

FS007084

REPORT OF THE MARINE LICENCE VETTING COMMITTEE (MLVC)

ON

FORESHORE LICENCE APPLICATION ON BEHALF OF

DONEGAL COUNTY COUNCIL

FOR

DREDGING AND BEACH NOURISHMENT

AT

MAGHERAROARTY PIER CO DONEGAL

Assessment Report

This is the technical assessment for a foreshore licence for the proposal to dredge and carry out beach nourishment for the approval at Magheraroarty Pier County Donegal (FS007084)

Proposal

Donegal County Council has submitted an application for a Foreshore Licence to carry out Shore Based Dredging and Beach Nourishment at Magheraroarty Harbour.

A S3.3 Temporary licence was issued in respect of these works in the interest of the health and safety of mariners and their vessels for a period of three months. This Temporary Licence FS007526 term is from 29/03/2022 – 29/06/2022.

The Temporary licence will expire on 29/06/2022 and this 5 year licence will commence if approved.

Location application

Magheraroarty Harbour is located in northwest Donegal and serves as an active port both for commercial fishing but also for the Tory Island ferry.

The site is located within a European site, Ballyness Bay SAC (001090), and close to the Falcarragh to Meenlaragh SPA (004149) European site.

Outline of proposal

Sand has been depositing at Magheraroarty Harbour since the construction of the pier in the 1970s. In 2002 an L-shaped extension was added to the pier and this has increased the build-up of sand at the base of the pier. Since 2002, annual maintenance dredging is required to remove sediment from the harbour basin. The dredged material is then returned to the adjacent beach, replenishing areas which have been eroded.

The project involves the relocation of sand material from the area of accretion (Magheraroarty Harbour) to an intertidal area on the strand which experiences natural erosion from wave, wind and longshore drift action. Over the winter months sand continues to be transported along Dooey Strand and deposited along the berthing face of the pier.

A maximum volume of 20,000 tonnes per annum of deposited sand is to be removed from the Harbour and dumped onto an intertidal zone encompassing an area of 12.7 ha. The annual maintenance dredging of Magheraroarty Harbour is required to maintain navigational depth to -2.5m Chart Datum (CD) for the Tory Island ferry, commercial fishing boats and charter boats in the local area.

Technical details and duration of dredging

Magheraroarty Harbour experiences continued accretion from deposited sediment which is transported along the 3km long beach, known as Dooey Strand. The harbour is tidally restricted and exposed to wave energy generated in the Atlantic Ocean over a very long fetch length.

The dredging is scheduled to take place at low tide over a 5-6 day period during the equinoctial spring tides in March/April each year. Completing the dredging work over the spring tide will allow access to the entire berthing area. The sand is to be excavated by 360-degree tracked excavators working at low tide and loading articulated dumpers. The sand will be brought to the adjacent beach, where it will be spread evenly using a 360-degree low bearing tracked excavator. The beach nourishment area and haulage route will be mapped out in advance. The work is restricted by the tide therefore there will be no build-up of sediment along Dooney Strand during the 5-6-day period of works. It is expected that the total duration of works on-site will be 6 days (mobilisation, preparation, spreading and demobilisation) with 4 days of dredging activity during that period.

No plant or equipment will be parked on the beach overnight or outside working hours. Access to the beach will be restricted during the works usually 4 hours over the 5-6-day period.

Works will be advertised on local radio and signs posted to notify users.

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 mandatorily or from a sub threshold point of view.

In considering the potential effects, independent environmental advice was taken this was considered by the Environmental marine adviser (Reports are attached with this report). The proposed development was screened in for Appropriate Assessment and following consideration of same, as outlined in the supporting environmental documentation, which forms part of this assessment, is concluded that subject to the proposed mitigation measures that the proposed activity would not either individually or in combination with other plans or projects, will not adversely affect the integrity of European sites, in view of the said sites' conservation objectives.

EU Habitats Directive: Risk Assessment for Annex IV Species

Following a review of the proposed project, the IEC completed a Risk Assessment for Annex IV Species. This assessment concludes that the proposed project will not give rise to significant impacts on species listed under Annex II or IV of the Habitats Directive.

The Department's Marine Advisor (Environmental) has reviewed the IEC's Risk Assessment for Annex IV species Report [dated 22/06/2022] for the Foreshore Application FS007084 and agrees with the IEC's conclusion that the proposed project will comply with the strict protection afforded to Annex IV species by Article 12 of the Habitats Directive.

Having considered the totality of documentation attached to and prepared as part of the assessment of this application including but not exclusively the documentation submitted by Donegal County Council, the submissions from the public and prescribed bodies' consultations and the IEC's Risk Assessment

for Annex IV Species, it is concluded that the proposed development, subject to mitigation measures being implemented does not pose a detrimental risk to the environment or protected sites.

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”).

Public Notice of the application was given on the 11th March 2021 in the Irish Independent and Donegal Democrat newspapers.

The application documents were available on the Departments website and at the Dungloe Public Services Centre, Gweedore Road, Dungloe, Co. Donegal F94 H4CF and Falcarragh Garda Station, Main Street, Falcarragh, Co. Donegal, F92 P212 for 30 days.

