

# Submission HLG 00077-23: Appropriate Assessment Determination on Foreshore Application FS007037 Cork County Council for a Licence to Dredge in Ballycotton Harbour Co. Cork.

TO: Minister  
STATUS: Completed  
PURPOSE: For Decision and Signature

AUTHOR: Sarah C Farrell (Housing)  
OWNER: Sarah C Farrell (Housing)  
REVIEWERS: Aileen Fitzharris (Housing)  
Sarah C Farrell (Housing)  
Regina Deegan (Housing)  
Nina Murray (Housing)

DIVISION: Foreshore  
DECISION BY: 27/02/2023

## Final comment

Minister approved submission & signed AA Conclusion Statement 27 February 2023.

## Action required

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

## Executive summary

Cork County Council have applied for a Foreshore Licence to carry out maintenance dredging at Ballycotton Harbour Co. Cork under Section 3 of the Foreshore Act. 1933, 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 Submission [HLG 00297-22](#)

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 5 year Foreshore Licence under Section (3) of the Foreshore Act 1933, as amended, for the purposes of carrying out maintenance dredging at Ballycotton Harbour Co. Cork and disposal of suitable dredged material at the previously used dumping site to the south of Power Head, 16km southwest of Ballycotton and disposal of contaminated dredged material to a licenced landfill facility.

The proposed area of foreshore associated with the works is: Dredge area 1.13ha, Dump site 377.8ha.

### Brief Description of Works

The proposed works will comprise the following maintenance dredging at Ballycotton Harbour Co. Cork and disposal of suitable dredged material at the previously used dumping site to the south of Power Head, 16km southwest of Ballycotton and disposal of contaminated dredged material to a licenced landfill facility.

Further details of the proposed activity are outlined in the application form and associated documents (attached) and at the link: <https://www.gov.ie/en/foreshore-notice/80533-fs007037-ballycotton-harbour-dredging/>

## Public Consultation in accordance with Regulation 42 of EC Birds and Natural Habitats Regulations 2011, as amended:

The 30 day Public Consultation commenced on **08 August 2022** and ended on **06 September 2022**. The Public Notice invited public submissions for the purpose of conducting the Appropriate Assessment in accordance with Section 42 (1) of S.I. No. 477 of 2011, the European Communities (Birds and Natural Habitats) Regulations 2011, as amended.

All documents that informed the Screening for Appropriate Assessment Determination were made publicly available at: <https://www.gov.ie/en/foreshore-notice/80533-fs007037-ballycotton-harbour-dredging/>

Notices were published in The Irish Examiner and The Southern Star newspapers. Documents were made available for inspection throughout the consultation period in the following sites and on the Departments website:

- Midleton Garda Station, Oliver Plunkett Place, Midleton, Co. Cork, P25 Y439.
- Midleton Library, Main Street, Midleton, Co. Cork, P25 W085.
- Cork County Council Planning Department, Cork County Council, County Hall, Cork, T12 R2NC.

No 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/80533-fs007037-ballycotton-harbour-dredging/>

- Screening for Appropriate Assessment Report (Prepared by MA\_Env)
- Environment Screening Stage 1 Report (Prepared by MA\_Env)
- Submission on Screening for Appropriate Assessment Determination
- Prescribed Bodies Obs 2021 **(Tab 03)**
- Applicants response to PBC obs 2021 **(Tab 04)**

## Prescribed Bodies Consultation for Appropriate Assessment (2022)

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, Local Government and Heritage (Marine Advisor - Engineering)
- Department of Housing, Local Government and Heritage (Marine Advisor - Environmental)
- Department of Housing, Local Government and Heritage (National Parks and Wildlife Service)
- Department of Housing, Local Government and Heritage (Underwater Archaeology)
- Department of Agriculture Food and the Marine (Aquaculture)
- Marine Institute
- Inland Fisheries Ireland
- Marine Survey Office (MSO)
- Sea Fisheries Protection Agency

Observations were forwarded to the applicant **(Tab 05)** 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 06)**, 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 is being attached **(Tab 07)** at AA Determination stage for information purposes only in matters related to the environmental assessment process.

## Risk Assessment

Risk Assessment for Annex IV species likely to occur in Irish waters was carried out by the IEC. The Assessment determined that as a result of the underwater noise generated during the project injury or death to cetaceans could not be ruled out. However with the strict adherence to the DAHG 2014

Guidance to man-made sound sources in Irish waters it is very unlikely that there will be negative residual impacts from the proposed works on Annex IV species in the area. It is also very unlikely that any animals will be injured or killed as a result of the

proposed works.

### **Environmental Impact Assessment Regulations:**

The proposed project does not fall within the classes defined under Annex I or Annex II of the EIA Directive. However the Consent Authority (DHLGH) must complete an EIA Pre-Screening Declaration as part of their obligations under the EIA Directive, this declaration document is attached at **(Tab 12)**.

### **Appropriate Assessment**

Environmental Consultant (Hartley Anderson Limited) in November 2022, which adopts the comments from the Public Consultation and the Prescribed Bodies Consultation on Appropriate Assessment. The IEC concludes that:

The applicant has shown that the operations will not adversely affect (either directly or indirectly) the integrity of any European site, either alone or in combination with other plans or projects, and there is no reasonable scientific doubt in relation to this conclusion.

The Appropriate Assessment Report, 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 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 00297 -22:** FS007037 Cork County Council - Screening for Appropriate Assessment Determination

**HLG 00102 -23:** FS007037 Cork County Council maintenance dredging at Ballycotton Harbour Co. Cork

### **User details**

INVOLVED: Sarah C Farrell (Housing)  
Aileen Fitzharris (Housing)  
Regina Deegan (Housing)  
Nina Murray (Housing)  
Jessica Douglas (Housing)  
eSub Minister Office  
eSub Minister

READ RECEIPT: Sarah C Farrell (Housing)  
Aileen Fitzharris (Housing)  
Regina Deegan (Housing)  
Jessica Douglas (Housing)  
Nina Murray (Housing)  
Cathal O'Miochain (Housing)  
Siobhan NicThighearnain (Housing)  
Bridget McGuinness (Housing)  
Mary O'Sullivan (Housing)