

Submission HLG 00599-22: Appropriate Assessment Determination on Foreshore Application FS006970 from Cork County Council for Dredging at Glengarriff Pier, County Cork.

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

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DIVISION: Foreshore
DECISION BY: 20/12/2022

Final comment

Signed by Minister, 08/12/2022

Action required

Ministerial Determination on Appropriate Assessment Determination, and signing of the Appropriate Assessment Determination statement, if approved.

Executive summary

Cork County Council have applied for a Foreshore Licence to carry out Dredging at Glengarriff Pier, County Cork, under Section 3 of the Foreshore Act, as amended.

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 (Directive 92/43/EEC) and Regulation 42(1) of the European Communities (Birds and Natural Habitats) Regulations 2011 as amended ('The Regulations')

The Screening for Appropriate Assessment determined that an Appropriate Assessment was required as the project, individually or in combination with other plans or projects, is likely to have a significant effect on European sites and that the risk of likely significant effects on European sites cannot be excluded on the basis of objective evidence (See Related Submission: [HLG 00289-22: FS006970 Cork County Council - Screening for Appropriate Assessment Determination](#))

Having considered all relevant material a recommendation has been made that the Minister accepts and adopts the Appropriate Assessment Report and determines that the proposed project, either alone or in-combination with other projects, will not adversely affect the integrity of European sites, in view of the said sites' conservation objectives.

Detailed information

Cork County Council have applied for a Foreshore Licence under Section 3 of the 1933 Foreshore Act as amended, for the duration of 5 years, for dredging at glengarriff Pier and for the temporary removal of the floating jetty/pontoon/gangway to enable dredging at Glengarriff Pier, Monteensudder, Co. Cork. The application form and Foreshore Licence Map can be seen at **(Tab 05 & Tab 06)**.

Glengarriff pontoon is located adjacent to Glengarriff Pier. It is used by leisure and commercial users including passenger ferries to Garinish Island. The pontoon itself is connected via a walkway to Glengarriff Pier. The pontoon grounds and twists at low tide. Proposed dredging works aim to stop the current grounding and twisting and increase the amenity value of the pontoon. Proposed works include:

- The removal and replacement of the pontoon.
- Disconnection and reconnection of power and water supplies to the pontoon.
- Dredging of the channel and immediately around the pontoon to a depth of -5m ODM max (proposed dredge footprint is 815m²).
- Disposal of dredged to an off-site licenced waste facility.

Brief Description of Works

Initial works will require the removal and storage on-site of the existing pontoon. This will be done using a crane or excavator. Dredging works will be carried out by a long reach excavator operating from a barge or from land as necessary. Spoil will be loaded onto trucks and will then be taken off-site to a licenced waste facility. Once dredging works are complete, the barge (if required) and excavator will leave the site. The pontoon, removed at the project commencement, will be returned/reinstalled in its original location.

The equipment and resources required for the works will include:

- Crane for removing and reinstating pontoon;
- Barge to facilitate dredging;
- Safety boat;
- A long-reach excavator;
- On-site personnel;
- Trucks: These vehicles would be used to bring construction materials to site and to remove any dredge spoil from site. These vehicles will also be used to relocate the pontoon.

Proposed works should take a total of 1 to 2 weeks, including site setup and demobilization. Likely start date will be dependent on seasonal constraints.

Public Consultation Under Section 19 of the Foreshore Act 1933 (as amended)

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 application documents were available on the Department's website and to view at the following locations, for 30 days, from **20th July 2020 to 19th August 2020**:

- Bantry Garda Station, The Quay, Bantry, Co. Cork P75 R266
- Skibbereen Garda Station, High Street, Skibbereen, Co. Cork P81 VP22
- Skibbereen Library, Bishop Kelly Memorial Institute, North St, Skibbereen, Co. Cork, P81 PW10, Ireland

Public Notice of the application was given for the dates of Public Consultation in the Irish Examiner and Southern Star newspapers.

No submissions were received.

Public Consultation Under S42 of EC Birds and Natural Habitats Regulations 2011(as amended).

The Foreshore Section of the DHLGH conducted the public consultation on Appropriate Assessment. All consultation was undertaken to conform to the requirements of the Section S42 of EC Birds and Natural Habitats Regulations 2011(as amended).

The application documents were available on the Department's website and to view at:

- **Skibbereen Garda Station**, High Street, Skibbereen, Cork, P81 VP22
- **Skibbereen Library** 10 North Street, Marsh, Skibbereen, County Cork, P81 DH60

For 30 days, from **12th September 2022 and 11th October 2022**.

Public Notice of the application was given for the dates of Public Consultation in the Irish Examiner and Southern Star newspapers.

No public submissions were received.

In addition to the application documents submitted by Cork County Council, the following documents were also on public display at the above locations and published on the Department's website:

<https://www.gov.ie/en/foreshore-notice/9c5d8-cork-county-council-dredging-at-glengarriff-pier-cork/?referrer=http://www.gov.ie/en/publication/26305-cork-county-council-dredging-at-glengarriff-pier-cork/>

- Submission on Screening for Appropriate Assessment Determination
- Amended Screening for AA submission
- Screening for Appropriate Assessment Report (Prepared by IEC)
- MA Environmental Report

- Screening for Appropriate Assessment Determination
- PBC observations from 2020
- Applicant's response to PBC comments from 2020

Prescribed Bodies Consultation on Foreshore Licence Application (2020)

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 from:

- Department of Housing, Planning and Local Government (Marine Advisor)
- Marine Institute
- Marine Survey Office,
- Inland Fisheries Ireland,
- Environmental Protection Agency
- Sea Fisheries Protection Authority
- Underwater Archaeology
- Natural Parks and Wildlife Services
- Department of Agriculture Food and Marine.

