Inspector's Report
ABP 301561-18

Development	Port extension.
Location	Foynes, County Limerick
Planning Authority	Limerick City and County Council
Applicant(s)	Shannon Foynes Port Company
Type of Application	Section 37E Strategic Infrastructure
Objectors	1) Edward Guiney 2) Irish Cement Limited
Submissions	1) Commission for Rail Regulation 2) The Department of Culture, Heritage and the Gaeltacht (Development Applications Unit – two submissions) 3) National Transport Authority 4) Transport Infrastructure Ireland 5) Irish Water 6) Office of Public Works 7) Health Service Executive 8) Health & Safety Authority
Date of Site Inspection	22nd November 2018
Inspector	Hugh Mannion

Contents

1.0 Site Location and Description 3

2.0 Proposed Development 3

3.0 Planning History 5

4.0 Policy Context 5

5.0 Third Party Observations 10

6.0 Prescribed Bodies 11

7.0 Planning Authority's Comments 13

8.0 Applicant's Response 15

8.5. Further Responses 20

9.0 Assessment 21

10.0 Planning Assessment 22

11.0 Environmental Impact Assessment 30

12.0 Appropriate Assessment - Screening 52

13.0 Appropriate Assessment 55

14.0 Recommendation 61

15.0 Reasons and Considerations 62

16.0 Conditions 67

1.0 Site Location and Description

1.1. Foynes port has a total area 62.10ha and the application site comprises two separate elements; an area of 0.51ha for the quay/jetty development and 33.95ha undeveloped land at Durnish to the east for port related storage and ancillary activities.

1.2. Foynes is located about half way down the Shannon Estuary between Limerick city and Loop Head and is linked by the N69 to Listowel to the south west and Limerick city about 38kms to the east. There is a railway link to Limerick city which terminates in Foynes but this is not operating at present. Foynes town lies generally to the south of the port facilities and along the N69. There are two access points to the port both from the N69. The first access is to the east which loops around through the overall port-owned lands in Durnish and the new development area is generally on the right/east of this access. There is a second access at the western end of Foynes village at the port's western pier. The Shannon Estuary provides deep water access to several other port facilities at Moneypoint, Tarbert, Aughinish, and Ted Russell dock in Limerick city.

1.3. Foynes village basically follows the N69 east to west and has a mix of community, residential and commercial uses. There is a museum related to the town's former role in aviation. The port specialises in bulk products, dry bulk fertilizers, animal feeds, salt coal and alumina hydrate, construction materials, oils, chemicals, products related to the renewable wind energy and, to a lesser extent, cruise ships. The Port Company manages the land uses within the port while loading/unloading of cargo is managed by independent commercial stevedoring companies. These independent companies require warehousing and landing space/gear.

2.0 Proposed Development

2.1. In summary there are two aspects to the development;

a) The joining of the 'West Quay' and 'East Jetty', and

b) Increase in port related storage on separate lands to the west of the quay/jetty within the port authority's ownership.

2.2. In detail the proposed development comprises;

2.3. (1) Modifications to the existing jetties and quays to include: connection of the existing West Quay to the existing East Jetty for the purpose of extending the length of the existing quay to facilitate the mooring of vessels and Port related operations. Development works consist of; (i) Construction of an open piled jetty structure with suspended 116.5 metre concrete deck connecting the West Quay to the East Jetty; (ii) 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) removal of the existing small craft landing pontoon and walkway from its current position affixed to the shore between the West Quay and the East Jetty, and 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;

2.4. (2) Phased Expansion of the Port Estate on 33.95 hectares of land immediately adjacent to the east of the existing port estate to provide serviced industrial land, and, to accommodate marine related industry, port centric logistics and associated infrastructure that will be provided in accordance with a development framework programme prepared for the overall 'expansion' area and which is lodged with the planning application. The development includes:

2.5. (I) site development and infrastructure works to the entire expansion lands on a phased basis including (a) raising of ground levels with fill material to a typical height of +4.44m OD Malin; (b) provision of all associated services including storm water infrastructure and modification to the existing OPW drainage attenuation system; (c) provision of 2.4m high perimeter fencing, (d) landscaping berms and treatments, and (e) all associated site development works; all to be delivered on a phased basis; and

2.6. (II) Implementation and use of 'Phase 1' of port expansion works including: (a) modification and realignment to part of the existing port estate access road including provision of new roundabout and junction arrangements on that road, and associated lighting, and storm water drainage; (b) provision of new internal Port access road (with associated footpath and combined cycle path) including the provision of bridge

structures to facilitate access across existing drainage channels; (c) construction of three covered industrial type warehouse units (with typical maximum ridge height of 15.1m above raised ground level) with associated external storage, parking and circulation areas; (d) the provision of separate dedicated uncovered 'open' storage area/ container storage area and associated circulation and service area (with maximum container stacking height of 8m if/when container storage required); (e) provision of Klargester BE model (or similar) package foul water treatment system with polishing filter and discharge to ground to serve the Phase 1a expansion area; (f) modifications to existing 'Foynes Engineering' industrial building which involves the removal of the 'lean-to' structure affixed to the main building and remedial building and site development works; (g) provision of an ESB electrical substation; (h) provision of lighting columns within the 'Phase 1' expansion area; (i) provision of a new security kiosk and access control barrier on the existing Port access road; (j) provision of noise attenuation measures along parts of the southern and western boundary of 'Phase 1' expansion area; (k) provision of a 'bus-stop' on the existing Port access road; (l) landscaping; and (m) all associated site development works.

3.0 Planning History

3.1. 13.PC0224 Pre-planning consultation for the redevelopment of Foynes port.

3.2. Under PL13.CQ3001 the Board confirmed a CPO in relation to 32ha of lands at Durnish.

3.3. 13.HC0006 Pre-planning consultation for the redesigned Foynes/Limerick national route. The application has not been lodged yet.

4.0 Policy Context

4.1. EU Trans-European Transport Network

4.2. The EU Trans-European Transport Network seeks to build an integrated Europe wide transport system which will facilitate the European single market. There are nine core corridoes and the core corridor within Ireland at present links Belfast, Dublin and Cork. Shannon/Foynes will added to this network at European

Commission level in 2020 when the underpinning regulations are amended. In summary the new transport network is intended to deliver:

- safer and less congested travel
- smoother and quicker journeys
- as well as less impact on the climate.

4.3. **National Planning Framework**

4.4. The National Planning Framework (NPF) recognises that 90% of Irish Trade is sea borne and that the trend is for larger ship size and consolidated port facilities. There are three Tier 1 ports in the state (Dublin, Cork and Foynes) where major redevelopment works are necessary to accommodate future functions. The National Planning Framework's Policy Objective 40 to seeks to "ensure that the strategic development requirements of Tier 1 and Tier 2 Ports, ports of regional significance and smaller harbours are addressed as part of Regional Spatial and Economic Strategies and metropolitan area and city/county development plans, to ensure the effective growth and sustainable development of the city regions and regional and rural areas". In relation to the Mid-west region where Foynes is located the NPF makes the point that Foynes is a key economic driver which will require enhanced road connectivity.

4.5. **The National Development Plan 2018-2027 (NDP)**

4.6. The NDP makes the point that for Ireland, connectivity to Europe and the rest of the world is a key economic driver. The NDP recognises that major capital works are necessary in Foynes and that improvements to the N21 and N69 are necessary to improve connectivity to Foynes.

4.7. **National Ports Policy 2013 (NPP)**

4.8. The NPP sets out a framework for the development of the commercial port network with adequate future capacity as a strategic objective. This includes addressing new trends such as larger vessels and emerging markets. Specifically, the national policy makes the point that "the continued commercial development of Shannon Foynes Port Company is a key strategic objective of National Ports Policy" and "it is the Government's position that those ports considered to be of national significance must provide the type of

port capacity required to ensure continued access to both regional and global markets for our trading economy. Government expects the Ports of National Significance (Tier 1) to lead the response of the State commercial ports sector to future national port capacity requirements".

