FS006837

REPORT OF THE MARINE LICENCE VETTING COMMITTEE (MLVC)

ON

FORESHORE LICENCE APPLICATION FOR:

JETTY EXTENSION AND LANDING PONTOON AT FOYNES PORT, CO LIMERICK

LOCATION: FOYNES PORT, SHANNON ESTUARY, CO LIMERICK

APPLICANT: SHANNON FOYNES PORT COMPANY

[redacted] M.ENG
Member, Marine Licence Vetting Committee
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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 30 August 2021 the Foreshore Section of the Department of Housing, Local Government and Heritage requested the MLVC to undertake the technical assessment detailed below for Foreshore Licence Application file reference FS006837.

MLVC Report

1.0 Project Overview

Shannon Foynes Port Company (SFPC) submitted an application for a Foreshore Lease to facilitate works on the foreshore at Foynes Port, as part of a project aimed at extending capacity at Shannon Foynes Port. It is proposed to extend the East Jetty to connect with their West Quay, the connecting jetty extension will be a 116.5m long and 25m wide open pile structure. It will include associated works such as bollards, toe rails, fenders, lighting and a drainage system. The Port also proposes to construct a small craft landing pontoon on the western side of the West Quay.

The proposed extension to the existing Port berths will facilitate opportunity for the docking of larger vessels (with increased loads) in response to the increasing international trend toward larger vessel sizes or alternatively, the docking of increased smaller vessels at the same time.

2.0 Brief Description of the proposed works

The project is located at the existing Shannon Foynes Port, within and adjacent to the settlement of Foynes, Co. Limerick. The proposed works on the foreshore involves:

(i) Construction of an open piled jetty structure with suspended 116.5 m concrete deck connecting the West Quay to the East Jetty;
(ii) Installation of quayside furniture including quay fenders, mooring bollards, safety ladders, toe rail, and lighting columns;
(iii) Construction and remedial works to the both existing West Quay and East Jetty ends to facilitate structural 'tie-in' of the proposed new jetty structure;
(iv) The provision of a new small craft landing pontoon and walkway affixed to the western side of the West Quay wall; and
(v) All associated site development works.

3.0 Other relevant Consents

Planning Permission for the overall project was granted by An Bord Pleanála in December 2018 (Reference: PL91.301561).
Details of previous Foreshore Leases obtained as below:
20 June 1933 – West Quay (MS 51/10/38),
13 January 1988 – West Jetty Extension (MS 51/10/118),
16 January 2015 – East Jetty Reclamation (MS 51/10/135).

4.0 Public Participation

There were two public consultations periods conducted by the Foreshore Section of the DHLGH. 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 second consultation was initiated following legal advice on procedural requirements for applications for projects requiring the submission of an EIAR. The advice was that such applications require the application and EIAR documentation to be more readily available for public viewing and a consultation period of 8 weeks rather than the standard 21 days.

First Public Consultation

The first public consultation period ran from 17 January 2019 to 22 February 2019. A public notice concerning this application was published in the "Irish Examiner" and the "Limerick Leader". The relevant documentation was displayed at Newcastle West Garda Station for the required period of 21 working days and was also available to view on the Department's website.

No public submissions were received during the first consultation period.

Second Public Consultation

The second public consultation period ran for an 8 week period from 23 January 2020 to 23 March 2020. A public notice concerning this application was published in the "Irish Examiner" on 23 January 2020, the "Limerick Leader" on 25 January 2020, the February 2020 issue of "Marine Times" (notice dated 23 January) and March 2020 issue of "The Skipper" (notice dated 23 January).

The relevant documentation was displayed in Newcastle West Garda Station, Foynes Public Library and the main offices of Limerick and City Council at City Hall, Limerick throughout the consultation period, and was available to view on the Department's website. Also, SFPC established a dedicated website to display the application and EIAR documentation.

No public submissions were received during the second consultation period.

Public Consultation Submissions and Assessment

No public submissions were received in either the first public consultation period in 2019 or the second public consultation period in 2020.

5.0 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. Prescribed bodies consultation is conducted in tandem with the public consultation so as with the public consultation two prescribed bodies consultations were undertaken following legal advice on procedural requirements for applications for projects requiring the submission of an EIAR.

