

# Submission HLG 00336-22: Appropriate Assessment Determination on Foreshore Application FS007083 – EirGrid Cross Shannon Cable Project

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

AUTHOR:  
OWNER:  
REVIEWERS:



Nina Murray (Housing)

DIVISION: Foreshore  
DECISION BY: 22/07/2022

## Final comment

Read and approved by Minister Peter Burke 26 July 2022

## Action required

Ministerial approval and signature on Appropriate Assessment Determination

## Executive summary

EirGrid PLC have applied for a 35 year Foreshore Licence for laying Electricity Subsea Cables across the Shannon Estuary between Moneypoint Co. Clare and Kilpaddoge, Co Kerry.

In accordance with Regulation 42(6) of the European Communities (Birds and Natural Habitats) Regulations 2011 SI 477 as amended, the Minister 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 on any European sites.

Having considered all relevant material, a recommendation has been made that the Minister 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 **(Tab 1)**

## Detailed information

### Detailed Information

As part of the Cross Shannon Cable Project, Eirgrid PLC have applied the Minister for Housing, Local Government and Heritage for a 35 year Foreshore Licence under Section 3 of the Foreshore Act 1933, as amended, for the purpose of laying four 2.8km long 400kV Electricity Subsea Cables across the Shannon Estuary between Moneypoint Co. Clare and Kilpaddoge, Co Kerry.

The cables will be installed by standard installation techniques, which in the most part involves them being buried in the seabed. Two fibre optic cables will be include with each of the 400 kV cables, 1 of the fibre optic cables for communication links between both substations which will be integrated into the 400 kV cables and the second fibre optic cable for maintenance and cable monitoring which will be an armoured cable wrapped around the 400 kV cable. The associated works will include the reinforcement of the ground beneath and around the cables by various methods including concrete ramps, infilling with gravel/concrete, articulated pipes and rock armour protection.

### **Brief description of works**

The overall proposed development comprises 3 main elements.

Development on the foreshore consist of the Laying of 400 kV Submarine Cables across the Lower Shannon Estuary, including:

- The laying of 4 (no.) 400 kV submarine cables (approx. 2.8 km each) from the proposed land-submarine transition bays located east of the existing Moneypoint Generation Station in Co. Clare across the Lower Shannon Estuary to the proposed 400 kV Air Insulated Switchgear (AIS) Compound at the existing Kilpaddoge 220/110 kV Electricity Substation in Co. Kerry. The submarine cables will be installed by standard submarine installation techniques, which primarily involves them being buried in the seabed.

- The installation of communication links between both substations, this will take the form a fibre optic cable that will be integrated into each of the proposed 400 kV cables.
- The installation of fibre optic cables for maintenance and cable monitoring, this will take the form of an armoured fibre cable wrapped helically around each of the proposed 400 kV cables.
- Associated works in the foreshore include the reinforcement of the ground beneath and around the cables by various methods including concrete ramps, concrete cable channels, infilling with gravel/concrete, articulated pipes, gabion wall and rock protections where required.

The proposed area of foreshore associated with the works is 98.15 ha. Further details of the proposed activity are outlined in the application form and associated documents linked below.

### **Environmental Assessment**

As part of the assessment of the foreshore application the Department engaged Ove Arup & Partners Ireland Ltd (Arup) with Hartley Anderson as Independent Environmental Consultants (IEC) 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 proposed works in the application for a Foreshore Licence.

### **Screening for Appropriate Assessment**

The Independent Environment Consultants completed a Screening for Appropriate Assessment Report February 2022, which concluded that a Stage 2 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. The Department's Marine Advisor (Environment) agreed with and adopted the IEC report and its conclusions and made a recommendation on the AA Screening Determination which was approved and signed by the Minister.