4.9. **Mid-West Regional Planning Guidelines 2010-2022**

4.10. The mid-west RPGs recognise the Shannon Estuary and its ports as a major goods transport link for the region. The protection of the capacities of existing ports and improvement of access to them is a regional priority. Planning authorities must set specific economic development objectives which seek to harness the economic potential of the estuary and capitalise on its deep-water characteristics for enhanced maritime activity. Economic growth must be promoted along the Shannon estuary to harness the natural assets of the estuary and its potential economic benefits for the Region.

4.11. It is also a regional policy objective to facilitate the carrying out of an inter jurisdictional Strategic Integrated Framework Plan (SIFP) for the Shannon Estuary which should identify the economic growth and employment capacity of the estuary and the location of sites that could accommodate specific types of development. No adverse impacts should occur for designated European sites.

4.12. **Strategic Integrated Framework Plan for the Shannon Estuary**

4.13. The Strategic Integrated Framework Plan (SIFP) was commissioned by Clare County Council, Kerry County Council, Limerick County Council, Shannon Development and Shannon Foynes Port Company and incorporated into the Limerick County Development Plan 2010-2016 which itself has had its lifetime extended. SIFP aims to;

- Diversify the economy through the promotion of commercial/industrial employment and maritime energy over a thirty-year horizon.
- Create an international economic hub by taking advantage of what are among the deepest and most sheltered harbours in Europe.
- Recognise Foynes as a key strategic driver of economic growth and as the premier deep-water bulk port facility offering the greatest economies of scale

in Ireland's bulk freight supply chain at a key Gateway in the Mid-West Region.

- Commit to support and facilitate the sustainable growth and expansion of Foynes Port, to ensure greater capacity, more competitive trade potential and diversification of trade patterns to meet national and international market demands.

4.14. **Limerick County Development Plan 2018-2024**

The Plan was amended in May 2015 (Variation No.3) to incorporate the Strategic Integrated Framework Plan for the Shannon Estuary. The Development Plan designates the application site as a Strategic Development Location and on Map No. A-2 is zoned for marine related industry.

4.15. In Volume 1 Appendix 1 Section 3 (Foynes) of the Development Plan Objective F1 directs development to locate within the boundaries of the settlement identified on Map A-2 and indicates that all development will have regard to the content of the SIFP and the Foynes Theme Town Plan. Objective F8 in relation to marine related industry and flooding states that 'prior to any development taking place on marine related industrial zoned sites full details of any flood mitigation measures shall be furnished. These are to include appropriate design both of buildings and also measures such as attenuation areas and possible flood storage areas within the development'.

Policy ED P7 Integrated Planning of the Shannon Estuary - seeks to facilitate integrated planning to develop the capacity of the Shannon Estuary as a prime transport and tourist asset. The Council will promote overall environmentally sustainable development within the Shannon Estuary and support all legislative environmental commitments provided in the SIFP, *inter alia* the EU Habitats Directive, the EU Birds Directive, the Floods Directive and the Water Framework Directive.

Objective ED 04 Safeguard Strategic Development Locations along the Estuary - it is an objective to safeguard the Strategic Development Locations at Foynes Port, Foynes and Aughinish Island for the sustainable growth of development of marine

related industry and industrial development at Askeaton. All proposed developments shall be in accordance with regional and national priorities and the SEA Directive, Birds and Habitats Directive, Water Framework Directive, Shellfish Waters Directive, Floods Directive and EIA Directive.

Objective ED O6: Marine Related Industry - Land zoned for Marine Related Industry, shall provide for marine related industry and large scale uses that create a synergy with the marine use. Marine related industry shall be taken to include the use of land for industry that, by its nature, requires a location adjacent to estuarine/deep water including a dependency on marine transport, transhipment, bulk cargo or where the industrial process benefits from a location adjacent to the marine area.

4.16. **Objective ED 07** Appropriate marine related industrial development of Foynes and deep-water facilities in the Shannon Estuary –

(a) It is the objective of the Council to ensure that the marine related industrial zoned land in Foynes is safeguarded for the accommodation of port related uses and other industrial activities (see map A2 in Appendix 1). The lands indicated in the Shannon Integrated Framework Plan are also included in this zoning. The application of appropriate Volume 1 Economic Development Limerick County Development Plan 2010-2016 November 2010 5- 12 mitigation measures for this zone as detailed in SIFP Vol 2 appendices C and D, the Environmental Report and Natura Impact Report of the variation to this plan to incorporate the SIFP will apply to proposed developments within this zone.

(b) Support the expansion of the Port at Foynes and promote the economic and industrial development of the Shannon Estuary as a strategic transport, energy and logistics hub serving the County and wider region by utilising naturally occurring deep water characteristics and by identifying and safeguarding existing and future strategic transportation links, subject to fulfilling the requirements of the Habitats Directive and the conservation objectives of the Lower River Shannon SAC site.

(c) Support the consideration of new deep water berthage within the estuary to enhance the strategic economic function of the Port subject to compliance with the

ecological objectives of the Lower River Shannon SAC site and other policies of the County Development Plan.

4.17. **Policy SE 01 Strategic Integrated Framework Plan for the Shannon Estuary** - It is a Policy of Limerick City and County Council to support and implement the Strategic Integrated Framework Plan (SIFP) for the Shannon Estuary in conjunction with the other relevant local authorities and agencies. All proposed developments shall be in accordance with regional and national priorities and the SEA Directive, Birds and Habitats Directive, Water Framework Directive, Shellfish Waters Directive, Floods Directive and EIA Directive. All proposed developments shall be informed by the mitigation measures for ensuring the integrity of the Natura 2000 network outlined within the Limerick County Development Plan 2010-2016 (as varied).

4.18. **Objective SE O2: Promoting Development -** The Council will seek to promote the economic and industrial development of the Shannon estuary in order to capitalise on its location in the Mid-West industrial and business region. Sufficient land will be zoned or identified for industrial and business use through the medium of Local Area Plans or zoning within this Plan including zonings in the Strategic Integrated Framework Plan for the Shannon Estuary.

4.19. **Objective SE O3: Port Facilities -** The Council will support efforts to expand and upgrade the port facilities available in the Foynes Harbour in line with the Strategic Integrated Framework Plan for the Shannon Estuary and the Vision 2041 Shannon Foynes Port Company Masterplan.

4.20. **Objective SE O4: Rail Transport -** It is an objective of the Council to safeguard the Limerick-Foynes rail line against encroachment by inappropriate uses that could compromise the long-term development of the rail facility.

5.0 Third Party Observations

5.1. Observations where received from Edward Guiney and Irish Cement Limited. These observations may be summarised as follows;

- The drainage works planned to serve the proposed development should be designed and constructed to accommodate increased water flows – particularly arising from climate change.

- Part of the site will be raised by 4m and the drainage pipes should have capacity to accommodate water flow and 25% of the site should be retained as flood plain. An area south of the N69 at Corgrig has been flooded previously.
- Irish Cement Limited owns a site accessed over the existing port access road which leads from the N69 to the application site at Durnish. There is a significant difference in site levels between the road and the Irish cement lands. It is proposed to realign this access road and construct a new roundabout. An existing security barrier/cabin will be relocated south of its present location. The new roundabout, new security barrier/cabin and the difference in site levels between the realigned access and the Irish Cement lands will hamper access to the Irish Cement lands which are zoned for port related activities.

6.0 **Prescribed Bodies**

6.1. Submissions were received from;

1. Commission for Rail Regulation (CRR),
2. The Department of Culture, Heritage and the Gaeltacht (Development Applications Unit) – two submissions.
3. National Transport Authority (NTA),
4. Transport Infrastructure Ireland (TII),
5. Irish Water,
6. Office of Public Works (OPW),
7. Health Service Executive (HSE),
8. Health and Safety Authority (HSA).

6.2. These submissions may be summarised as follows;

- **Commission for Railway Regulation** stated that the developer should consult with CRR in relation to construction and operational phase road/rail interfaces.

