



An Roinn
Ealaíon, Oidhreacht agus Gaeltachta
Department of
Arts, Heritage and the Gaeltacht

RPS Ref: NI 1328
Our Ref: G Pre00470/2012 (& previously G Pre00152/2011)

06 February 2013

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Re: **EIS scoping proposed Ferry between Greenore, Co. Louth and Greencastle in Co. Down** (Transboundary)

A Chara,

I refer to the notification dated 5 December 2012 in relation to the above proposed development. Outlined below are the recommendations of the Department of Arts, Heritage and the Gaeltacht in relation to **marine ecology** and **underwater archaeology** and **nature conservation**.

Marine Ecology:

The application detail that has been forwarded to the Department of Arts, Heritage and the Gaeltacht gives some detail in relation to the proposed development of a roll-on/roll-off ferry slipway and associated structures at Greenore, Co Louth. However, in order to assess the development more detailed information is required to assess the potential ecological implications to protected habitats and species. The following should be included in further information to be submitted to this Department:

1. The proposed development and associated activities may occur within or adjacent to currently designated Natura 2000 (or European) sites. According to Article 6(3) of Council Directive (92/43/EEC) (the Habitats Directive) any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The provisions of this article have been transposed into the Irish Statute by Regulation 42 of the European Communities (Birds and Natural Habitats) Regulations (SI 477 of 2011).

The following European Sites are located within the vicinity of the proposed development:

- Carlingford Shore SAC (Site Code: 002306)
- Carlingford Lough SPA (Site Code: 4078)

Details of the boundaries and qualifying interests of Natura sites (European Sites) are available on <http://www.npws.ie/mapsanddata/>. Details of any surveys conducted by NPWS in the vicinity of the proposed works are at <http://www.npws.ie/publications/> or at the following <http://www.npws.ie/marine/marinereports/>. Guidance on this process can be found within “Assessment of plans and projects significantly affecting Natura 2000 sites: Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC” published by the European Commission in 2001. A recent document entitled “Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities” published by the Department of the Arts, Heritage & the Gaeltacht is available to download on <http://www.npws.ie/protectedsites/appropriateassessment/>.

2. It must be noted that all cetaceans are listed under Annex IV (including those in Annex II) of Council Directive 92/43/EEC (the Habitats Directive). Accordingly, under Article 12 of that Directive, it is an offence to deliberately capture, disturb or kill a cetacean or take actions that result in deterioration or destruction of their breeding sites or resting places. This has been transposed into Irish Law by Regulation 51 of the European Communities (Birds and Natural Habitats) Regulations. All marine mammals are protected wild animals under the Fifth Schedule, which includes all cetacean and seal species, of the Wildlife Act (39 of 1976) and Amendments. Under Section 23 (as amended in 2000), it is an offence to kill, injure or wilfully interfere with or destroy the breeding place or resting place of any protected wild animal. In addition it should be noted that consent can not be given by the Consenting Authority under Regulation 63 (7) of the European Communities (Birds and Natural Habitats) Regulations 2011 without consideration of the potential interaction with these species.

A baseline description of the presence of marine mammals must be included as part of the submission. The applicant may find useful resources on <http://www.npws.ie/marine/marinereports/> specifically in relation to seals using the surrounding waters. The presentation of data related to marine mammal species must be of sufficient resolution to predict the likely interaction with these species over both a spatial and temporal scale. Records of survey should include the months when sampling occurred and the numbers of animals encountered in the vicinity of the proposed development this may be required to supplement existing data sources. Specifically the applicant should note the following requirements:

- Such an assessment should include scientifically supported consideration of potential impacts from the operation of associated vessels/plant, incorporating as appropriate:
 - a) the risk of collision with protected cetaceans;
 - b) direct disturbance or injury of marine mammal species due to the propagation of underwater noise (e.g. from pile-driving), and intensified motorised vessel/plant activities;
 - c) potential disruption of critical periods in the life cycle of those species;
 - d) Secondary impacts due to localised disruption of normal ecological activity.
- The assessment provided should contain sufficient detail including *inter alia*
 - i. Underwater noise characteristics at source (*i.e.* sound pressure levels, sound exposure levels, frequency, bandwidth, duration of exposures) and information concerning propagation in air/water.
 - ii. The identification, where appropriate, of measures required to mitigate such impacts.

It is recommended that a suitably qualified marine mammal ecologist should be involved in undertaking relevant assessments.