First Prescribed Bodies Consultation

The first consultation period ran from 17 January 2019 to 22 February 2019 and observations were requested from the following;

- Department of Housing, Planning and Local Government (Water and Marine Advisor)
- Marine Institute
- Marine Survey Office
- Department of Culture, Heritage and the Gaeltacht (Nature Conservation and Underwater Archaeology) (DCHG)
- Department of Agriculture, Food and the Marine (Aquaculture and Foreshore Management Division) (DAFM)
- Sea Fisheries Protection Authority (SFPA)
- Inland Fisheries Ireland (IFI)

Responses were received from all bodies contacted.

Second Prescribed Bodies Consultation
The second public consultation period ran from 23 January 2020 to 23 March 2020. Observations were again requested from the following;

- Department of Housing, Planning and Local Government (Water and Marine Advisor)
- Marine Institute
- Marine Survey Office
- Department of Culture, Heritage and the Gaeltacht (Nature Conservation and Underwater Archaeology) (DCHG)
- Department of Agriculture, Food and the Marine (Aquaculture and Foreshore Management Division) (DAFM)
- Sea Fisheries Protection Authority (SFPA)
- Inland Fisheries Ireland (IFI)

No additional or amended responses were received from the prescribed bodies.

Prescribed Bodies Submissions and Assessment
The prescribed bodies confirmed no objection to the project and provided commentary which is listed as the Prescribed Bodies Observations on the Department's 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.

MLVC comment: The MLVC reviewed and assessed these submission and have incorporate all relevant and necessary conditions in the proposed Lease Conditions set out in Section 11 below.

6.0 Environmental Assessment

Independent Environmental Consultant (IEC): In addition to the Department's in-house Marine Advisor (Ecology), the Department engaged Roughan and O'Donovan Consultants as IEC to provide assistance with regard to the statutory environmental assessments for this Foreshore Licence application. The IEC has conducted independent assessments of the information provided by the applicant, having regard to the Habitats Birds and EIA Directives, the Birds and Natural Habitats Regulations and the public and prescribed bodies' consultations.

Environmental Impact Assessment (EIA) Regulations: The proposed project falls within the classes defined under Annex I or Annex II of the EIA Directive. An EIAR was provided by the applicant and in accordance with Article 1(2)(g)(iii) of this Directive this EIAR along with all supplementary information was examined by the IEC on behalf of the Department. An EIAR Review was prepared by the IEC, the MLVC accepts and adopts this EIAR Review

EIA Reasoned Conclusion
In accordance with Article 1(2)(g)(iv) of the EIA Directive an EIA Reasoned Conclusion was compiled. It identified the main significant effects and the mitigation measures that will be undertaken to offset these. In keeping with Article 8a(1)(a) of this Directive the Department shall incorporate this document into the decision making process.

Article 6(3) of Directive (92/43/EEC) (as amended) (Habitats Directive): Following a review of the proposed project, the IEC endorsed the applicant's **Screening for Appropriate Assessment**. This Screening for Appropriate Assessment determined that likely significant effects could not be rule out with respect to water and habitat quality, underwater noise and disturbance, aerial noise and visual disturbance and habitat for the two Natura sites, Lower River Shannon SAC and River Shannon and River Fergus Estuaries SPA. Having considered the application by Shannon Foynes Port Company and the Screening for Appropriate Assessment Report, the MLVC accepts and adopts the Screening for Appropriate Assessment and its conclusions. The Consent Authority (DHLGH) must complete and publish a Screening for Appropriate Assessment Determination as part of their obligations under the Directive.

The IEC reviewed the **Stage 2 Appropriate Assessment Natura Impact Statement** which included the mitigation measures of Industry Standards in managing waste and adherence to the NPWS 2014 Guidance on sound.

Appropriate Assessment Conclusion - The IEC concluded that with the inclusion of the mitigation measures the proposed development, 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. Having considered the application by Shannon Foynes Port Company and prescribed bodies' consultations and the Screening for Appropriate Assessment and Appropriate Assessment Review, the MLVC accepts and adopts the Natura Impact Statement and its Conclusion Statement. The Consent Authority (DHLGH) must complete and publish a Screening for Appropriate Assessment Determination as part of their obligations under the Directive.

7.0 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 proposed site investigation. The lease areas for the jetty extension and landing pontoon are shown in the following maps submitted by the applicant:

- The Drawings Titled Foreshore Lease Map 1, Drg no. M0679-RPS-00-FS-DR-C-0002 Rev: P02 Date April 2018
- Foreshore Lease Map 2, Drg no. M0679-RPS-00-FS-DR-C-0003 Rev: P02 Date April 2018

8.0 Public Interest

Sections 2 and 3 of the 1933 Foreshore Act, as amended, state 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. In assisting the Minister to establish if a particular plan or project is in the public interest, the MLVC considered and assessed the following:

- Does the project fall under any Government policy or programme?