- The **Department of Culture, Heritage and the Gaeltacht** (DCHG) stated that;

    a) Additional information should be submitted on the light impact on the roosting/feeding of birds in the Shannon estuary and in Robertstown River.

    b) A noise impact assessment for Robertstown River should be submitted.

    c) Proposals to seasonally manage pile-driving having regard to the SPA,

    d) Further assessment of noise arising from larger ships on bottlenose dolphins, changes in the accident rate in the estuary and risk of arrival of invasive species in ballast and on ship's hulls,

    e) Further assessment of the in-combination impact of the proposed development and other identifiable developments on subtidal sandbanks, estuarine mudflats and sandflats,

    f) Clarification of the impact of the loss of 0.008ha subtidal sandbank habitat and its relative diversity, piling should be conducted in accordance with the NPWS Guidance 2014,

    g) Proposals for the monitoring of invasive plants and their eradication from the Durnish site,

    h) Details of the surface water outfall at Durnish, an assessment of any bank/mud loss and proposals for regular cleaning of the oil interceptors.

    i) It may not be appropriate to use topsoil for berm construction, a re-assessment of the use of topsoil for berm construction should be carried out.

    j) Further consideration should be given to screening out Barrigone SAC in the light of proposal to source rock fill from the quarry which is partially within that SAC.

k) Further assessment of otter mortality arising from road fencing at Durnish is necessary.

l) Additional under water archaeological monitoring may be necessary.

- **The National Transport Authority** requested that Mobility Management Plan (MMP) should be expanded to include HGV movements. The potential for future use of the Foynes/Limerick railway line should be protected.
- **Irish Water** stated that where connections are made to mains water or sewerage the developer must apply separately to Irish Water.
- The **OPW** states that there are flood defences, particularity along Robertstown Creek but not all are managed by OPW and they were created to protect farmland; not industrial uses. Where bridges or culverts or water courses are to be altered a separate consent from the OPW is required under the Arterial Drainage Acts 1945/1995. The filling of the site may impact on ground water levels, there is the potential for water to percolate up through soil when drainage to nearby channels/the estuary is blocked at high tide.
- The **HSE** commented that there will be no vibration impact on houses as they are 90m distant. Wastewater treatment will be provided on a phased basis. The application deals adequately with noise and air quality impacts.
- The **HSA** stated that it did not advise against the proposed development having regard to the Seveso III Directive and the Chemical Act (Control of Major Accident Hazards involving Dangerous Substances) Regulations 2015. There are two COMAH[1] sites relevant to Foynes; The Atlantic Fuel Supply Company Limited and Inter Terminals Shannon Limited.

7.0 Planning Authority's Comments

7.1. These may be summarised as follows;

- The jetty extension will facilitate larger ships.

- The Durnish lands will be used for port related storage/logistics. These lands will be developed in three phases and when operational will function 24/7, 365 days per year.
- Surface water will be accommodated within the raised Durnish lands through a network of surface water drains with interceptors, attenuation and infiltration.
- There is no public sewerage serving Foynes Port. Foul water will be treated on site in accordance with EPA standards.
- Potable water will be supplied from the public mains.
- An NIS was submitted. The identified European sites are; the Stack's to Mullaghareirks, West Limerick Hills and Mount Eagle SPA (004161), Askeaton Fen Complex SAC (002279), Barrigone SAC (000432), and Curraghchase Woods SAC 000174).
- The planning authority's heritage office noted difficulty in assessing impacts especially from phases 2 and 3 which are unclear, that unsuitable fill material could cause slippage/failure on site and that conditions requiring the retention of a hedgerow and a bat survey should be attached to any grant of planning permission.
- The planning authority has reviewed the EIAR submitted. The planning authority, generally, have no comments. An exception to this is that there may be an increase in flood risk for adjoining land arising from the infill of the Durnish lands. It is not clear if a spill of hazardous material would contaminate the Durnish fill and if the attenuation ponds have the capacity to contain such spills. The quality/nature of fill material to be used is not clear from the application. The compound for firefighting water is elevated above the village - an alternative source of firefighting water should be investigated by the applicant.
- A contribution should be paid in accordance with the Development Contribution Scheme 2017-2021.

8.0 **Applicant's Response**

8.1. The applicant responded to the prescribed bodies as follows;

- The applicant will consult with Irish Rail in relation to railway/road interface.
- The applicant has reviewed the Dept. of Culture, Heritage and Gaeltacht (Nature Conservation) submission. The studies referenced by the department have been reviewed and it is concluded that where there is light spill from industrial uses into intertidal zones this does not impact on foraging birds. There will be no light bowl effect on the Robertstown River and the high mast column lighting will be directed so as not to illuminate areas outside the site.
- Repetitive noise is not experienced by birds as threatening. Pile driving is repetitive and therefore is not experienced as threatening by birds. Construction noise will be in the 61-65dB(A) range but below that in the operational phase.
- Noise can be experienced by birds when airborne or in/on water. There is no significant use of the port area for overwintering birds and none of the birds for which the SPA is designated are diving birds. Operational noise will not impact on birds.
- Noise impact on the bottlenose dolphin will not be significant as during the operational phase noise will not be greater than it is currently. There is a resident population of dolphins in the Shannon estuary, this population is used to marine traffic, their critical habitats are located about 15kms west/seaward of Foynes and it is concluded that these mammals will not be impacted by the proposed development.
- Oil spills will continue to be managed in accordance with the Shannon Estuary Oils and Chemical Spill Contingency Plan managed by the Shannon anti-pollution team. This is sufficient to address the risks arising from larger tonnage vessels. Ballast water arriving in ships is already treated. Ships hulls do not generally carry invasive species, risk is low and will not be materially increased by the proposed development.
- In relation to in-combination impacts on subtidal sandbanks, estuarine mudflats and sandflats, the available evidence indicates that there are three

pipelines, four spillways/jetties/landings and one reclamation project in the SAC. The pipeline projects that are laid on the bed of the estuary have not caused the removal of any subtidal sand/mixed sediment community. Three of the four spillways/jetties/landings have tubular piled open jetties while the fourth (Killimer) has a sheet piled jetty which predated the SAC designation. These have a *de minimis* permanent footprint within the subtidal sand/mixed sediment community.

- In relation to the loss of 0.0080ha it may be noted that the diversity within this habitat is low, the piles will comprise 81m^2 which is the footprint of the piles only, this loss is negligible and will not undermine the conservation objectives for the SAC set out by the NPWS.
- It is possible that bottlenose dolphins will come within 1,000m of the pile driving and be impacted by the resulting noise. The NPWS Guidance to Manage Risk to Marine Mammals from Manmade Sound Sources will be implemented. 'Soft start' allows for a gradual and sequential rise in noise levels over a 20/40minte period to habituate marine mammals to the noise and minimise impact on these mammals.
- Invasive species will be dealt with in accordance with an environmental management plan. Where such species (including Himalayan balsam, giant hogweed, Japanese knotweed, and Rhododendron) are identified during construction works an Invasive Species Management Plan will be prepared to manage/eradicate such plants.
- The current surface water drainage system into the OPW drainage channel along the western boundary of the Durnish lands will continue. No additional loading is expected and no additional outfalls are proposed. Oil interceptors will be fitted with a warning device signalling that cleaning/maintenance is required.
- Top soil will be used on the top of the screening banks/berms.
- The project is not dependent for fill material from Barrigone quarry. Fill material will be sourced from authorised quarries.