Underwater archaeology:

Ireland has a long and varied maritime history with extensive records for shipwrecks along its coast, rivers, lakes and offshore waters. The Underwater Archaeology Unit (UAU) is in the process of compiling an inventory of shipwrecks for the coastal waters of Ireland, the records from which are stored in a shipwreck inventory database and housed in the UAU archive. The Shipwreck Database is accessible through the Archive Unit of the National Monuments Service. Over 12,000 wrecks have been recorded to date with over 120 shipwrecks listed for the Carlingford Lough area with a dense concentration recorded in or near Carlingford Bar and its approaches. Though earlier sources have been included where obtainable, the Inventory is largely based on documentary sources available from after 1700AD. As such, previously unrecorded shipwreck sites, including those dating to earlier periods, may await discovery in or around Greenore. Other forms of maritime archaeology may survive in the tidal waters of the Lough in the form of abandoned vernacular craft, ports, harbours, piers and jetties, coastal habitations, fortifications, anchors, fish traps, shell middens, kelp grids and the material traces of any activities in the past that involved the exploitation of the coastal and maritime resource.

Many of these site types are protected and can be identified from the Record of Monuments and Places for the relevant county and in the relevant Urban Archaeology Survey. Similarly, previously unrecorded archaeological sites other than wrecks may also lie undiscovered at Greenore Port.

The 1987 and 1994 (Amendment) Acts of the National Monuments Act 1930 – 2004 specifically address the protection of underwater archaeology. All wrecks over 100 years old and archaeological objects underwater are protected under the legislation and significant wrecks less than one hundred years old can be designated by Underwater Heritage Order on account of their historical, archaeological or artistic importance. Under the legislation diving on protected wreck sites or with the intention of searching for archaeological material underwater is subject to licensing requirements. Likewise, the use of detection devices, such as hand held metal detectors, geophysical surveying equipment, video or other camera equipment with vocational devices attached, on protected sites underwater or for the purpose of prospecting for archaeology requires a specific detection device licence. Under the National Monuments Act it is obligatory to report all discoveries of archaeological objects and wrecks over 100 years old within 4 days of discovery. Dive and detection device licence application forms are available through the Department's web site (www.archaeology.ie).

The works proposed for this development have the potential to negatively impact on known or potential submerged or buried archaeology and there will be a need for an appropriate level of archaeological assessment of the proposed construction works. It is therefore recommended that a full Underwater Archaeological Impact Assessment be carried out as part of the Environmental Impact Assessment with the results of the assessment forwarded to this office for review. This will enable the Department to make an informed archaeological recommendation before a planning decision is made. The overall policies set out in the Framework and Principles for the Protection of the Archaeological Heritage (www.archaeology.ie) are applicable to the type of development under consideration here and should form the basis for dealing with its archaeological implications.

Underwater Archaeological Impact Assessment shall be compiled as follows;

1. The applicant is required to engage the services of a suitably qualified archaeologist to carry out an underwater archaeological assessment of the potential impacts of the development/proposed works on known or potential archaeology.
2. The assessment shall comprise of a detailed desktop study, with the archaeologist carrying out

any relevant documentary research including consulting with the Shipwreck Inventory of Ireland, the Record of Monuments and Places and the Ports and Harbours Archive, all of which are held by the Department of Arts, Heritage and the Gaeltacht. Local sources and the Topographical Files held by the National Museum of Ireland shall also be consulted.

3. The archaeologist should carry out an intertidal survey and dive survey (if necessary) of the proposed works. The intertidal and dive surveys should be licensed under the National Monuments Acts 1930-2004. The licence should be applied for by an archaeologist suitably qualified in maritime archaeology.
4. Having completed the assessment, the report shall be included as part of the EIA. The report shall put forward definitive recommendations to mitigate against impacts on identified or potential archaeological remains. Such an assessment will need to consider not just known sites but also areas of archaeological potential.
5. Where archaeological material/features are shown to be present, preservation *in situ*/avoidance or further archaeological mitigation (e.g. excavation and/or monitoring) may be required.

Nature Conservation:

General EIA scoping recommendations

With regard to any EIA for this proposed development an ecological survey should be carried out of the proposed development sites and ferry route to survey the habitats and species present. Where ex-situ impacts are possible survey work may be required outside of the development sites. Such surveys should be carried out by suitably qualified persons at an appropriate time of the year depending on the species being surveyed for. The EIS should include the results of the surveys. With regard to any existing records the data of the National Parks and Wildlife Service (NPWS) should be consulted at www.npws.ie and the data of the National Biodiversity Data Centre at <http://www.biodiversityireland.ie/>. Reference should be made to the National Biodiversity Plan and any relevant County Biodiversity Plan. The EIS should also address the issue of invasive alien species and detail the methods required to ensure they are not accidentally introduced or spread during construction.

