

**(FS007004)**

**REPORT OF THE MARINE LICENCE VETTING COMMITTEE  
(MLVC)**

**ON**

**FORESHORE LEASE APPLICATION FOR:**

**Revetment Repairs at The Murrough, Wicklow Town, Co. Wicklow**

**APPLICANT: The Office of Public Works**

**Author: Colin Ryan- Senior Planning Adviser**

**Marine Licence Vetting Committee**

**Date: 10/02/2022**

### **The marine licence vetting committee (MLVC)**

The marine licence vetting committee (MLVC) is a non-statutory multi-disciplinary committee which is convened, as required, for the purposes of undertaking a technical assessment and an environmental assessment of an application under the Foreshore Act 1933, as amended. Members undertake to participate in each instance voluntarily, as representatives of their individual organisations.

On the 05/11/2021 the Foreshore Section of the Department of Housing, Local Government and Heritage requested the MLVC to undertake the technical assessment detailed below for Case FS007004.

#### **1. Project Overview**

The Office of Public Works have applied for a Foreshore Lease, under Section 2 of the Foreshore Act, as amended, for a term of 35 years, for the purpose of carrying out works associated with repairing and maintaining a 260 metres of existing revetment at the Murrough, Wicklow Town, the foreshore lease area subject to this application is 37.67M2 that extends onto the foreshore beyond the original footprint of the revetment.

The Murrough is a 15km long coastal wetland area which extends north of Wicklow Town and continues as far as Greystones, Co. Wicklow. It is among the largest coastal wetland complex on the East coast of Ireland. The Murrough Coast Protection Scheme was originally constructed in the mid 1970's under the Coast Protection Act of 1963. The scheme comprises of a rock armoured revetment / apron structure and retaining wall and extends over a length of approximately 260m. There is a statutory requirement on the OPW to carry out maintenance works on coast protection schemes that were constructed under the Act to maintain these schemes in "proper repair and effective condition".

#### **2. Location**

The Murrough, Wicklow Town, Co. Wicklow

#### **3. Brief Description of the proposed works**

The OPW Coastal Section intend to progress works to the existing revetment at The Murrough located in Wicklow Town. The 260m length of revetment is located north of Wicklow Port and Harbour. The proposed works include the re-profiling of the existing revetment and placement of a single layer of 3-6 tonne rock armour over the top. A gabion mattress wrapped in geotextile will be placed under the proposed revetment toe. A brief summary of the anticipated scope of the work is as follows:

- Site set-up, including all compound and laydown areas;
- Identify and protect all existing services;
- Re-profiling of the existing revetment;
- Placement of the new armour layer and gabion mattress. It is anticipated that the proposed 3–6 tonne rock armour will be delivered to site via the road network;
- Site clean-up and demobilisation; and
- All temporary works associated with the project, e.g. temporary traffic management, etc.

The timescale for the completion of the work is estimated at approximately 3 to 6 months. Works will occur during normal working hours between 08.00 and 19.00hrs. No artificial lighting is therefore anticipated at the works location. The applicant (OPW) has designed the scheme in accordance with the relevant codes.

The OPW will carry out the repair and maintenance works on the revetment, however, the works proposed necessitates encroachment onto the foreshore, hence the need for a Section 2 lease. The proposed area of foreshore associated with the proposed works is 37.67M2.

#### **4. Other relevant Consents and Government Policies**

Planning permission not required. Maintenance works to be carried out in accordance with the Coast Protection Act, 1963.

## 5. Public Participation

**Public Consultation Process:** 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 public consultation period ran from the 13<sup>th</sup> of May 2021 to the 13<sup>th</sup> of June 2021.

The public notice appeared in the “Wicklow People” and the “Irish Independent” newspapers on the 12<sup>th</sup> of May 2021 and the application documentation was made available for inspection by the public at Wicklow Garda Station, Bachelor’s Walk, Wicklow Town, Co. Wicklow for and on the Departments Website the full public consultation period.

**Public Consultation Submissions and Assessment:** During the Public Consultation period there was no submissions made by members of the public.

6. **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 (Water and Marine Advisor)
- 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 (Aquaculture)
- Marine Institute
- Inland Fisheries Ireland
- Sea Fisheries Protection Authority
- Marine Survey Office
- Wicklow County Council

The prescribed bodies that responded confirmed no objection to the project and provided commentary which is listed in the Consolidated Prescribed Bodies and Public Submission document on the Depts. website. A number of the submissions from the Prescribed Bodies raised particular observations and put forward suggested conditions to be included in any consent issued.

The MLVC reviewed and assessed these submissions and have incorporated all relevant and necessary conditions in the proposed Consent Conditions set out in Section 12 below.