- No otter holts, couches or otter breeding sites were recorded on the Durnish site, they use only channels and have not been observed on the Port access road or the railway line. The proposed fencing will not lead to higher otter mortality.
- Significant bird monitoring took place in around the application site (2015, 2017, 2018) which is sufficient to inform an assessment of the proposed development. No further monitoring is necessary.
- Under water archaeological monitoring of the development works will take place in accordance with section 14.8 of the EIAR and the requirements of the Dept. of Culture, Heritage and Gaeltacht.
- The HSE reviewed the EIAR in relation to vibration impacts, water/wastewater impacts, noise and air quality impacts, and the applicant is committed to carrying out the mitigation measures set out in the EIAR.
- The Seveso reported is included in the application which has had regard to the HAS's document 'Policy and Approach of the Health and Safety Authority to COMAH Risk based Landuse Planning'.
- The proposed development will connect to Irish Water potable supply. However firefighting water supply cannot be guaranteed and therefore on-site firefighting water storage is proposed (drawing M0679-RPS-00-PL-DR-C-0123).
- The Mobility Management Plan (MMP) need not be amended as required by the NTA because there is adequate on-site storage/stacking on the site, Foynes is a bulk port not a Ro-Ro port, the capacity problems on the N28 in Cork do not apply to Foynes/N69. Cycle and pedestrian facilities will be provided before the proposed development at Durnish is operational. The proposed development will not impact on the track of the Foynes/Limerick rail line.
- In response to the OPW comments on the methodology chosen to fluvial flood risk the chosen method (FSU – Flood Studies Update) is the appropriate methodology for small catchments and was used in the CFRAM studies. In relation to coastal flood levels it is recognised that there is uncertainty in the

assumptions given the limited time for which records are available, the quality of the data having regard to the periods when the gauge was malfunctioning and the effect of rising sea levels. If new data becomes available which indicates that final fill and floor levels should be revised these can be amended, with a further planning permission if required.

- In relation to pluvial flooding it is the case that the same level of rainfall with occur on the site, infiltration of this rainwater will be slowed in its passage through the additional fill to the existing ground surface – thus there will be no negative impact from this aspect.
- Due to soil types undelaying the Durnish site (estuarine/alluvial clays) this area has little water storage capacity. In recognition of this limitation the capacity of the storage lagoon is being increased by 5,000m^3. This mitigation system will be monitored during the construction phase/fill operations to assess any surcharging affect arising from the proposed works.
- The applicant recognises that along with the constructed surface water collection system surface water can drain from the filled Durnish lands through seepage and the creation of preferential flow paths. This will be mitigated by the construction of an impermeable bund between the new filled areas and the OPW drainage channel. Such a bund will be subject to a licencing application to the OPW under the Arterial Drainage Acts. In summary the measures proposed will limit run off to greenfield rates.
- The applicant will provide OPW staff with 24 hour passes to the site to observed ground water/flooding issues. The applicant is aware that works to culverts/bridges need separate consent under the Arterial Drainage Acts.
- Transport Infrastructure Ireland are concerned with potential for congestion at the two junctions on the N69 that serve the port. No mitigation is required because there is already a 62m long goast island on the N69 serving the eastern port access and a barrier to the port is 480m from the N69; these combined makes for stacking for 63 HGVs. The western port access accommodated 8% of right turners to the site.

8.2. The applicant responded to the planning authority as follows;

- Limerick City and County Council (LCCC) have asked for an analysis of less extreme but more frequent floods. The applicant has modelled (section 12 of the applicant's response) a breach in the flood defences along the Robertstown River. The impact arising from the filling of the Durnish lands is summarised as an increase in flood depth in the agricultural lands to the west of Foynes village and a decrease in the flood depths in the village. Where spillages of hazardous substances occur the spill will be captured in the surface water drainage system at one of the 6 interceptors on site and therefore will not have an opportunity to infiltrate into the earth. The fill will have a voids ratio of 20% to allow storage of surface water.
- LCCC raised the issue of relocating the firefighting water reservoir from its present location. This reservoir was permitted in 2008 and is vital for the port to ensure adequate firefighting water supply. Recently there was a leak from it which was due to a number of faults in the reservoir. The applicant and LCCC have since agreed a shared remote monitoring system which has been installed.
- The site filling will take place over a period of 39months. The surface water drainage system, including interceptors will be in place during this period to prevent contaminants exiting the site. Fire hydrants are provided for in the EIAR (sections 2.2.5.1.3 and 2.2.5.2.12), the exact number and locations will be determined in conjunction with LCCC. The means of escape from warehouses will be agreed with LCCC and will require a Fire Safety cert.
- The applicant notes the suggested conditions set out in the LCCC comments. The road safety audit will be considered in the Port access road roundabout design. The applicant agrees with LCCC that the Board should provide guidance on the forms of development within the port which would require planning permission from LCCC or from the Board under SID provisions.

8.3. The applicant responded to the Edward Guiney as follows;

a) The area referred to in this submission is subject to coastal and fluvial floods on a 10-year return basis. The area is drained to the OPW channel which runs south to north along the western edge of the Durnish lands. The proposal facilitates the operation of this system by allowing access to the lands by the OPW, ensuring adequate culvert structures through the Durnish lands and ensuring that run-off from the site will stay at greenfield rates.

b) The OPW storage lagoon will have 5,000m^3 additional capacity. The applicant may (with the consent of the OPW) increase the capacity of the culverts at the access points to the Durnish lands which will improve surface water flows. The Durnish lands do not perform a flood plain function at present.

8.4. The applicant responded to the Irish Cement;

a) the visibility splays at the access to Plot 3A (the Irish Cement lands) is currently compromised by the security barrier to the north and the boundary of the lands to the south and differences in site levels.

b) The road verge is in the ownership of LCCC, this will not change and access to the Irish Cement lands can be provided as a fourth arm off the new roundabout the Port Access Road.

c) The applicant offers to amend the proposed development to relocate the security barrier onto an internal access road within the Durnish lands. The Port Access road will remain in the ownership of LCCC.

8.5. **Further Responses**

8.6. Transport Infrastructure Ireland (TII) commented on the applicant's submission stating that the national road network serving the site is in a period of change. An application to the Board in relation to the Limerick to Foynes route will be submitted

to the Board in 2018. If the Board decides to grant permission a condition should be attached requiring agreement with Limerick CCC for traffic management, including of HGVs associated with the proposed development.

8.7. The National Transport Authority commented that if the board decides to grant permission a condition should be attached requiring agreement with Limerick CCC on a mobility management plan, including HGVs, for the proposed development.

8.8. The Health and Safety Authority responded that it had no further comment to make.

8.9. Irish Cement welcomes the applicant's comments concerning new access to plot 3A and requests that if a permission be granted that a condition be attached requiring the construction of an access to the objector's lands as set out in the applicant's submission.

8.10. No additional responses from other observers/prescribed bodies were received.

9.0 Assessment

9.1. The main issues in this case are;

- planning policy framework,
- access to Irish Cement lands,
- traffic safety,
- flooding,
- Firefighting water,
- water supply and foul water treatment,
- Environmental Impact Assessment,
- Appropriate Assessment.

10.0 Planning Assessment

10.1. Planning Policy Framework.

10.2. The proposed development reflects the national policy in relation to the development of shipping access to Ireland through the expansion of port facilities and connectivity within the state and between the state, Europe and the wider world. The National Ports Policy 2013 designates Dublin, Cork and Foynes as Tier 1 Ports of National Significance. The state, through the National Ports Policy, is committed to the inclusion of Foynes port in the European Core Network (ECN) of ports within the European Union. An application for the inclusion of Foynes in the ECN has been accepted by the EU Commission and a response is regarded as imminent.

10.3. The Mid-West Regional Planning Guidelines 2010 – 2022 recognises Foynes as one of the major ports on the Shannon estuary. The protection of the capacity of Foynes and improving regional access is a priority. Local authority development plans should contain specific economic development objectives which seek to harness the economic potential of the estuary and capitalise on its natural deep-water characteristics and promote economic growth in the estuary and the wider region.

10.4. The lifetime of the Limerick County Development Plan 2010 to 2016 has been extended until the adoption of a new Regional Spatial and Economic Strategy which is expected in early 2019. The entire site is zoned ‘marine related industry’ in the zoning map attached to the Plan (see map A2 in Appendix 1 copy in pouch). Development plan objective ED O7 states that the planning authority will ensure that lands zoned for marine related industrial development of Foynes and deep-water facilities in the Shannon estuary is safeguarded for the accommodation of port related uses and other industrial activities. The plan states that the expansion of Foynes will promote the economic and industrial development of the Shannon Estuary as a strategic transport, energy and logistics hub serving the County and wider region.

10.5. Having regard to the material set out in the application, the National Ports Policy 2013, the Regional Planning Guidelines and the current Limerick County Development Plan I conclude that the proposed development complies with national, regional and local planning policy.

