REPORT OF THE MARINE LICENCE VETTING COMMITTEE (MLVC)

ON
FORESHORE LICENCE APPLICATION IN RESPECT OF

OF MALAHIDE MARINA, USING

WATER INJECTION TECHNIQUES.

BY

MALAHIDE MARINA

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Malahide Marina– Foreshore Licence application in respect of dredging of Malahide Marina at Malahide, Co Dublin Port (FS006731)

Background

In March 2018, Malahide Marina submitted an application for a foreshore licence to facilitate the dredging of Malahide Marina using water injection techniques.

The proposed works involve:

Dredging of accumulated sediments in the marina to maintain navigability. Dredging to take place over 7 years in 3 separate campaigns each lasting approximately 20 days.

The proposed dredging campaign, by water injection techniques, is for the removal of up to a maximum of 33000t of dredged material in an initial campaign over a period of 25 days during the months of November 2018 –January 2019. This includes an extra volume to allow for unforeseen circumstances such as extreme weather events etc.

The need for dredging at Malahide Marina is pressing with water depths currently becoming a hazard for navigation. It is vital that, following due process, permits shall be in place as early as possible, to permit dredging to take place between November 2018 and Jan 2019, when there is a safe period for dredging with respect to the invasive species *Didemnum vexillum*, present in the marina.

The location and details of the proposed works on the foreshore are shown in the following drawings submitted by the applicant:

- Drawing No. PH 17014 Site Location Map 02
- Drawing No. PH 17027-E2-D01
- Drawing No. PH 17027-E2-D02
- Drawing No. PH 17027-G1-D01
- Drawing No. PH 17014 Foreshore Licence Map 01

The dredge limits are shown in red outline with reference to Drawing No PH 17014 Foreshore Licence Map 01 and covers an overall area of 4.3 Ha.

Appropriate Assessment

In accordance with Article 6(3) of the Habitats Directive (92/43/EEC), MERC Consultants on behalf of Malahide Marina carried out a shadow screening for an appropriate assessment on the project and as a result of the findings have prepared a Natura Impact Statement which accompanied the Foreshore Licence Application (ref NIS Report Version 2.1 dated 14/3/2018) This was primarily based on the unconfined nature of the proposed activity and the potential for the spread of the invasive alien species- Didenmum vexellium- which occurs in the Marina, located adjacent to Malahide Estuary SAC and Malahide Estuary SPA which could have a potential negative ecological impact on the European Sites and their qualifying interests.

As required under the directive, this Department as the Consent Authority should carry out its own independent Appropriate Assessment of the project.

Environmental Impact Assessment Regulations

As set out in Part II of the First Schedule of the European Communities (Environmental Impact Assessment (Amendment) Regulations, 1999 (SI No. 93 of 1999) an Environmental Impact Statement (EIS) must be submitted in support of an application for the following classes of a development:

1 (g) Reclamation of land from the sea, where the area of reclaimed land would be greater than 10 hectares.

8 (e) New or extended harbours and port installations, including fishing harbours, not included in Part 1 of the Schedule, where the area, or additional area, of water enclosed would be 20 hectares or more, or which would involve the reclamation of 5 hectares or more of land or which would involve the construction of additional quays exceeding 500m in length

12 (b) Sea water marinas where the number of berths would exceed 300 and fresh water marinas where the number of berths would exceed 100."

It is clear that the proposed development does not exceed any of the thresholds set out and the proposal constitutes a sub-threshold development. On the basis of the above and considering the location, nature, scale and duration of the proposed works significant impacts on the environment are not considered likely and it is concluded that the preparation and submission of an EIS is not required.