Minister of State Burke, upon a review of all materials of the application concurred with the Departments Recommending Officer, and accepted and adopted the IEC's Screening for Appropriate Assessment Report and its conclusions. On the 10<sup>th</sup> of March 2022 the Minister determined the following (*submission to minister at the following link [HLG 00096-22](#)*):

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 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 to lay a 400kV cable across the Shannon Estuary, 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(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 European sites. The risk of likely significant effects on European sites cannot be excluded on the basis of objective evidence. This determination is based on the location, scale, extent and duration of the proposed development, including temporary works, and has not taken account of measures intended to avoid or reduce significant effects on European sites. **(Tab 2)**

The MLVC accepts and adopt the IEC's Screening for Appropriate Assessment Report and its conclusions and the Departments Marine Advisor (environment) Environmental Report dated (08/03/2022). The **Screening for Appropriate Assessment Determination** was signed by the Minister as part of obligations under the Habitats Directive.

**In addition to the Screening for Appropriate Assessment a Risk Assessment of Annex IV Species of Directive 92/43/EEC (as amended) was undertaken:** 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 report by IEC*). It concluded 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 which was identified as a mitigation measure in the Appropriate Assessment process for Annex II species Bottlenose Dolphin no cetaceans will be injured or killed as a result of the proposed activity. Evidence of otters were not found at the site (**Tab 3**). The conclusion reached is accepted and adopted by the MLVC.

The risk assessment of effects to species listed in Annex IV is separate to and does not form part of the Appropriate Assessment Screening report which has examined the European sites and their qualifying interests.

In addition, the MLVC has had regard to the Departments Marine Advisor (environment) environmental report dated (08/03/2022) with appendix EIA Screening Examination document (**Tab 4**) and it is concluded having considered the information an EIAR is not required. Notwithstanding that the proposed application does not fall within the EIA directive, the IEC prepared a Non-Statutory Environmental Appraisal Report in May 2022. The MLVC considers this report to be comprehensive in its assessment of the possible effects of the proposed development on the wider natural environment. Having considered this report it is concluded that taken in conjunction with the other submitted environmental information (AA dealt with above) that there are is no real likelihood of significant adverse effects on the environment arising from the proposed development (**Tab 5**)

## **Public Participation**

### **Public Consultation S42 of EC Birds and Natural Habitats Regulations 2011 as amended**

As part of the assessment of the foreshore licence application, the Minister determined, in accordance with Regulation 42(6) of the European Communities (Birds and Natural Habitats) Regulations 2011, as amended, that an Appropriate Assessment was required in respect of the proposed plan or project.

Therefore an additional period of consultation for the purposes of conducting the Appropriate Assessment ran from the 31<sup>st</sup> of March 2022 to the 29<sup>th</sup> of April 2022.

The public notice appeared in the "Irish Independent" and "Kerryman" newspapers on the 30<sup>th</sup> of March 2022 and the "Clare Champion" newspaper on the 1<sup>st</sup> of April 2022. The application documentation was made available for inspection by the public at Clare County Council offices, Kerry County Council offices, Listowel Garda Station, and Kilrush Garda station and on the Departments Website the full public consultation period.

During the Public Consultation, under Section 42 of EC Birds and Natural Habitats Regulations 2011 there was no submissions made by members of the public.

### **Prescribed Bodies Consultation S42 of EC Birds and Natural Habitats Regulations 2011 as amended**

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, under Section S42 of EC Birds and Natural Habitats Regulations 2011 as amended, from:

- Department of Housing, Local Government and Heritage Marine Advisor (Engineer).
- Department of Housing, Local Government and Heritage Marine Advisor (Environment).
- Marine Survey Office
- Geological Survey Ireland Marine Institute
- Environmental Protection Agency
- Commissioners of Irish Lights
- Inland Fisheries Ireland
- Department of Housing, Local Government and Heritage (Nature Conservation)
- Department of Housing, Local Government and Heritage (Underwater Archaeology)
- Department of Agriculture, Food and the Marine
- Sea Fisheries Protection Authority
- Met Eireann
- Marine Institute
- Health and Safety Authority
- Bord Iascaigh Mhara
- Inland Waterways and Marine (Heritage Council) – no response received
- Bird Watch Ireland – no response received
- Kerry County Council – no response received
- Clare County Council – no response received

- Department of Environment, Climate and Communications (Energy Unit) no response
- Department of Defence - no response received
- Commission for the Regulation of Utilities - no response received
- Irish Coast Guard - no response received
- Sustainable Energy Authority of Ireland - no response received

The prescribed bodies that responded confirmed no objection to the project. The submitted observations **(Tab 6 and 7)** and the applicant's response **(Tab 8 and 9)** were considered and assessed by the MLVC.