## 7. 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. Accordingly Section 2 of the Foreshore Act applies for the repairing and maintaining a 260 metres of existing coastal revetment. The lease area for the proposed cable is shown in the following map submitted by the applicant:

- Map No: DR\_002-Foreshore Lease Map Rev I2 Date 18/05/2020

The Lessee shall use that part of the foreshore, the subject matter of this lease for the purposes as outlined in the application and for no other purposes whatsoever.

## 8. Environmental Considerations

A review and assessment of the proposed project and the applicant’s Screening for Appropriate Assessment was undertaken. The screening report attached forms part of the assessment of the proposed development. It is concluded that a Stage 2 Appropriate Assessment is not required as the project, individually or in combination with other plans or projects, is not likely to have a significant effect on any European site.

Consideration has been given to whether an EIAR is required. It is concluded that the project does not fall within the classes defined under Annex I or Annex II of the EIA Directive and in view of its scale and location it does not require a sub threshold EIAR.

Furthermore, as part of the assessment process, a Risk Assessment for Annex II Species was undertaken by the Departments Marine Adviser (ecology). The MLVC accepts and adopts the report's conclusion that *"given the lack of underwater noise generated by this project, its location in an area of high human activity, it does not have the potential to pose a risk to Annex IV species that may be present within its Zone of Influence"*.

#### **9. 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, the MLVC is satisfied 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 Section 5.8 under Climate Change in relation to the OPWs role to maintain coastal protection schemes constructed under the Coast Protection Act, 1963. Accordingly, the MLVC is satisfied that the proposed repair and maintenance of the existing coastal revetment is aligned with, and secures the relevant objectives set out in the NMPF.

#### **10. 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.

#### **11. Conclusions and Recommendations**

The submitted documentation, reports and assessments have been considered. It is noted that additional information was received from the applicants which has been considered. This information is not considered to be of a significant nature that would warrant further public consultation.

This renewal and improvement of existing coastal defence works is considered to be necessary and is proposed to be undertaken in pursuance of the statutory function of the Office of Public works. It is considered to be appropriate and needed for the continued integrity of coastal defence works. Submissions by the prescribed bodies have been considered and responded to by way of attached conditions. Significant appropriate consideration has been given to environmental matters by the Departments Marine Advisor (ecology) and the MLVC.

The MLVC concludes that, subject to compliance with the specific conditions set out below, the proposed works would will not adversely affect Fishing, Navigation or the Environment is in the Public Interest and is aligned with the objectives set out in the NMPF. Therefore, **the MLVC recommend that the Minster issues** a Foreshore Lease for repairing and maintaining of an existing coastal revetment. Any Foreshore Lease issued shall be subject to the appropriate conditions outlined below.

## **12. Proposed Foreshore Consent Conditions**

1. The Lessee shall use that part of the foreshore, the subject matter of this lease for the purposes as outlined in the application and for no other purposes whatsoever.
2. The revetment repairs shall be located on the foreshore as outlined on Map No: DR\_002-Foreshore Lease Map Rev I2 Date 18/05/2020.
3. Works on the foreshore shall be certified by a Chartered Engineer stating that they are designed to the relevant Irish or British Standard Specification or Codes of Practice for strength, stability and durability.
4. On completion of the works, the Lessee shall submit to the Department of Housing, Local Government and Heritage a statement from a suitable qualified Chartered Engineer confirming that works are completed in accordance with the documents submitted.
5. The Lessee 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. This notification shall include an up to date Programme of Works for the completion of the project.
6. During the course of the works the Lessee shall ensure that existing public/pedestrian 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.
7. On completion of the works, the surrounding foreshore shall be returned to its natural state to the satisfaction of the Department of Housing, Local Government and Heritage.
8. All refuelling of machines and equipment must take place well away from the shoreline. All fuels, lubricants and hydraulic fluids must be kept in secure bunded areas away from the shoreline. The bunded area shall accommodate 110% of the total capacity of the containers within it.
9. An effective spillage control procedure must be put in place with all staff properly briefed. Any waste oils or hydraulic fluids shall be collected, stored in appropriate containers and disposed of offsite in an appropriate manner. Spill kits, with an appropriate capacity for the contaminants used on site must be kept on site and must be made available throughout the construction process.
10. IFI must be included in an Emergency Response Plan as a notifiable body in the event of water pollution occurring during construction works. Particular attention to activities likely to generate suspended solids and/or other pollutants and the proposals to prevent these pollutants need to be specified.
11. Measures must be taken during all aspects of construction to ensure that no concrete is allowed to enter intertidal waters whether from pouring or mixing of cementitious material. The CEMP should be forwarded to the local IFI Environmental Officer.
12. The Lessee 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 require.