



NOTICE OF DETERMINATION

The Minister for Housing, Planning and Local Government (“the Minister”) hereby gives notice that he has determined an application dated 30 April 2018 for a consent under Section 10 of the Foreshore Act, 1933 (as amended) (“Consent”) made by Fingal County Council (“the Applicant”) to permit the Applicant to construct a Storm Water Outfall at Baldoyle Estuary, Portmarnock, Co. Dublin (File Ref no: FS006845)

DETERMINATION

The Minister has determined pursuant to the provisions of the Foreshore Act, 1933 (as amended) to grant a Consent to the Applicant in respect of the development described in the application, subject to the conditions set out in the Consent.

MAIN REASONS AND CONSIDERATIONS

The Minister has had regard to the following matters in determining the application for Consent:

- the application for a Consent together with accompanying materials;
- the submissions received from prescribed bodies in respect of the application;
- the screening for appropriate assessment of the proposed development under domestic and EU law, including the Birds Directive and the Habitats Directive, and its conclusions and recommendations in this regard;
- the screening for environmental impact assessment of the proposed development under domestic and EU law, including the EIA Directive, and its conclusions and recommendations in this regard;
- the environmental assessment of the proposed development by the Marine Licence Vetting Committee (“MLVC”) under domestic and EU law, including the EIA Directive, and its conclusions and recommendations in this regard; and
- the advice of the Marine Environment and Foreshore Section of the Department of Housing, Planning and Local Government.

Having had regard to the foregoing, and in particular having regard to the consent conditions attached to the Consent, and having agreed with the recommendation of the MLVC, the Minister is satisfied that the proposed development on the foreshore, would not adversely impact on marine European sites, would not or would not be likely to cause (directly or indirectly) an obstruction to navigation or fishing, and would not have a significant negative impact on the marine environment

The following information is available on the website of Department Housing, Planning and Local Government at:

<https://www.housing.gov.ie/fingal-county-council>

- (i) Notice of Determination;
- (ii) MLVC Report and Appendix thereto;
- (iii) Submissions made by prescribed bodies;
- (iv) Application for Consent together with supporting materials.

This material may also be inspected free of charge at the following office of the Department:

Marine Environment and Foreshore Section
Department of Housing, Planning and Local Government
Newtown Road
Wexford

Tel: 1890 20 20 21

Email: foreshore@housing.gov.ie.

REVIEW PROCEDURE

A review procedure is available before the High Court whereby the substantive or procedural legality of the Minister's determination may be challenged. The review procedure is governed by Order 84 of the Rules of the Superior Courts, 1986 (S.I. 15 of 1986, as amended by S.I. 691 of 2011). A person wishing to avail of the review procedure must first file (i) a statement of grounds; and (ii) a verifying affidavit, in the Central Office of the High Court. It is then necessary to make an *ex parte* application for leave to a judge of the High Court.

An application for leave to apply for judicial review is required to be made promptly and in any event within three months from the date when grounds for the application first arose, unless the Court considers, among other things, that there is good and sufficient reason for extending the period within which the application shall be made. The time-limit for such a review begins to run from the date of the grant of the Consent, being 27 July 2018. Practical information on the review mechanism can be obtained from the Citizens Information Board, Ground Floor, George's Quay House, 43 Townsend Street, Dublin 2.

Pursuant to the provisions of Section 50B of the Planning and Development Act, 2000 (as inserted by the Planning and Development (Amendment) Act, 2010), the special rules that apply in respect of the legal costs of judicial review proceedings based on European Environmental Law may apply to the judicial review proceedings. The general rule is that each party bears its own costs, irrespective of the outcome of the judicial review proceedings. The High Court retains discretion, however, to award costs in certain cases. The full text of Section 50B is available at:

<http://www.irishstatutebook.ie/2010/en/act/pub/0030/sec0033.html#sec33>

DEPARTMENT OF HOUSING, PLANNING AND LOCAL GOVERNMENT
03 August 2018.