10.6. **Access to Irish Cement Lands.**

10.7. The eastern port access road has a junction with the N69 east of Foynes village and has a goast island coming from the east (for this road see the Proposed Site Location Key Plan MO679-RPS-00-PL-DR-C-0101). The EIAR states that almost 80% of HGV traffic enters the port via this road. Soon after the junction with the N69 there is a stream (Ardaneer Stream) which flows, generally, west to east into the Robertstown River. Thereafter there is the unused Foynes to Limerick railway line. The application site runs along the northern edge of the railway line and there is a gated access but it appears that the boundary between the Irish Cement lands and the port company lands is undefined and that the access is in the ownership of the Port Company. Beyond this parcel of land on the port access road there are security gates/cabin that control entry to the port. The result of the pattern of land ownership is that Irish Cement land is 'locked' between two areas in the ownership of the Foynes Port Company (see figure 1 in the Irish Cement submission on file). At some time in the past during the construction or upgrade of the port access road the road level was dropped so that the boundary between the Irish Cement lands and the road is now a steep bank which I estimate at about 10m high. The present application proposes to upgrade the port access road by the inclusion of a three-arm roundabout to the south of where the existing security gates/cabin is located.

10.8. Irish Cement make the point that their lands are also zoned for marine related activity in the Limerick County Development Plan, that the construction of the new road/roundabout will require earth works/a retaining wall which make future access to their lands impossible and by bringing the security gates and security cabin south of its current location privatises the public road and further restricts access to their lands.

10.9. The applicant submitted amendments (see 7th September 2018 submission) to relocate the security gates/security cabin north and away from the roundabout so to more clearly signal that it remains a public road and so as not to restrict access to Irish Cement's lands. Additionally, the applicant proposes a fourth arm off the roundabout (for the originally proposed three arm roundabout see drawing number M0679-RPS-00-PL-DR-C-0118) which will overcome the Irish Cement objections and allow Irish Cement to construct an access within their site as they wish. Irish Cement welcomed the revisions in the form of a relocated security gates/cabin and

that the roundabout would have a fourth arm allowing access to their lands but commented, nevertheless, that the access would impose a financial cost on Irish Cement.

10.10. I consider that moving the security gates/cabin northwards addresses the risk of inhibiting access to the Irish Cement lands. I recommend that a condition should be attached requiring the provision of a fourth arm of the roundabout, generally as set out in the applicant's submission but subject to the agreement of the planning authority, within the applicant's landholding but up to the boundary of the Irish Cement lands. I conclude that these amendments would address the objector's concerns and protect public safety.

10.11. **Traffic**

10.12. As described above there are two entrances into the port; one in Foynes village and one on the eastern end of Foynes village with a junction onto the N69. Figure 13.6 in the EIAR sets out the general layout of the lands at Durnish which will be served by a new road system and roundabout (to Design Manual for Roads and Streets standards) on the port access road. There are footpaths on both sides of the N69 leading east out of Foynes village but these do not connect with the port access road. The application (see EIAR13.18) provides for cycle and walking routes along the new roads within the Durnish lands site. There is a bus service between Limerick and Tralee but the stop in close to the western port access in Foynes village. It is proposed to facilitate a bus stop at the edge of the application site between the Foynes/Limerick rail line and the Ardaneer Stream. The application states that this has been discussed with CIE. The Limerick/Foynes railway line is 43kms long but currently closed. The proposed development will not impact on the line and leaves open the option of re-opening the line to rail traffic in the future.

10.13. The application includes a traffic impact assessment (see EIAR 13.4). This demonstrates that about 80% of traffic accesses the port via the eastern access. Traffic counts were carried out at the western and eastern port access junctions with the N69 and two other road junctions within Foynes. The time lines considered are 2017 to 2029 (end of construction period) and 2019 to 2041 (12 years after construction is completed. There is a proposed road improvement scheme[2] for the

[2] This is the subject of SID pre-application meeting under 13. HC006 (file attached).

N69 which would change the eastern junction of the port access with the N69 from a T junction to a roundabout. The traffic impact assessment modelled for the existing road layout and for a roundabout at the east port access (although it recognises that detailed drawings are not yet available for this roundabout) and concluded that the road infrastructure as existing and proposed would operate within capacity.

10.14. The NTA expressed the view that the mobility management plan (MMP) did not properly consider the management of HGVs entering and leaving the site and that a grant of permission should include a condition requiring the agreement with the planning authority of a revised MMP. The applicant responded that there is 65m of right turning lane on the N69 before the junction with the east port access road, that there will be 693m between the new (revised) roundabout serving the Durnish lands and the N69 junction and that the port will remain a bulk port not RO-RO which correspondingly reduces the level of traffic movements.

10.15. It may be noted in the context of a traffic assessment that the application refers to an extension to an existing facility which the applicant points out is not a RO-RO port which serves to reduce the traffic generation capacity of the proposed development. The proposed development is plan led and Table 8.3 in the current Limerick County Development Plan lists a number of road infrastructure works which identifies both the N69 Limerick/Glin and the N21/N69 Rathkeale/Foynes roads for improvement works. I conclude that the combination of the existing ghost island on the N69 and the distance (about 693m) between the existing T junction/proposed roundabout on the N69 and the security gates/cabin on the Durnish lands will be adequate to accommodate foreseeable HGV stacking off the national route system. I conclude that the proposed development will not endanger public safety due to traffic hazard.

10.16. **Water Supply and Waste Water Disposal.**

10.17. The application (see EIAR 2.2.5.2.8) states that the proposed development will connect to the public mains water. The correspondence from Irish water was initially unclear but the applicant's final submission includes copies of letters from Irish Water to confirm that it will facilitate a connection for the proposed development to the public system.

10.18. The application makes the point that there is no public mains drainage serving the port at present. Irish Water confirms that there is a proposal for a new public waste water treatment plant which is expected to become available in 2023. It is proposed to serve the Durnish lands with a proprietary waste water treatment system that complies with the EPA Guidance for Treatment Systems for Small Communities, Business, Leisure Centres and Hotels (EPA, 1999). The application states that the new proprietary WWTS will be designed to accommodate a pe of 50 which represents the expected loading of the three phases on the development at Durnish. A detailed description is set out in appendix 2.2 in volume 2 of the EIAR.

10.19. Limerick County Council raised the issue of water contaminants entering the environment arising from spills within the site. The applicant replied that the surface water system at Durnish would be fitted with 6 interceptors so that were polluting spills to occur they would be intercepted prior to entering the wider surface water system (the drainage ditch and the lagoon).

10.20. I conclude based on the submissions made in relation to this application that water supply and drainage arrangements are acceptable and will not be prejudicial to public health or give rise to water pollution.

10.21. **Flooding**

10.22. The Planning System and Flood Risk Management Guidelines for Planning Authorities (Dept. of Environment, Heritage and Local Government/OPW 2009) designates areas as flood zones A, B and C. Zone A has a high probability of flooding and the type of development which should be located within this zone is generally water compatible development which includes docks, marinas, wharves and activities which require a waterside location. The site is located in flood zone A and I consider that the dock related warehousing and ancillary development proposed in this application is a form of development which the guidelines support as appropriate in this flood zone.

10.23. An objector (Edward Guiney) makes the related points that drainage works should factor in the impact of climate change, that the Durnish lands will be filled by up to 4m in parts, that 25% of the site should be retained as flood plain and that there is a history of flooding in the area south of the N69 at Corgrig. The application (see EIAR

section 9.2) addresses flood risk in detail and the applicant responded to the objector's submission.

10.24. In addressing the issue, I will consider only the Durnish lands as the amended jetty has no capacity to impact on flood risk. The existing nature of the Durnish land is described in detail in the EIAR but briefly it may be observed that it is an undeveloped site with significant differences in elevation within the site and generally the site is in pasture. The point of carrying out the site infill works is to allow for the construction of the access roads and warehousing and ancillary development provided for in the application.