Prescribed Bodies Consultation on Foreshore Licence Application

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

There were no objections to the proposed activity.

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.

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).

Public Notice of the Appropriate Assessment was given on the 25th November 2021 in the Irish Independent and Donegal Democrat newspapers.

The Appropriate Assessment and application documents were available on the Departments website and at the Dungloe Public Services Centre, Gweedore Road, Dungloe, Co. Donegal F94 H4CF and Falcarragh Garda Station, Main Street, Falcarragh, Co. Donegal, F92 P212 for 30 days.

There was one Public Submission received.

This submission is noted and relates to issues about the length of time for consideration of application, need for particular environmental considerations and issues to do with the need for annual dredging. In response the proposed application has been extensively considered including necessary environmental assessments, which have been carried out. In relation to the yearly dredging this is considered to be necessary due to the marine environment in that particular location and in the interests of allowing for safe navigation to an established and necessary docking pier.

Prescribed Bodies Consultation for Appropriate Assessment

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

There were no objections to the Appropriate Assessment. This is noted.

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 and 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.

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.

Having reviewed and assessed this application against the objectives of the NMPF, it is considered that the proposed works do not act significantly against any objective within the NMPF. Furthermore, the project is aligned and secures key sectoral/activity objectives set out in under the ports, harbours and shipping section of the NMPF and given that it is the main link with Tory Island also aligns with the NMPF objectives relating to our island communities.

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.

The submitted documentation, reports and assessments have been considered. The proposed development is limited in scale and extent. As such it is considered to be appropriate and needed for maritime use and enjoyment. In view of this it is recommended that a lease for the proposed development is in the public interest.

Application Assessment and Conclusion

Magheraroarty Harbour is an active harbour with regular and ongoing shipping movements. Due to the marine conditions at the approaches to the port, it is in need of regular dredging in order to allow for safe navigation of shipping. This activity will also allow for beach nourishment which will further protect this exposed coastline.

There is a clear health and safety requirement to allow for the continued safe navigation to the harbour. It will have the consequential effect of promoting beach nourishment which will have positive environmental and coastal protection benefits.


The possible environmental effects of dredging at this location have been extensively considered and concluded that there will be no adverse effects on European sites.

In conclusion, it is considered prudent and reasonable to approve a foreshore licence for the period applied for to allow for the continued necessary dredging and beach nourishment at Magheraroarty Harbour, as outlined in their application in the interests of safe shipping navigation.

Recommended 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 form and supporting documentation and for no other purposes whatsoever.
2. The works shall be located as outlined on:
 - Drawing number : 002 Revision 1 dated 09/12/2019 entitled '*Magheroarty Harbour Dredging Traffic and Nourishment Location*'
 - Drawing number : 002a Revision 1 dated 27/11/2019 entitled '*Magheroarty Harbour Dredging Location*'
 - Drawing number : 004 dated 09/12/2019 entitled '*Foreshore Licence Map*'
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. 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.
5. The Licence shall remain valid for five years, the dredging and disposal amount shall not be more than 20,000 tonnes per annum in order to maintain a maximum navigable depth in the dredge area of -2.5m chart datum.
6. The Licensee shall conduct the maintenance dredging and disposal operations within the period 1st of March to the 31st of March (inclusive) each year.
7. The Licensee shall ensure that the material is spread as evenly and as thinly as possible at the agreed disposal/nourishment site on Dooley Strand and in any event shall be spread at a depth not exceeding 100mm with well graded sides.
8. Before each annual dredging and nourishment campaign the Licensee shall undertake a topographical survey of the disposal/nourishment area within 10 days prior to activities commencing. The licensee shall re-survey the disposal/nourishment area within 10 days post completion of the dredging and disposal operations. The results of these surveys shall be made available to the Department of Housing, Local Government and Heritage upon request.
9. All Mitigation Measures detailed in Table 7.1 of the Natura Impact Statement Report dated 22nd of December 2020 shall be implemented in full unless superseded by a specific condition stipulated within this licence.
10. The Licensee shall carry out the works in accordance with the methodology outlined in *Section 3.0 Methodology* of the Donegal County Council's report titled '*Shore Based Dredging and Beach Nourishment at Magheroarty Harbour – Details and Methodology*' dated January 2021 as submitted with the application for this Foreshore Licence.

11. A local Marine-1 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.
12. The NPWS “Guidance to Manage the Risk to Marine Mammals from Man-made Sound Sources in Irish Waters” (NPWS 2014) shall be applied to all dredging and dumping operations.
13. No storage and/or refuelling of equipment, machinery or plant shall take place on the foreshore.
14. A documented Accident Prevention Procedure and an 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.
15. 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 and marine equipment shall be free of fouling by the use of appropriate application of antifouling paints and/or wash downs for smaller boats and plant. A record of all antifouling procedures implemented shall be kept for the duration of the project.
16. 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.

 BA (Hons), MsC, MBA,MIPI
Senior Planning Adviser
16/9/22