### Appropriate Assessment Stage 2

The IEC, Ove Arup & Partners Ireland Ltd (Arup) with Hartley Anderson Limited, completed the Appropriate Assessment in May 2022 and identified the mitigation measures required to ensure that the proposed project, either individually or in combination with other plans or projects, would not adversely affect the integrity of any European Site.

A number of application documents submitted by Dublin Port Company informed the Appropriate Assessment Report by Arup are linked below can be found at [www.housing.gov.ie](http://www.housing.gov.ie) or at <https://www.gov.ie/en/foreshore-notice/07fcb-eirgrid-plc/>

- Application form,
- Series of 15 drawings (available to view on the Department's Website <https://www.gov.ie/en/foreshore-notice/07fcb-eirgrid-plc/>),
- Screening for Appropriate Assessment and Natura Impact Statement,
- NIS Appendices,
- Planning and Environmental Considerations Report (PECR),
- 11 PECR Appendices (available to view on the Department's Website <https://www.gov.ie/en/foreshore-notice/07fcb-eirgrid-plc/>),
- Planning permission – Applicant response to ABP,
- An Bord Pleanála Order,
- ABP Inspector's Report [19 March 2020]
- Prescribed Bodies Consultation (S42 of EC Birds and Natural Habitats Regulations 2011 as amended) and
- Applicant's response to Public Bodies Observations (S42 of EC Birds and Natural Habitats Regulations 2011 as amended).

This Appropriate Assessment report, along with all relevant material, was considered by the Departments Marine Advisor (environment) who agreed with and accepted the IEC's Appropriate Assessment report and its conclusions. The Marine Advisor (Environment) provided an Environmental Report dated (25/05/2022) that included an Appropriate Assessment Determination and Conclusion Statement for Signing by the Minister.

The MLVC accepts and adopts the IEC's Appropriate Assessment Report and its conclusions and supports and adopts the Marine Advisors (Recommending Officers) Environmental Report dated 25/05/2022 with Appropriate Assessment Determination and Conclusion Statement. The Consent Authority (DHLGH) must publish this Appropriate Assessment and Determination Conclusion Statement as part of their obligations under the Habitats Directive.

A recommendation has been made that the Minister adopts the Appropriate Assessment Report and reaches the following Appropriate Assessment Determination:

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.

The Appropriate Assessment process determined that, with the exception of the underwater noise and its effect on Annex II species, the remaining activities identified would not cause effects that were deemed significant to the qualifying interests of any European site. It identified adherence to the NPWS *Guidance to Manage the Risk to Marine Mammals from Man-made Sound Sources in Irish Waters* (2014) as appropriate mitigation to avoid significant effects on these Annex II species.

It is therefore determined that the proposed project, either alone or in-combination with other projects, will not adversely affect the integrity of European sites, individually or in combination with other plans or projects, in view of the said sites'

conservation objectives.

A copy of all the material which informed the Appropriate Assessment Report prepared by the Independent Environmental Consultants is linked above.

The Appropriate Assessment report prepared by the IEC is attached at **(Tab 10)**, the Departments Marine Advisor (environment) Environmental report dated 25/05/2022 is at **(Tab11)**, and the adoption of these reports is recommended. The Marine Licence Vetting Committee Report, is attached at **(Tab 12)** which has been considered as part of this submission and it is recommended that these environmental findings are also adopted by the Minister.

The Appropriate Assessment Determination and Conclusion Statement prepared by the Department's Recommending Officer, **for Ministerial approval and signature** is attached at **(Tab 1)**.

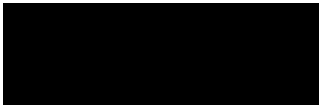
Submitted for consideration and approval.

## Related submissions

There are no related submissions.

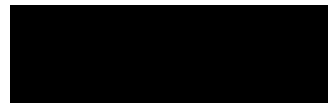
## User details

INVOLVED:



Nina Murray (Housing)  
eSub MOS Burke Office  
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READ RECEIPT:



Nina Murray (Housing)