Birds and Natural Habitats Regulations

The location of the proposed dredging operation lies adjacent to the Malahide Estuary SAC (Code 000205), and Malahide Estuary SPA (Code 004025), and within 15km of the following Natura 2000 Sites:

Rogerstown Estuary SAC (Code 000208), Baldoyle Bay SAC (Code 000199), Rockabill to Dalkey Island SAC (Code 003000), Ireland's Eye SAC (Code 002193), Lambay Island SAC (Code 000204), North Bull Island SPA (Code IE004006), North Bull Island SPA (Code IE004006), Dalkey Islands SPA (Code IE004172), Howth Head SAC (Code 000202), North Dublin Bay (Code 000206), Malahide Estuary SPA (Code 004025), Rogerstown Estuary SPA (Code 004015), Baldoyle Bay SPA (Code 004016), Ireland's Eye SPA (Code 004117), Lambay Island SPA (Code 004069), Howth Head Coast SPA(Code 004113), North Bull Island SPA (Code 004006), South Dublin Bay and River Tolka Estuary SPA (Code004024), Skerries Island SPA (Code 004122), Rockabill SPA (Code 004014).

- A document entitled *"Natura Impact Statement for proposed maintenance dredging at Malahide Marine* " prepared by MERC Consultants dated March 2018 was submitted in support of the application.

A separate Appropriate Assessment report has been prepared.

Public Consultation

A Public notice concerning this application was advertised in the "Irish Examiner", the "Northside People East", on 15th August 2018. The application materials were available for inspection in Swords Garda Station, Main Street, Swords, Co Dublin and were also available on the Department's website for 21 working days.

No submissions were received during the public consultation period.

Prescribed Bodies Consultation

Written submissions on the proposed development were received from the Department of Housing, Planning and Local Government (Water Services Advisor), Sea Fisheries Protection Authority, Marine Institute, Marine Survey Office, Inland Fisheries Ireland, Department of Culture, Heritage and the Gaeltacht, (Underwater Archaeology and Nature Conservation) and the Department of Agriculture, Food and the Marine (Aquaculture and Foreshore Management Division).

There were a number of observations and concerns expressed by some of the Prescribed Bodies to the proposed dredging operations.

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The Marine Institute did not originally support the use of water injection dredging as proposed based on the sampling provided. The results of chemical analysis of samples taken in the area to be dredged shows that sample MH5 indicated a concentration of hexachlorobenzene (HCB) above the upper action level and also indicate an elevated concentration of DDT metabolites.

However, Hydrographic Surveys provided more recent sampling results from sample locations MH1, MH2 and MH5. The Marine Institute were furnished with the results (showing no contamination in the samples that were retaken) of this resampling and have commented on the results and now support the use of water injection techniques as proposed..

The Water Services Adviser has stipulated that it shall be a condition of the Foreshore Licence that this DAS Permit must be in place before any dredging operations be commenced.

The Department of Agriculture, Food and the marine have advised that appropriate measures must be taken to prevent any further spread of to the invasive species *Didemnum vexillum*, present in the marina. The proposal to undertake the dredging during the months of December/January is specifically to address this issue.

The Department of Culture, Heritage and the Gaeltacht raised no objections to the proposed dredging; however they recommended that certain procedures should be adopted in the event of material of archaeological nature being discovered during the dredging operations. The MLVC concurs with this and recommends that an appropriate condition is included in the Foreshore Licence to address this (ref Condition 10a,b and c)

Nature Conservation

The proposed dredging at Malahide Estuary has been evaluated by both a Natura Impact Statement and a Marine Mammal Risk Assessment.

The conclusion of the Natura Impact Statement document is that the proposed works are unlikely to pose a significant likely risk to nature conservation interests in the vicinity. The Department of Culture, Heritage, and the Gaeltacht concur with this conclusion provided the stated mitigation is undertaken.

This Department has prepared a separate Appropriate Assessment report which reached the same conclusion.

