An Roinn Tithíochta,
Pleanála agus Rialtais Áitiúil
Department of Housing,
Planning and Local Government

NOTICE OF DETERMINATION

The Minister of State, Department of Housing, Planning and Local Government with special responsibility for Housing and Planning ("the Minister") hereby gives notice that he has determined an application dated 18 April 2018 for a licence under Section 3(3) of the Foreshore Act, 1933 (as amended) made by Irish Water, Colvill House, 24 – 26 Talbot Street, Dublin 1, D01 NP86 ("the Licensee") in respect of Marine Site Investigation Works at Ballycotton Bay, Ballycotton, Co. Cork (Application reference number: FS 006833).

DETERMINATION

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

MAIN REASONS AND CONSIDERATIONS

The Minister has had regard to the following matters in determining the application for a Foreshore Licence:

- the application for the Foreshore Licence together with accompanying materials;
- the submissions received from prescribed bodies and the applicant's responses;
- the consent conditions to be attached to the Foreshore Licence, if granted; and
- the nature of the proposal and its objective
- the screening for appropriate assessment of the proposed works 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 works under domestic and EU law, including the EIA Directive, and its conclusions and recommendations in this regard;
- the environmental assessment of the proposed works by the Marine Licence Vetting Committee ("MLVC") under domestic and EU law, including the EIA, Birds and Habitats Directives, and its conclusions and recommendations in this regard;
- 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 Foreshore consent, and having agreed with the recommendation of the MLVC, the Minister is satisfied (i) that the proposed development on the foreshore would not have significant impacts on human health and safety, (ii) that the proposed development on the foreshore would not have a significant impact on the marine environment or the adjacent European Sites; and (iii) that it is in the public interest to grant the Foreshore consent having regard to the nature of the proposal.

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

https://www.housing.gov.ie/planning/foreshore/applications/irish-water-ballycotton

(i) This Notice of Determination;
(ii) MLVC Report;
(iii) Information on the public participation process;
(iv) Submissions made by prescribed bodies and the applicant's responses to those submissions;
(v) Application for a Foreshore Licence together with supporting materials.
(vi) EIA Screening Document,
(vii) Finding of No Significant Effects Report,
(viii) Licence Site Specific Conditions
(ix) Copy of Executed Licence and Licence Map

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
Y35 AP90

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 Foreshore Licence, being 14 December 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 and
http://www.irishstatutebook.ie/2011/en/act/pub/0020/sec0021.html#sec21

DEPARTMENT OF HOUSING, PLANNING AND LOCAL GOVERNMENT, 2018