

Submission HLG 00177-22: FS007004 Office of Public Works - Revetment Repairs, Wicklow Town

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

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DIVISION: Foreshore
DECISION BY: 15/04/2022

Final comment

Approved by minister, 13/04/2022

Action required

Ministerial approval is sought to grant a Foreshore Lease to the Office of Public Works under section 2 of the Foreshore Act 1933, as amended.

Executive summary

The approval of the Minister is sought to grant a Foreshore lease to the Office of Public Works under Section 2 of the Foreshore Act 1933, as amended, for a term of 35 years to carry out works associated with revetment repairs at the Murrough, Wicklow Town.

Detailed information

The Office of Public Works have applied to the Department of Housing, Local Government and Heritage for a Foreshore Lease, under Section 2 of the Foreshore Act 1933, 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 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".

Location

The Murrough, Wicklow Town, Co. Wicklow

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.

While the OPW has a statutory requirement to carry out repair and maintenance works on the revetment, 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.

Further details of the proposed development are outlined in the application form and associated documents submitted by OPW and can be found at the following link www.housing.gov.ie

The application form submitted by The Office of Public Works is attached at **Tab 1**. Foreshore lease map is attached at **Tab 2** and a site location map of the proposed works is attached at **Tab 3**.

- Drawing no DR_002 - Foreshore Lease Map Rev I2 Date 18/05/2020
- Drawing no DR_001 - Site Location Map Date July 2020

Companion Consents

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

Public Consultation

The public consultation period ran from the 13th of May 2021 to the 13th of June 2021.

The public notice concerning the application was published in the "Wicklow People" and the "Irish Independent" newspapers on the 12th of May 2021 and the application and associated 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.

During the Public Consultation period there was no submissions made by members of the public.

Prescribed Bodies Consultation

Written submissions on the proposed project were received from:

- Department of Housing, Local Government and Heritage (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

There were no objections in principle to the proposed activity as set out in the application documentation. A number of submissions from the prescribed bodies raised particular observations and put forward suggested conditions to be included in any foreshore licence, if granted, to address their specific interests (**Tab 4**).

Detailed responses to the prescribed bodies observations were received from the applicant and these have been considered as part of the overall assessment of the proposed application by the MLVC. The applicant's responses to the prescribed bodies' observations are attached at **Tab 5**.

Environmental Assessment

As part of the assessment of this foreshore application the Departments in-house Marine Advisor (Environment) has conducted independent assessments of the information provided by the Applicant, having regard to the Habitats Directive and the Birds and Natural Habitats Regulations.

Screening for Appropriate Assessment

The Department's Marine Advisor (Environment) was requested to undertake a Screening for Appropriate Assessment (Stage 1) 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 lease.

A number of application documents have informed the Screening for Appropriate Assessment and are linked below and can also be found on the Departments website at <https://www.gov.ie/en/foreshore-notice/5e9e9-opw-wicklow-town-revetment-repairs/>

The Departments Marine Advisor (environment) completed a 'Screening for Appropriate Assessment Report' in October 2021, which concluded that in view of best scientific knowledge and in view of the sites' conservation objectives, the project, individually or in combination with other plans or projects, will not have a significant effect on European sites. Therefore a phase 2 Appropriate Assessment is not required. The Screening for Appropriate Assessment Report is at **Tab 6** and the Departments Marine Advisor (Environment) report is attached at **Tab 9**.

Screening for Appropriate Assessment Determination:

Minister of State Burke, upon a review of all materials of the application and recommendation made by Department's Recommending Officer (Environment) accepted and adopted the Screening for Appropriate Assessment and its conclusions and made the following determination on **3 November 2021**. **Related submissions link:** <https://housing.cloud.gov.ie/apps/eSubmissions/Submissions/HLG%2000403-21>

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 undertake maintenance on the rock armour revetment at the Murrough, Wicklow Town, 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(7) 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 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. The risk of likely significant effects on European sites can 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 8**)

In addition to the Screening for Appropriate Assessment, and with respect to the Habitats Directive 92/43/EEC, a risk assessment of the effects to species listed in Annex IV which occurs within the project site was undertaken. 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.

It was concluded 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."* The Risk Assessment for Annex IV species Report is attached at **Tab 7**. The MLVC accepts and adopts this report and its conclusion.