10.25. The application site is owned by the port company but the two main drainage ditches and flood defence berm are managed by the OPW. There are three features of interest;

- a drainage ditch along the eastern edge of the site between the area to be developed and the flood defence berm – see figure 2.18 in the EIAR. This ditch drains the site, provides attenuation for surface water and decants to the lagoon on the northern site boundary close to the confluence of the Robertstown river with the Shannon Estuary.
- A second drainage ditch along the western edge of the application site into which the surface water drainage system, after interceptors, feeds. This ditch also drains north into the lagoon which, itself, drains out to the Shannon estuary at the confluence with the Robertstown River. There is a non-return valve on this lagoon as it decants into the estuary which closes at high tide preventing back flow into the lagoon and ditches.
- there is a flood defence berm which starts where the internal port road turns south at a group of fuel tanks on site and runs along the entire north and north-eastern site boundary and continues southeast along the bank of the Robertstown river from the eastern corner of the site and out of the application lands.

10.26. The OPW made a submission to the Board and queried how the rate of surface water run off would be managed on the Durnish lands. The OPW's concern is that

not all surface water would be captured by the surface water drainage system and that surcharging of the Durnish drainage channel could occur. The applicant responded (see section 8.5/page 33 of the applicant's submission received on the 7th September 2018) that the site does not allow free draining of water into the underlaying soils. This feature allows for an impermeable berm to be constructed behind the OPW wayleave and these factors would allow surface water, which had infiltrated in the new fill, to be attenuated in a manner to limit run-off to greenfield rates into the drainage ditch.

10.27. This aspect of the application is somewhat unclear. The eastern part of the site is drained by concrete pipes (see EIAR figure 2.18 and the site layout drawings series numbered MO679-RPS-00-PL-DR-C-0110 to MO679-RPS-00-PL-DR-C-0127). Where these concrete pipes terminate there are interceptors (to prevent contaminants dispersing within the site) and thereafter the perforated uPVC pipes which will allow clean surface water to infiltrate into the new fill. The OPW commented that this arrangement did not guarantee greenfield surface water rate run off. The applicant's proposal is to provide an additional berm within the new fill material (see section 8.5/page 33 of the applicant's submission received on the 7th September 2018) which will slow down/attenuate the surface water flow to the drainage ditch on the western edge of the Durnish lands. In my view this arrangement has the potential to constrain flow of surface water within the fill and that surface water will overtop the berm, find preferential flow paths through the berm or along the berm towards the lagoon to the north; in any case I conclude that this element of the proposed development requires further clarification.

10.28. Noting that no additional surface water will arise within the site I recommend that the applicant satisfies the planning authority in relation to surface water drainage and that this be required by condition.

10.29. South of the site and outside the applicant's control the area generally between the N69 and the Limerick/Foynes railway line is drained by the Ardaneer stream which empties into the Robertstown River south east of the site and outside the site boundary. In relation to the provision of additional flood plain within the application site I note no additional rainfall will occur on the site arising out of the proposed

development. Furthermore, the site does not experience pluvial flooding at present because the depth the drainage channel and capacity within it and the lagoon are adequate to accommodate all water falling within the site. Only where there is breach in the flood defence berm which is managed by the OPW would Durnish lands function as a flood plain in which case its capacity would have a positive impact on the depth of flood on the surrounding area.

10.30. The applicant points to two further flood mitigation measures; firstly, the expansion of the lagoon by 2,000m^2 to give an additional storage volume of 5,000m^3 and, secondly, the increase in size of the culverts through which the drainage ditch flows when the additional road links are being constructed within the site. The applicant makes the point that works to the culverts would require consents under the Arterial Drainage Acts and the agreement of the OPW. I consider that this may be subject to a condition.

10.31. Limerick County Council sought greater detail in relation to impact of filling the Durnish lands on flood events. The applicant made the point that in a breach scenario the agricultural lands to the west of Durnish may experience higher flood levels but these have no sensitive receptor (homes or businesses) whereas the flood levels in Foynes would be lower.

10.32. In summary I acknowledge that the area along Corgrig south of the N69 and the area between the N69 and the railway line are liable to flood but I conclude that this is related to their low lying nature and proximity to the Shannon estuary and Robertstown River and not to run-off from the application site. The point to be addressed in this application is its propensity, in particular having regard to the raised site levels, to exacerbate flooding in the area. It may be noted that the proposed development will not impact on rainfall patterns within the site, that currently the site is drained via the OPW managed drainage ditch and does not discharge surface water to land outside the site and that the capacity of the drainage ditch and the lagoon will be augmented by development on foot of this application. As addressed in the EIAR there is the possibility of a catastrophic beach in the flood defence berm managed by the OPW along the Robertstown River and the estuary but the proposed development will not impact on that berm or materially add to the risk of coastal flooding. I conclude therefore that the proposed development will not materially increase the risk of flooding to areas outside the site.

10.33. **Firefighting Water.**

10.34. Limerick City and County Council's (LCCC) report on the application recommended that consideration be given to relocating the firefighting water supply for the port. The applicant makes the point that there is an existing permitted firefighting water supply for the port designed and installed to the standards required by LCCC/Fire Authority in 2010. The capacity of this firefighting water is determined by the needs of firefighting in the event of a fire in the imported fuel storage tanks within the port. This facility, located outside the application site, on raised ground to the southwest of Foynes is fed from a spring. This supply is necessarily independent of the Irish Water public supply because that public supply does not have the capacity to serve as a source of firefighting water. Irish water confirmed to the port company that its supply this inadequate as firefighting supply. It is acknowledged that an overflow event recently occurred but this is being addressed with additional maintenance actions and the installation of a remote monitor shared with the LCCC.

10.35. This firefighting water storage facility is located outside the site and has a separate permission. I accept the rationale put forward by the applicant in relation to its present location outside where it can be fed by a natural spring independent of Irish Water supply. It may be noted in this context that additional firefighting water supply for the new warehouse at Durnish is provided for in drawing MO679-RPS-00-PL-DR-C-0123 submitted on the 7th September 2018. I conclude that no additional requirements in relation the existing firefighting arrangements within the port should be imposed on foot of this application for permission.

11.0 Environmental Impact Assessment

11.1. This section sets out an environmental impact assessment (EIA) of the proposed project. I have examined the information submitted by the applicant including the submitted Environmental Impact Assessment Report /EIAR as well as the written submissions made to the Board. A single EIAR has been prepared in respect of the jetty extension and the development of the Durnish lands. I am satisfied that the environmental impact of the proposed development is addressed under each environmental factor in addition to the cumulative impacts of the proposed development.

11.2. The application is accompanied by an EIAR on the basis that it was considered by the applicant to come within Class 10 (a) and b(iv) of the Fifth Schedule of the Planning and Development Regulations, that being 'industrial estate development projects where the area would exceed 15ha and urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere". No formal scoping procedure with the Board was entered into. The application was received by the Board on 8th May 2018, and therefore, having regard to the provisions of Circular Letter PL1/2017, the subject application falls within the scope of the amending 2014 EIA Directive (Directive 2014/52/EU) on the basis that the application was lodged after the last date for transposition in May 2017. It does not however, fall within the scope of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018, as the application was lodged prior to these regulations coming into effect on 1st September 2018.

11.3. The impact of the proposed development is addressed under all relevant headings with respect to the environmental factors listed in Article 3(1) of the 2014 EIA Directive. The EIAR clearly sets out a case regarding the background to and need for the project (Chapter 5). The EIAR also provides a significant level of detail with regard to the consideration of alternatives. This information is presented at Chapter 5 of the EIAR and includes discussion on site selection, alternative layouts, alternative designs and alternative processes. An overview of the main interactions is provided at Chapter 16 of the EIAR. Table 1.1 presents a list of main contributors/ authors for each environmental factor and their qualifications. The competencies of the experts detailed in the EIAR are considered to be consistent with and appropriate to the requirements of the EIA and amending directive.

11.4. Details of the consultation entered into by the applicant as part of the preparation of the project are set out at Chapter 4 of the EIAR. I note that the subject application was subject to public notification and that the timeline for the receipt of submissions from the public exceed the minimum 30-day period specified in the EIA Directive. Specifically, the period for the receipt of submissions from the public extended from 15th May 2018 to 9th July 2018, a period of 7 weeks. Prescribed bodies were also given a period of 7 weeks to make submissions.

