

# Submission HLG 00641 -22: FS007085 Site Investigation Roundstone Bay Galway

TO: Nina Murray (Housing)  
STATUS: Completed  
PURPOSE: For Decision and Signature

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DIVISION: Foreshore  
DECISION BY: 16/12/2022

## Final comment

Approved please arrange for legal instrument

## Action required

Approval is sought to grant a Foreshore Licence under Section 3(3) of the Foreshore Act 1933 as amended to Irish Water for the purpose of undertaking Site Investigation (SI) works at Roundstone, Co. Galway for 1 year.

## Executive summary

Approval is sought to grant a Foreshore Licence under Section 3(3) of the Foreshore Act 1933 as amended to Irish Water for the purpose of undertaking Site Investigation (SI) works at Roundstone, Co. Galway for 1 year.

As part of the assessment of this application the Minister was required to make a 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').

Minister of State Burke, upon a review of all materials of the application and recommendation made by Department's Recommending Officer (Environment) accepted and adopted the Screening for Appropriate Assessment and its conclusions and made the following determination on **8th November 2022**. **Related submissions link: [HLG 00462-22](#)**

Which concluded that the proposed project would not likely have a significant effect individually, or in-combination with other plans and projects, on European sites therefore an Appropriate Assessment is not required.

## Detailed information

The activity includes Site Investigation (SI) works, consisting of 3 No. rotary core boreholes and sampling, within the foreshore in Roundstone, County Galway. A temporary coring rig will be mobilised to the foreshore to undertake the proposed 3 No. rotary core boreholes within the foreshore. The coring rig will be mobilised to site during low tide and will be removed from site prior to high tide. The coring will be required to a depth of approximately 3m.

### Description of Works:

Ground investigation works are required to inform the detailed design of the proposed pumping station. The works will entail a total of three rotary boreholes at the foreshore at Roundstone. The required working area for the type of rig proposed is a minimum of 4m by 2m. This type of borehole rig typically has tracked wheels to allow for movement over rough terrain from the foreshore before each high tide to prevent the plant from being inundated.

### Consideration of Application

The application was received on 26th March 2020. The application (**Tab 01**), Foreshore Licence map (**Tab 02**) and consultation documents are available to view on the website: <https://www.gov.ie/en/foreshore-notice/d5f68-irish-water-site-investigations-for-sewerage-scheme-roundstone-bay-galway/>

### Public Consultation under Section 19 of the Foreshore Act:

Public Notice of the application was given on the 29<sup>th</sup> May 2020 in the Connacht Tribune and the Irish Examiner newspapers.

The application documents were available on the Department's website from **29<sup>th</sup> May 2020 to 27th June 2020**.

Fourteen (14) public submissions were received during this consultation process, all raised objections to the proposed works. These matters can be summarised as: prematurity of the application, which should be co-ordinated with any application to for planning permission; matters related to environmental legislation including compliance with the EIA directive; the need for other alternatives to be considered in view of amenity concerns including residential amenity; wider issues relating to the need for alternative locations for a waste water treatment facilities; the need for a CPO to be carried out and wider concerns were raised regarding the use of public funds and the motives of the applicant.

The matters raised have been taken into consideration which is reflected in the body of the report. The proposed development is for site surveying which will inform future design solutions for what is an identified need to improve the wastewater treatment capacity in Roundstone. Site investigations are a necessary undertaking to best inform the preparation of the design of a scheme, it does not prejudice the ultimate proposal nor the assessment procedure which will be undertaken through a separate process nor any CPO process. With respect to this application, it relates to the foreshore and must be considered under the relevant legislation. With respect to environmental considerations relating to this application these have been carried out as referred to below.

Public Submissions and the applicant's response to Public Submissions are attached at **(Tab 03)**

### **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 (Engineering)
- Department of Housing, Local Government and Heritage (National Parks and Wildlife Service) (No comment)
- Department of Housing, Local Government and Heritage (Underwater Archaeology) (No comment)
- Department of Agriculture, Food and Marine,
- Marine Institute
- Marine Survey Office,
- Inland Fisheries Ireland,
- Sea Fisheries Protection Authority. (No comment)

Observations were forwarded to the applicant and there were no objections in principle to the proposed works. A number of the submissions from the Prescribed Bodies raised particular observations and put forward suggested conditions to be included in any licence that may be issued.

Prescribed Bodies Observations and the applicant's response to PBC are attached at **(Tab 04)**

### **Environmental Consultation**

As part of the assessment of the Foreshore Licence application MERC Consultants Ltd were appointed as Independent Environmental Consultants (IECs) on 2nd March 2021 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 European sites from the application for a site investigation Licence.