Environmental Impact Assessment EIA Regulations

The proposed project does not fall within the class defined under Annex I or Annex II of the EIA Directive. The Consent Authority (DHLGH), Marine Advisor (environment), completed an EIA Pre-Screening Declaration as part of obligations. The MLVC agrees with this recommendation and it has been considered as part of the assessment and these findings are adopted. The Departments Marine Advisors (environment) Report enclosing the EIA Pre-Screening document and Statutory Declarations is attached at **Tab 9**.

Marine Licence Vetting Committee (MLVC)

The Marine Licence Vetting Committee Report is attached at **Tab 10**. The following submitted documentation were considered by the MLVC:

- Foreshore Lease [Application Form](#)

- AA Screening Report
- Drawing DR-001 Site Location Map
- Drawing DR-002 Foreshore lease Map
- Drawing DR-003 Plan and Profiles – Sheet 1 of 3
- Drawing DR-003 Plan and Profiles – Sheet 2 of 3
- Drawing DR-003 Plan and Profiles – Sheet 3 of 3
- Prescribed Bodies Observations
- Applicants Responses to Prescribed Bodies Observations
- Screening for Appropriate Assessment prepared by the Departments Marine Advisors (environment)
- Risk assessment for Annex IV Species Report prepared by the Departments Marine Advisors (environment)
- The Departments Marine Advisors (environment) Report with Statutory Declarations
- Clarifications requested and received. A number of requests for clarifications were made to the applicant during the decision making process. These documents are including in appendix 1 of the Departments Marine Advisors (environment) Report.

The MLVC reviewed the technical, scientific and environmental aspects of the documentation submitted by the applicant. The MLVC is satisfied that the purpose and objective of the proposed works on the foreshore are adequately explained.

In addition, the MLVC is satisfied that the environmental information provided is sufficient to allow an assessment of the environmental effects of the proposed development to be carried out and to make a recommendation.

In its consideration of the case, the MLVC has responded to the issues raised during the prescribed bodies and public consultations by way of site specific conditions. The MLVC Report, dated 10/02/2022, is attached at **Tab 10** for acceptance.

The MLVC concludes that, subject to compliance with the specific conditions set out, the proposed works would 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 recommends that the Minister issues a Foreshore Lease for repairing and maintaining of an existing coastal revetment at the Murrough, Wicklow Town. Any Foreshore Lease issued shall be subject to the appropriate conditions attached at **Tab 11**.

Agreement of the Applicant

The Office of Public Works have agreed to the recommended site specific conditions, which will be attached to the licence, if granted.

Financial Considerations

The Office of Public Works have agreed to pay a once off fee of [REDACTED] to include a peppercorn rent of [REDACTED] per annum, if demanded.

Basis for Recommendation

Having regard to:

- The application, together with accompanying documentation;
- The submissions received from prescribed bodies (statutory consultees);
- The public consultation undertaken;
- The applicants responses to the prescribed bodies observations;
- The Screening for Appropriate Assessment Report prepared by the Departments Marine Advisor (Environment)
- EU Habitats Directive: Risk Assessment for Annex IV Species Report prepared by the Departments Marine Advisor (Environment)
- The Departments Marine Advisor (Environmental) Environmental Report with Statutory Declarations.
- The assessment of the proposed development by the MLVC, its conclusions and recommendations in this regard; and
- The consent conditions to be attached to the foreshore licence, if granted

It is considered that the proposed works would not adversely affect Fishing, Navigation or the Environment is in the Public Interest

and is aligned with the objectives set out in the NMPF.

It is recommended that a foreshore licence be granted to the Office of Public Works, subject to the conditions recommended by the MLVC, and the financial considerations set out above.

Notification of Ministerial Determination

If approval is granted by the Minister, the Office of Public Works will be informed accordingly, an appropriate lease will issue for execution, and a Notice of Determination regarding the decision (including the reasons) will be published on the Department's website.

The Notice of Determination will address:

- The outcome of the Minister's determination of the application.
- The main reasons and considerations for the Minister's determination.
- A statement that all relevant documentation on which the determination is based is available for inspection on the website of this Department and at the Department's Wexford office.
- Confirmation that a review procedure is available before the High Court whereby the substantive or procedural legality of the Minister's determination may be challenged, together with practical information on the review procedure.

Submitted for approval, to grant a Foreshore Lease to the Office of Public Works for the purpose of carrying out works associated with repairing and maintaining a 260 metres of existing revetment at the Murrough, Wicklow Town.

Related submissions

There are no related submissions.

User details

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