11.5. Article 3 (2) of the Directive requires the consideration of the effects deriving from the vulnerability of the project to risks of major accidents and/or disasters that are relevant to the project concerned. The potential for major accidents is considered in Chapter 6 Health and Safety and in the addendum Seveso Report submitted with the application. The potential for flooding is considered in Chapter 9 Water (Section 9.35). Having regard to the nature and extent of the proposed development and to the local environmental and climatic conditions, I am satisfied that the vulnerability of the project to the risks of major accidents and / or disasters has been adequately addressed within the submitted EIAR and it is considered that the vulnerability level of the project to major accidents and / or disasters is acceptable.

11.6. The content and scope of the EIAR is considered to be acceptable and in compliance with the requirement of Articles 94 (content of EIS) and 111 (adequacy of EIS content) of the Planning and Development Regulations, 2001 (as amended) and the provisions of the new amending directive.

11.7. **Alternatives**

11.8. Foynes port has been in existence since 1846 and is designated a Tier 1 port in national policy. The proposal is plan led and has regard to EU, national and local spatial planning policy. Alternative locations identified within the Shannon Estuary were Inishmurry/Caheracon/Kiladysert, Moneypoint, Foynes Island, Lands to the rear of Foynes port, lands at Askeaton, Lands at Aughinish Island and Tarbert Power plant. The factors which inform location choices are:

- The site must provide access to deep water;
- The site must be adequately sheltered from sea and weather conditions;
- The site must be within reasonable distance of existing port locations to ensure effective communications and efficient operations;
- The site must continue to service effectively the main areas associated with the Port of Foynes current operations and existing customer base;
- The site must have adequate transportation links, and
- The site must not be in conflict with planning policy or environmentally sensitive sites,

11.9. Having considered the alternative locations, the further development of Foynes was decided upon because;

- The site was previously compulsorily acquired under the Board's decision in PL13.CQ.3001,
- The project is 'plan led' since the site is zoned for marine related industry in the County Development Plan,
- The SFPC's Masterplan – Vision 2041 has identified the need for increased berthage/storage area.
- The port already operates successfully at this location it is preferable to expand an existing operation than seek to relocate it.
- Foynes has ready access to the national road network and other larger urban and commercial centres.
- The existing rail line may facilitate future rail connection if commercially viable to do so.
- The Foynes Port and the proposed development including the expansion lands at Durnish are centrally positioned to serve a wide customer catchment.
- The proposed location can contribute to improved transport efficiencies and reduce associated environmental pollution as the proposed development will facilitate the 'proximity principle' whereby customers will use port facilities closest to the destination of their goods.

11.10. I conclude based on the information set out in the EIAR and the additional information submitted with the application that the alternatives considered in the EIAR are reasonable and are relevant to the project and its specific characteristics. The main reasons for choosing the proposed site are set out, have been properly assessed and are acceptable.

11.11. **Population and Human Health**

11.12. The EIAR (chapter 6) addresses population and human health and identifies the impact receptors as residential uses, commercial uses, tourism and recreational uses, social and community users. Construction impacts are identified as traffic and transport, noise and vibration, air quality and climate and flora, fauna and biodiversity. These impacts are dealt with further in separate chapters. There will be an average of 15 construction jobs related to the works to the jetty and between 20 and 35 for the Durnish lands. Indirect employment will arise in quarries supplying fill to the project. Construction traffic will use the existing port access road and the jetty construction works will occur within an already modified industrial setting.

11.13. Operational impacts will arise in the form of landscape and visual impacts, traffic and transport impacts, noise and vibration and air quality and climate impacts and are dealt with in separate chapters. Direct operational impact will arise for employment, which will grow from about 186 at present to about 306 when the whole development is operational. The wider region will benefit economically from the increased capacity within the port. Other operational impacts will arise from more frequent shipping within the port and the visual appearance of the Durnish lands.

11.14. Cumulative employment impacts will arise from two previous permissions for redevelopment at the east jetty and the redevelopment of a biomass solid fuel manufacturing plant within the port for Bord na Mona. There are other smaller commercial and residential projects in Foynes Port.

11.15. Human health is most open to impact as health and safety risk during construction phase. This is addressed under a separate chapter dealing with health and safety. Operational phase impacts on human health are dealt within under other relevant chapter headings and summarised in table 6.3.

11.16. Mitigation measures are set out at 6.6. A construction environmental management plan has been developed. No negative economic/employment impacts will arise which require mitigation. No significant negative land use impacts on population/human health will arise which require mitigation. Construction phase health and safety will be managed in compliance with a health and safety management plan. No operational phase negative impacts require mitigation.

11.17. I have considered all of the written submissions made in relation to population and human health and the material set out in the EIAR. I am satisfied that impacts on population and human health are positive or would be avoided, managed and/or mitigated by measures that form part of the proposed scheme, by the proposed mitigation measures and with suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts on population and human health.

11.18. **Biodiversity**

11.19. Chapter 7 deals with biodiversity under the headings; Terrestrial Biodiversity, Benthic Biodiversity and Fisheries, Marine Mammals, Avian Biodiversity and Designated Sites.

11.20. The EIAR provides (figure7.2.1) a terrestrial habitat map. Sixteen habitat types are identified within the site; artificial lakes and ponds, depositing/ lowland rivers, drainage ditches, reed and large sedge swamps, improved agricultural grassland, amenity grassland, dry meadows and grassy verges, wet grassland, hedgerows, scrub, recolonising bare ground, spoil and bare ground, sea walls, piers and jetties, buildings and artificial surfaces. Most habitats on site are of local (lower) value; some are of local (higher) value as they function as wildlife habitats and linking corridors at the local level. The port area consists primarily of highly modified built land and sea walls, piers and jetties of local (lower) value. Some of the hedgerows on site are quite old townland boundaries and of some ecological significance. The majority of the Durnish site is primarily wet grassland - a highly modified habitat, previously managed and grazed and of local (lower) value, although one section in the south-east is given a local (higher) value. No rare or protected plants were recorded on site, despite some occurring nearby at Aughinish Island. None of the habitats on site correspond to any habitats listed on Annex I of the Habitats Directive.

11.21. The mammal species recorded on site are; bats, badgers, otters, pine martens, Irish stoat, hedgehog and Irish hare. Other animals recorded on or near the site include, pygmy shrew, red squirrel, red fox and wood mouse. Seven species of bat were recorded on site.

11.22. The Department of Culture, Heritage and the Gaeltacht (DCHG) raised the issue of otter mortality arising from the new fencing layout in the site. The applicant

responded that otters were observed to only use the water channels within the site and not on the port access road or railway and it is not anticipated that otter mortality will increase arising from the proposed development.

11.23. The EIAR reports that there will be no construction or operational phase impacts for any of these species from the jetty development (a single Leisler's bat was recorded commuting in this area). The works at Durnish will take place after the jetty construction and possibly in phases but in all will take about 39 months. The potential impacts on mammal species arise from; loss of breeding and resting areas, displacement because of habitat loss, noise, visual or lighting disturbance at construction stage, noise, visual or lighting disturbance at operational stage. Loss of grassland and hedgerows will impact on species of higher (local value) (such as the common pipistrelle, soprano pipistrelle, whiskered bat, leisler's bat, brown long-eared bat) and local (lower) value (pine martens, Irish stoat, hedgehog). One tree (tree number 8) in Durnish is identified as potentially suitable for bat roosts and will be retained, The disused railway corridor where the lesser horseshoe bat was observed will be retained and the waterways where otters were observed will, likewise be retained.

11.24. Construction phase noise and visual impacts will arise for some ground dwelling mammals whereby these mammals will become habituated to the noise and light of the operational phase. Operational phase impacts are minor adverse; noise barriers and boundary treatments will mitigate against disturbance of both ground mammals and bats in the longer term. The lighting along the Robertstown River and vegetated corridors outside the site is illustrated on drawings M0679-RPS-00-PL-R-C-0145 whereby directional lighting will minimise impacts on areas outside the site.