### **Screening for Appropriate Assessment**

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 a 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, 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(7) of the European Communities (Birds and Natural Habitats) Regulations 2011 SI 477 as amended, the Department of Housing, Local Government and Heritage made a determination following screening that **an 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 the integrity of European sites, in view of the said sites' conservation objectives. The risks of likely significant effects on European sites **can be excluded** on the basis of objective evidence. This determination is based on the location, scale, extent and duration of the proposed project and has not taken account of measures intended to avoid or reduce

significant effects on European sites

Minister of State Burke, upon a review of all materials of the application and recommendation made by the Department's Recommending Officer (Environment) accepted and adopted the Screening for Appropriate Assessment and its conclusions and made the following determination on **8th November 2022**. Related submissions link: [HLG 00462-22](#)

### **Environmental Impact Assessment**

The Department has considered the potential ecological impacts of the proposed development which in view of its limited scale, duration and nature does not require an EIAR either from a mandatory, or from a sub threshold point of view. The Marine Adviser submitted an EIA Screening Examination document in this regard (**Tab 05**).

### **Risk Assessment of Annex IV Species of Directive (92/43/EEC) (as amended) Habitats Directive.**

A review of the applicant's environmental reports provided sufficient relevant information in order for a risk assessment of Annex IV species to be carried out by the IEC. The IEC concluded that it is very unlikely that any Annex IV species will be injured or disturbed as a result of the proposed works. The Department's MA (Environment) has considered the application by Irish Water, along with the IEC's report and in their Screening Stage Report they agree with this conclusion (**Tab 06**).

### **Estate Management**

There are no existing or previous foreshore lease/licence/applications overlapping with or in the vicinity of the application area. Due to the distance from the shore the only activities conducted in the vicinity of the proposed area is navigation and fisheries. All foreshore is presumed state owned unless proven otherwise. There are no known or established claims of private ownership of the foreshore at these locations. Therefore, the foreshore the subject of this application is currently presumed state owned and proposed development does not conflict with the existing overlapping leases/licences/applications.

### **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.

It is considered that the proposed works by virtue of their limited scale, duration and purpose which is to site survey with the intention of informing the design of an improved wastewater treatment facility that it does not act significantly against any objective within the NMPF.

### **Public Interest**

Section 2 and 3 of the 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 state owned foreshore is a finite and valuable state resource and a 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 resource. Having considered the works proposed, it is considered that in view of the type, scale and purpose of the works that are intended to support improved wastewater treatment facilities the proposed project is in the public interest.

### **MLVC Considerations**

The following documentation were considered:

- Application form, dated 26/03/2020
- Screening for Appropriate Assessment (Prepared by Marine Advisor -Environment)
- Screening for Appropriate Assessment Determination
- EIA Screening Examination (Prepared by Marine Advisor -Environment)
- Risk Assessment for Annex IV Species (Prepared by Marine Advisor -Environment)
- Prescribed Bodies Consultation observations and recommendations
- The applicant's responses to the Prescribed Bodies submissions

- Public submissions
- Applicant response to public submissions

#### **Drawings/Maps as follows:**

- Foreshore Licence Map; Drawing Reference: MMD-386624-CDR-03-XX-1400 dated 26/03/2020
- Site Location Map

This application is to allow for site surveying works to inform the future design of an improved wastewater treatment facility including outfall in Roundstone Co. Galway. It is considered prudent that site investigations be supported in order to best inform future design work for a project that will support improved public health through better treatment facilities. The ultimate proposal including its location and wider design parameters are not the subject of this application but will be the subject of a separate consenting process.

This application has been assessed for compliance with environmental considerations and it is concluded that there will be no significant detrimental effects on the environment. They have no objection to the granting of the licence subject to the attached conditions **(Tab 07)**.

Therefore, the MLVC recommend that the Minister issues a Foreshore Licence for Irish Water as set out in the application. See MLVC report attached at **(Tab 08)**.

#### **Notification of Minister's Determination:**

If approval is granted by the Minister, Irish Water will be informed accordingly, an appropriate Licence will issue for execution and a Notice of Determination regarding the decision (including the reasons) will be published on the Department's website.

The Notice of Determination will address:

- The outcome of the Minister's determination of the application.
- The main reasons and considerations for the Minister's determination.
- A statement that all relevant documentation on which the determination is based is available for inspection both on the website of the Department and at the Department's Wexford Office; and
- Confirmation that a review procedure is available before the High Court whereby the substantive or procedural legality of the Minister's determination may be challenged, together with practical information on the review procedure.

#### **Agreement of Applicant:**

The applicant has agreed to the site-specific conditions and to pay the Licence fee of [REDACTED]. Upon approval a 3.3 Licence is to be issued upon payment of the above fee.

It is recommended that a Foreshore Licence be granted subject to the conditions recommended by the MLVC and the Licence fee set out above.

#### **Submitted for approval.**

If approved, please see draft Licence for signature at **Tab 09**.

## Related submissions

**HLG 00462 -22:** Foreshore Licence application by Irish for Site investigations to inform the design of the Roundstone Sewerage Scheme (FS007085)

## User details

INVOLVED: LizM O'Brien (Housing)  
Jessica Douglas (Housing)  
Aileen Fitzharris (Housing)

READ RECEIPT: LizM O'Brien (Housing)  
Jessica Douglas (Housing)  
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Nina Murray (Housing)

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