MLVC comment: Yes, Shannon Foynes Port is a Port of National Significance Tier 1. The continued commercial development of Ports of National Significance Tier 1 is a key objective of the National Ports Policy.

- Does the project fall under any EU Directive or programme?

MLVC comment: Yes, ORE projects fall under the EU Offshore Renewable Energy Strategy.

- Is there a public use element to the project?

MLVC comment: There are no direct public use elements to the project.

- Does the project impact on existing public access/use and amenity of the foreshore?

MLVC comment: The project will have no significant short or long term impact on public access/use and amenity of the foreshore.

- Does the project impact on any potential future use of foreshore?

MLVC comment: The MLVC is not aware of any planed public infrastructure project for this area of foreshore.

- Does the plan or project contribute to the sustainable economic development of the local area or wider economy?

MLVC comment: Yes, Shannon Foynes Port is a Port of National Significance Tier 1 and it's continued development is central to the sustainable development of the local and wider economy.

- Relevant public and prescribed body submissions

MLVC comment: The submissions are listed, discussed and assessed under Sections 5 and 6 of this report.

Having considered and assessed the relevant issues above, while taking note that the state owned foreshore is finite resource which must be utilised sustainably, the MLVC is satisfied that the proposed project is in the Public Interest.

9.0 MLVC Considerations

The following documents were considered and assessed:

- Completed Foreshore Licence Application Form dated 08/05/2018
- All Associated Application Documentation including all Reports, Plans and Drawings, CEMP, NIS and EIAR etc.
- Prescribed Bodies Observations
- Applicant Response to Prescribed Bodies Observations.
- Additional information and clarifications requested and received as part of the assessment process.

10.0 MLVC Conclusions

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 Independent Environmental Consultants, the Marine Advisor and the MLVC.

The MLVC concludes that, subject to compliance with the specific conditions set out below, the proposed works will not adversely affect Fishing, Navigation or the Environment and is in the Public Interest. Therefore, the MLVC recommend that the Minister issues a Foreshore Lease for the proposed jetty extension and landing pontoon at Foynes Port, Co Limerick as set out in Foreshore Licence Application file reference FS006837.

11.0 Proposed Lease Conditions

1. The Drawings Titled Foreshore Lease Map 1, Drg no. M0679-RPS-00-FS-DR-C-0002 Rev: P02 Date April 2018 and Foreshore Lease Map 2, Drg no. M0679-RPS-00-FS-DR-C-0003 Rev: P02 Date April 2018 shall be attached to and referenced in the lease document.
2. The Lessee shall use that part of the Foreshore the subject matter of this licence for the purposes as outlined in the application and for no other purposes whatsoever
3. The works shall be conducted in accordance with documents and drawings submitted by the applicant.
4. The DHLGH shall be notified 2 weeks prior to any works proceeding.
5. The mitigation and monitoring measures as detailed in the Environmental Impact Assessment Report and any Further Information Responses shall be implemented in full.
6. The mitigation as detailed in the Appropriate Assessment Natura Impact Statement shall be implemented in full.
7. The Licensee shall strictly adhere to NPWS 2014 “Guidance to Manage the Risk to Marine Mammals from Man-made Sound Sources in Irish Waters” including the employment of a qualified Marine Mammal Observer as appropriate and a soft start procedure to be used where the equipment is ramped up slowly to full power.
8. Vibratory pile driving to be used to the maximum extent possible.
9. Piling for limited time period each day and during daylight hours only.
10. A detailed Construction Environmental Management Plan (CEMP), to include waste management measures, is to be submitted by the Lessee to DHLGH for approval in advance of works commencing. The CEMP for the construction phase of the proposed development shall be agreed with IFI in advance of the commencement of works.
11. No refuelling of equipment, machinery or plant shall take place on the foreshore. Also, no storage of machinery or plant shall take place on the foreshore.
12. The Lessee shall ensure that the appropriate methods of operation are adopted in order to ensure that no spillages of fuel, hydrocarbons, cement or other leakages to the foreshore occur during the Construction Phase. Contractor’s arrangements for the control of pollutants should be notified to the DHLGH for agreement prior to works on the foreshore commencing.

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