MLVC Assessment

The following documents were considered and assessed:

- Foreshore Application and supporting documentation

- Further Information received through the consultation process
- Article 6(3) of the Habitats Directive (92/43/EEC)
- Written submissions from the Department of Housing, Planning and Local Government (Water Services Advisor), Sea Fisheries Protection Authority, Marine Institute, Marine Survey Office, Inland Fisheries Ireland, Department of Arts, Heritage and the Gaeltacht, (Underwater Archaeology and Nature Conservation) and the Department of Agriculture, Food and the Marine (Aquaculture and Foreshore Management Division), drawings listed and NIS Statement etc.

MLVC Conclusions

In terms of proposed dredging operations, and the potential impact on the marine environment, Mitigation/Control Measures are put forward in the NIS to minimise the potential noise related impact to Marine Mammals including the presence of a MMO throughout the dredging operation. It has also been recommended that any dredging should take place in the December/January period in order to avoid the potential for the spread of D vexillium (an invasive species) - present at the Marina. The MLVC concurs with this and recommends an appropriate Condition within the Foreshore Licence to address the timing of the dredging campaign. An appropriate Condition is also recommended to address Underwater Archaeological matters as advised by Department of Culture Heritage and the Gaeltacht
Considering the nature, scale, and location of the proposed dredging operations it is concluded that, subject to compliance with the specific conditions set out below, the proposed dredging would not have a significant negative impact on the marine environment, would not have an adverse impact on other legitimate uses / users of the foreshore area and would not have a significant impact on the Conservation Objectives for all the Natura 2000 sites as listed in this report and situated within 15km of the said dredging location.

It is, therefore, recommended that a licence be issued subject to the following conditions:

Proposed Licence Conditions

1. The Licensee 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.

2. The Licensee shall notify the Department of Housing, Planning and Local Government, 14 days before commencement of the works on the foreshore.

3. This licence permits the removal of a maximum of 33000t of dredged spoil per campaign by Water Injection Dredging in accordance with the ''Method Statement' submitted with the application.

4. All dredging shall be conducted between December 1st and January 31st in any given dredging season for which this Licence remains valid.

5. Prior to the commencement of dredging operations, the Licensee shall hold a valid Dumping At Sea Permit from the Environmental Protection Agency and operate in accordance with that permit. On its receipt from the EPA a copy of its decision in relation to the application for a Dumping at Sea Permit should be forwarded to the Department of Housing Planning and Local Government.

6 Malahide Marina Village Ltd shall submit a pre-dredging and a post-dredging report of the area to be dredged to Marine Planning and Foreshore Unit, Department of Housing Planning and Local Government, as soon as may be after January 31st 2019.

7. The Licensee shall ensure that all Mitigation Measures set out in Section 7.1 of the Natura Impact Statement submitted with the application are implemented in full, including the presence of a Marine Mammal Observer throughout the dredging operation.

8. The Licensee shall arrange the publication of a marine notice through Maritime Safety Directorate giving a general description of operations and approximate dates of commencement and completion.

9. The Licensee shall ensure that all vessels/floating plant used in connection with the dredging shall have appropriate certification from the Marine Survey Office.

10.

a) Should material of an archaeological nature be discovered during the course of the dredging operations, all dredging operations should stop and the Department of Culture Heritage and the Gaelteacht shall be contacted immediately

b) Further to 10b above, where archaeological material is located the applicant shall be advised by the Department of Culture Heritage and the Gaelteacht with regard to any necessary mitigating action

c) Where archaeological material/features are shown to be present, preservation in situ, avoidance, preservation by record (archaeological excavation) or archaeological monitoring may be required. The applicant shall be prepared to be advised by the Department of Culture, Heritage & the Gaeltacht in this regard.

11. The applicant shall liaise with IFI East Region in regard to specific timing of the dredging in advance of any dredging operations in order to adopt procedures if necessary to safeguard the migration of fish species, particularly upstream migrating salmon and sea trout.

12. Appropriate measures must be taken to prevent any further spread of the invasive species *Didemnum vexillum*, present in the marina.

13. The Licensee shall apply to the Commissioners of Irish Lights for sanction for new aids to navigation and/or alteration of existing aids to navigation.