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. The submissions made have been noted and the suggested conditions will be considered.

Prescribed Bodies Consultation for Appropriate Assessment (2022)

The Foreshore Section of the DHLGH conducted the Prescribed Body consultation on Appropriate Assessment. All consultation was undertaken to conform to the requirements of the Section S42 of EC Birds and Natural Habitats Regulations 2011(as amended).

For this Appropriate Assessment, observations were requested from:

- Department of Housing, Local Government and Heritage (Marine Advisor - Environment)
- Department of Housing, Planning and Local Government (Marine Advisor - Engineering)
- Marine Institute
- Marine Survey Office,
- Inland Fisheries Ireland,
- Environmental Protection Agency
- Sea Fisheries Protection Authority
- Underwater Archaeology
- Natural Parks and Wildlife Services
- Department of Agriculture Food and Marine.

There were no objections to the conclusions of the Appropriate Assessment.

Observations were forwarded to the applicant (**Tab 03**) and there were no objections in principle to the proposed works. The submitted observations and the applicant's response to these Prescribed Body observations (**Tab 04**), have been considered as part of the Appropriate Assessment.

Recommended conditions will be considered as part of the assessment of this application.

MLVC

Please note that the MLVC report (**Tab 07**) is being attached at AA Determination stage for information purposes only in matters related to the environmental assessment process.

Environmental Assessment

Environmental Impact Assessment (EIA) Regulations: The IEC determined that the proposed project does not fall within the classes defined under Annex I or Annex II of the EIA Directive. Having considered the application by Cork County Council I agree with and accept the IEC's determination that the project does not require an EIA. The Examination for EIA is attached at (**Tab 11**). This examination is required to be carried out by the Consent Authority (DHLGH) as part of their obligations under the EIA Directive.

Screening for Appropriate Assessment

The Independent Environment Consultants (IEC) Roughan & O'Donovan ("ROD") completed their Screening for AA Report March

2022, which concluded: *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.*

In agreement with this conclusion, the Minister determined that an Appropriate Assessment was required on 24th June 2022. A number of application documentation submitted by Cork County Council informed the Screening for Appropriate Assessment report, details can be found in related submissions below: [HLG 00289-22: FS006970 Cork County Council - Screening for Appropriate Assessment Determination](#)

An amended submission was made on 8th August 2022 as it was noted by the Department's MA that the Screening for AA Report, submitted by the IEC Roughan & O'Donovan (ROD), contained some discrepancies. The IEC was requested to address these discrepancies, which resulted in an updated report containing two (2) corrections, details can be found here: [HLG 00364-22 \(cloud.gov.ie\)](#)

Risk Assessment of Annex IV Species

The MA (Environment) concluded the following in their Environmental Report (**Tab 09**):

*Following a review the Risk Assessment for Annex IV species provided by the applicant the IEC concluded that it is very unlikely that any Annex IV species will be disturbed, injured or killed as a result of the proposed works. Having considered the application and the IEC's Risk Assessment of Annex IV species report (**Tab 10**) I agree with and accept this report and its conclusions.*

It should be noted that this risk assessment is not part of the Article 6.3 assessment and therefore identification and inclusion of mitigation measures within the risk assessment is appropriated at this stage.

Appropriate Assessment

Environmental Consultant Roughan & O'Donovan (ROD) in October 2022 adopts the comments from the Public Consultation and the Prescribed Bodies Consultation on Appropriate Assessment. The IEC concludes that:

The information contained in the NIS provides clear, concise, and definitive findings, capable of removing all scientific doubt as to the effects of the proposed development on the Glengarriff Harbour and Woodland SAC. Therefore, the competent authority may determine that the proposed development, either individually or in combination with other plans or projects, will not lead to adverse effects on the integrity of the Glengarriff Harbour and Woodland SAC, or any other European site.

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 made a determination following screening that an Appropriate Assessment was required as the project, individually or in combination with other plans or projects, is likely to have a significant effect the integrity of European sites, in view of the said sites' conservation objectives.

Measures to mitigate against the likely significant effect are identified in the Natura Impact Statement (December, 2020). The adherence to these measures is considered appropriate mitigation to avoid significant effects on conservation objectives of any European site.

It is therefore determined that the proposed project, either alone or in-combination with other projects, will not adversely affect the integrity of any European Site.

The Appropriate Assessment Report (**Tab 02**), along with all relevant material, was considered by a Marine Ecologist in the Department and the recommendation has been made that the Minister adopts the Appropriate Assessment Report.

The Appropriate Assessment Determination and Conclusion Statement prepared by the Department's Recommending Officer, for Ministerial Determination, is attached at **Tab 01** for signing.

Submitted for decision.

Related submissions

HLG 00364-22: Amendment to FS006970 Cork County Council – Screening for Appropriate Assessment Determination (eSubmission HLG 00289-22)

HLG 00289-22: FS006970 Cork County Council - Screening for Appropriate Assessment Determination

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