The impact of the development on the flora, fauna and habitats present should be assessed. In particular the impact of the proposed development should be assessed, where applicable, with regard to:

- Natura 2000 sites, i.e. Special Areas of Conservation (SAC) designated under the EC Habitats Directive (Council Directive 92/43/EEC) and Special Protection Areas designated under the EC Birds Directive (Directive 2009/147 EC),
- Other designated sites, or sites proposed for designation, such as Natural Heritage Areas, Nature Reserves and Refuges for Fauna or Flora, designated under the Wildlife Acts of 1976 and 2000,
- Habitats listed on annex I of the Habitats Directive,
- Species listed on Annexes II and IV of the Habitats Directive,
- Habitats important for birds,
- Birds listed on Annex I of the EC Birds Directive,
- Species protected under the Wildlife Acts including protected flora,
- Habitats that can be considered to be corridors or stepping stones for the purpose of article 10 of the Habitats Directive,

- Red data book species,
- and biodiversity in general.

In order to assess the above impacts it may be necessary to obtain hydrological and/or geological data. In particular any impact on water table levels or groundwater flows may impact on wetland sites some distance away. The EIA should assess cumulative impacts with other plans or projects if applicable. Where negative impacts are identified suitable mitigation measures should be detailed if appropriate.

The proposed development is located within the vicinity of Carlingford Shore SAC (Site Code: 002306) and Carlingford Lough SPA (Site Code: 4078). The survey work required will therefore need to include impacts on birds in the SPA and also on the habitats and species within the cSAC as detailed below under the heading of marine scientific recommendations.

Where there are impacts on protected species and their habitats, resting or breeding places, licenses may be required under the Wildlife Acts or derogations under the Habitats Regulations. In particular bats and otters are strictly protected under annex IV of the Habitats Directive and a copy of Circular Letter NPWS 2/07 entitled “Guidance on Compliance with Regulation 23 of the Habitats Regulations 1997 – strict protection of certain species/applications for derogation licences” can be found on our web site at <http://www.npws.ie/media/npws/publications/circulars/media,6686,en.pdf>.

In addition licenses will be required if there are any impacts on other protected species or their resting or breeding places, such as on protected plants, badger setts or birds nests. Hedgerows should be maintained where possible. Where trees or hedges have to be removed there should be suitable planting of native species in mitigation. The EIS should estimate the length of hedgerow that will be lost, if any. Where possible hedges and trees should not be removed during the nesting season (i.e. March 1st to August 31st). Bird’s nests can only be intentionally destroyed under licence issued under the Wildlife Acts of 1976 and 2000. In order to apply for any such licenses or derogations as mentioned above a detailed survey should be submitted to NPWS which should have been carried out by appropriately qualified person/s.

Appropriate Assessment

In accordance with article 6.3 of the Habitats Directive, this project should be subject to appropriate assessment screening and if necessary appropriate assessment. You are referred to the Departmental guidance document on Appropriate Assessment, which is available on the NPWS web at

<http://www.npws.ie/media/npws/publications/codesofpractice/AA%20Guidance%2010-12-09.pdf> .

You are also referred to the EU Commission guidance entitled “*Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC*”

which can be downloaded from http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura_2000_assess_en.pdf.

In order to carry out the appropriate assessment screening and/or prepare a NIS you will need to collect information about the relevant Natura 2000 sites including their conservation objectives. Details of designated sites and species can be found on www.npws.ie while conservation objectives, if not yet available on our web site, can be obtained by requesting them by

completing the data request form on our website at <http://www.npws.ie/media/npws/publications/Data%20request%20form.doc>.

It is recommended that you consult with the relevant Local Authorities to determine if there are any projects or plans which alone or in combination could impact on any Natura sites.

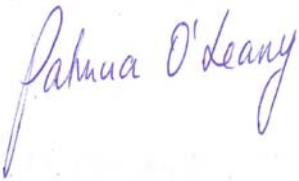
Kindly forward any further information to the following address:

The Manager,
Development Applications Unit,
Department of Arts, Heritage and the Gaeltacht,
Newtown Road,
Wexford

Alternatively, documentation associated with the above can be referred electronically to the DAU at the following address: manager.dau@ahg.gov.ie

Finally, the above observations and recommendations are based on the papers submitted to this Department on a pre-planning basis and are made without prejudice to any observations the Minister may make in the context of any consultation arising on foot of any development application referred to the Minister, by the planning authority, in his role as statutory consultee under the Planning and Development Act 2000, as amended.

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