Licence issued shall be subject to the appropriate conditions outlined below.

## 11. Proposed Lease Conditions

1. The Licensee shall use that part of the foreshore, the subject matter of this licence for the purposes as outlined in the application and for no other purposes whatsoever.
2. The maintenance dredging operation shall be located on the foreshore as outlined on Map No: **595-FL-5 Rev O** Dated **24/05/2021**.
3. The Licensee shall notify the Department of Housing, Local Government and Heritage at least 14 days in advance of the commencement of any works on the foreshore.
4. The Licence shall remain valid for a 10 year period from 2022 to 2031 inclusive. Dredging of the sea-bed shall be to a maximum of 0.75m below CD with a maximum dredge volume of 5,000m<sup>3</sup> per annum.

5. During the course of the works the Licensee shall ensure that existing public access arrangements are maintained, where possible, and all necessary precautions are put in place to protect the public in accordance with relevant Health and Safety Legislation.
6. On completion of the works, the surrounding foreshore shall be returned to its natural state to the satisfaction of the Department of Housing, Local Government and Heritage.
7. The Licensee shall ensure that contractors, and their subcontractors, are made aware of all conditions and project specific requirements and they are required to have briefings on these to ensure all parties are fully aware of these requirements.
8. All dredging procedures shall follow industry best practice as set out in Section 3 of the Natura Impact Statement dated March 2021.
9. Dredging shall be undertaken as efficiently as possible so that the number of dredger movements is minimized. A low speed shall be maintained during dredging. The dredger shall operate by going along the area to be dredged in an approximate east-west direction in straight lines.
10. A documented Accident Prevention Procedure will be put in place prior to commencement.
11. A documented Emergency Response Procedure shall be put in place prior to commencement of the works. The procedure shall include an effective spillage control procedure. All staff involved in the works shall be properly briefed to prevent spills and leaks.
12. An Invasive Aquatic Species Management Plan shall be prepared and implemented to avoid the potential for the introduction and spread of alien invasive aquatic species. The plan shall include systems to ensure: Boats, barges and marine equipment shall be free of fouling by the use of appropriate application of antifouling paints and/ or washdowns for smaller boats and plant. A record of all antifouling procedures implemented shall be kept for the duration of the project
13. No waste shall be deposited into the sea from the dredger at any time. All waste, bilge water and wastewater from the dredger shall be brought onshore for proper removal and disposal by a licensed waste contractor.
14. Contractors working on site during the operation shall be responsible for the collection, control and disposal of all wastes generated by the works.
15. Refuelling of the dredging vessel shall take place at the quayside using suitable hoses etc. to avoid any spillages.
16. Discharging of dredge material at the quay will be completed using a sealed clamshell grab.

17. The dredge material shall be stored in a confined area within the port. Measures shall be implemented to prevent poor water quality run off, from the stored dredged material, entering the Harbour.
18. A full record of the material being dredged will be maintained for each trip. The dates the dredging takes place each year (date started, date finished, duration of dredging (days)) shall be recorded and the forwarded to the local Inland Fisheries Ireland office.
19. Dredging shall be carried out over a period outside of the months of March to May
20. A local Marine Notice shall be published for the information of all local maritime users detailing the proposed dredging campaign and any associated hazards to navigation arising for the duration of the licence period.
21. Contractors working on-site during the works will be responsible for the collection, control and disposal of all wastes generated by the works. Refuelling of the dredging vessel will take place at the quayside using suitable hoses to avoid any spillages. An effective spillage control procedure must be put in place with all staff properly briefed to prevent poor water quality run off from the stored dredged material.
22. The local IFI office should be notified in advance of the works commencement.
23. In advance of the works, the Licensee shall inform the representatives of the fishermen in Dundalk and Clogherhead of the details of the proposed dredging campaign.
24. The dredger crew shall be informed of the presence of two wrecks, reference numbers W00275 and W00118, which are indicated in the National Monuments Service Wreck Viewer website: <https://dahg.maps.arcgis.com/apps/webappviewer/index.html?id=89e50518e5f4437abfa6284ff39fd640>. If possible, the wreck shall be displayed on the dredger's on board navigation systems.
25. If any material of archaeological potential is encountered during the dredging works, the Underwater Archaeology Unit, National Monuments Service, Department of Housing Local Government and Heritage shall be notified immediately, and works shall cease in the area in question until Underwater Archaeology Unit has recommended a course of action. The Underwater Archaeology Unit recommendation shall be implemented.

19/4/22

## Appendix 1

### **Marine Advisor's Environmental Assessment and Determinations Report**

I reviewed the application and all the environmental documents associated with the Foreshore Application FS007223 Foreshore Application to dredge the navigation channel at Soldier's Point and near Buoy 15, Dundalk, Co. Louth.

My comments are as follows:

***Environmental Impact Assessment (EIA) Regulations:*** The proposed project does not fall within the classes defined under Annex I or Annex II of the EIA Directive. I refer you to my Screening Stage Report of the 22<sup>nd</sup> of March 2022 which contains the **Examination for EIA**. This examination is required to be carried out by the Consent Authority (DHLGH) as part of their obligations under the EIA Directive.

***Article 6(3) of Directive (92/43/EEC) (as amended) (Habitats Directive):*** I refer you to my Marine Advisor Environmental Report of the 22<sup>nd</sup> March 2022 where the IEC concluded that the proposed project, either individually or in combination with other plans or projects, will not have a significant effect on any European site. The risk of likely significant effects on European sites can be excluded on the basis of objective scientific information and a stage 2 Appropriate Assessment was not required.

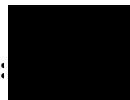
#### ***Conclusion/recommendations:***

Having considered the information submitted in support of the application, I have no objection to the granting of this application subject to the following condition:

1. All dredging procedures shall follow industry best practice as set out in Section 3 of the Natura Impact Statement dated March 2021.
2. Dredging shall be undertaken as efficiently as possible so that the number of dredger movements is minimized. A low speed shall be maintained during dredging. The dredger shall operate by going along the area to be dredged in an approximate east-west direction in straight lines.
3. A documented Accident Prevention Procedure will be put in place prior to commencement.
4. A documented Emergency Response Procedure shall be put in place prior to commencement of the works. The procedure shall include an effective spillage control procedure. All staff involved in the works shall be properly briefed to prevent spills and leaks.
5. An Invasive Aquatic Species Management Plan shall be prepared and implemented to avoid the potential for the introduction and spread of alien invasive aquatic species. The plan shall include systems to ensure: Boats, barges and marine equipment shall be free of fouling by the use of appropriate application of antifouling paints and/ or washdowns for smaller boats and plant. A record of all antifouling procedures implemented shall be kept for the duration of the project
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11. A full record of the material being dredged will be maintained for each trip. The dates the dredging takes place each year (date started, date finished, duration of dredging (days)) shall be recorded and the forwarded to the local Inland Fisheries Ireland office.
12. Dredging shall be carried out over a period outside of the months of March to May
13. On completion of the works, the surrounding foreshore shall be returned to its natural state to the satisfaction of the Department of Housing, Local Government and Heritage.

**Signature and Date of Marine Advisor:**

A black rectangular box redacting the signature of the Marine Advisor.

13<sup>h</sup> April 2022