11.25. The EIAR (section 7.3) deals with benthic (flora/fauna on the seabed) biodiversity and fisheries. The site is partly located within the Lower Shannon SAC (002165). The fish species identified in the Conservation Objectives for the SAC as being within Lower Shannon Estuary where the proposed development is situated: sea lamprey (*Petromyzon marinus*), river lamprey (*Lampetra fluviatilis*) and Atlantic salmon (*Salmo salar*) – only in freshwater. In addition, the site synopsis refers to Twaite shad (*Alosa falax fallax*) and to smelt (*Osmerus eperlanus*). The species considered in the EIAR are Atlantic salmon, lampreys, eel and smelt.

11.26. The 117m long jetty requires 69 by 1.2m tubular steel piles at construction phase and these are the only source of impact on fish. Table 7.3.10 details the potential for noise related to the piling to impact the identified fish species. No significant direct population level impacts are expected.

11.27. The other potential construction phase impacts are hydrocarbon release, cement spills, habitat disturbance and habitat removal. These events may be mitigated at construction phase by;

- Daily inspection and maintenance of all plant and construction vehicles.
- Complying with the environmental management scheme (EMS) with regard the storage of fuel and lubricants for all plant and construction vehicles.
- Availability of spill kits during the course of all construction works.
- Refuelling of vehicles and plant off site or when re-fuelling on-site is necessary it must comply with the EMS.
- standing plant and machinery should be placed on drip-trays.
- All surface run-off from the construction site will be directed into a hydrocarbon interceptor before discharge.
- All shuttering works must be securely installed to avoid cement spoils.
- Silt will be prevented from entering drains. Herbicides will only be undertaken in accordance with the EU (Sustainable Use of Pesticides) Regulations 2012.

11.28. The operational phase impacts will be mitigated by draining all surface water through hydrocarbon interceptors.

11.29. **Marine Mammals**

11.30. The EIAR at 7.4 deals with marine mammals. These are the grey and common seal and bottlenose dolphins. Construction phase impacts will arise from piling for the new jetty link and demolition at the western end of the existing east jetty will give rise to noise. Noise impact from piling can be mitigated through the observation of a buffer zone of 500-1000m. This complies with the NPWS Code of Practice for the Protection of Marine Mammals during Acoustic Seafloor Surveys in Irish Waters.

Operational phase noise will arise from the increased shipping using the new facilities. The additional vessel activity during operational phase is not significant and no mitigation is proposed.

11.31. **Birds.**

11.32. The jetty extension is heavily developed built lands and no breeding birds occur within this area. The construction phase impacts for the jetty extension will be imperceptible. The operational phase of the jetty extension will not give rise to additional impacts for visiting birds.

11.33. Table 7.5.1 sets out the birds recorded on the Durnish lands during the breeding season. The potential impacts on birds within the Durnish site in the construction phase are; loss of breeding habitats in the hedgerows, treelines and grasslands, displacement other areas, noise or visual arising staff/vehicle movements. Construction phase impact on breeding birds will be minor and habitat will be cleared in the non-breeding period. A moderate beneficial impact will arise from new planting along boundaries.

11.34. **Designated sites/pNHAs.**

11.35. The EIAR (section 7.3.7) identifies the Inner Shannon Estuary South Shore and the Fergus Estuary and Inner Shannon North Shore pNHAs (illustrated in figure 7.6.4) as being potentially impacted by the proposed development[3]. The impact assessment is hampered by the lack of detail concerning the features of interest within the pNHAs in the County Development Plan and their absence from the NPWS website. Possible effects are considered under four broad headings; water quality and habitat deterioration, underwater noise and disturbance, aerial noise and visual disturbance and habitat loss. The jetty extension will not result in loss of any habitat within the pNHA and no construction or operational phase impact is predicted. No significant impact for breeding or non-breeding birds is predicted in the construction or operational phase of the Durnish site.

11.36. I have considered all of the written submissions made in relation to biodiversity, including marine mammals, bats, and birds, set out in the EIAR and the further

[3] This section of the EIAR also refers to the European Sites which are potentially impacted by the proposed development but I consider these under the Appropriate Assessment section of this report.

submissions on file. I am satisfied that impacts identified on biodiversity, including marine mammals, bats, and birds will be managed and/or mitigated by measures that form part of the proposed scheme, by the proposed mitigation measures and with suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of biodiversity, including marine mammals, bats, and birds, that cumulative effects are not likely to arise.

11.37. **Soils, Geology, Hydrogeology and Waste.**

11.38. Chapter 8 in the EIAR addresses Soils, Geology, Hydrogeology and Waste. The ground profile of the jetty extension area (see table 8.6) is summarised as made ground (silty sandy gravel with some cobbles), estuarine/alluvial cohesive (very soft sandy clay/very soft sandy silt with shell fragments), estuarine/alluvial granular (from clayey sandy gravel to gravel and cobbles) and limestone (strong dark, fine to medium grained crystalline limestone). The ground profile in Durnish (see table 8.5) comprises topsoil (sort to firm sandy gravelly clay/silt), estuarine/alluvial cohesive (soft sandy gravelly clay), estuarine/alluvial granular (silty gravel), glacial – granular (cobbles and boulders) and limestone (strong to very strong grey bedded crystalline limestone)

11.39. The construction phase impact on soils in the jetty area will be limited to demolition of a decks structure; no significant land based works are proposed. The stripping, storage and reuse of topsoil in Durnish is a minor adverse impact arising from loss of fertile land. Piling for the jetty will comprise tubular steel piles driven about -32m to -35m with about 3m into the bedrock. The impact on hydrogeology will be neutral. The Durnish lands will be filled by an additional 1.8 to 2.8m. There are two wells, one 1.3kms south east and one 1.5kms southwest. The aquifer undelaying Durnish lands is low vulnerability; the impact on these two receptors (the wells) and the underlying aquifer are deemed to be neutral.

11.40. Operational impacts on soils, geology and hydrogeology in the area of the jetty are neutral.

11.41. The preparation of the EIAR revealed that there is some arsenic, aluminium, nickel and zinc in the ground water in Durnish. The direction of ground water flow within the site is northeast to southwest which would indicate that the contamination is not

coming from Foynes port. The operational impact on recharge to ground water will be neutral. Foul water will be treated in a tertiary system and the impact on groundwater quality will be neutral. No operational mitigation measures are required for soils, geology, hydrogeology in the jetty.

11.42. The operational phase mitigation measures for soils, geology, hydrogeology are those set out in chapters 7 and 9.

11.43. Waste impacts arising from the jetty are considered at construction phase and operational phases. The jetty demolition works will give rise to about 130m^3 of waste which will be handled by licenced waste contractors and will, largely, be put in landfill. Construction waste (paper, packaging and canteen waste) will be handled by a licenced waste contractor. Sewage from temporary toilets will be collected on site and disposed of to an appropriate facility off-site.

11.44. Waste will arise on the Durnish lands principally through the stripping of top soil and the demolition of an existing lean-to Foynes engineering shed. The stripped soil will be re-used on site for landscaping. Some of the shed materials will go to landfill but a high level of diversion to reuse, recycling and recovery will be put in place. A construction phase construction environmental management plan will be implemented. There is currently a waste management plan in place for Foynes Port. This waste management plan will continue to be reviewed and any changes required will be implemented to avoid and minimise the potential effects of ship and boat generated wastes once the jetty extension and warehousing and storage facilities are operational. No cumulative waste impacts are anticipated.

11.45. I have considered EIAR and the written submissions made in relation soils, geology, hydrogeology and waste. I am satisfied that impacts identified on soils, geology, hydrogeology and waste would be avoided, managed and/or mitigated by measures that form part of the proposed scheme, by the proposed mitigation measures and with suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect or cumulative impacts.

11.46. **Water Quality and Flood Risk Assessment.**

11.47. The EIAR examines (chapter 9) the likely construction phase impacts and operational phase impacts for the east jetty extension and the lands at Durnish. The overall water body status for the Lower Shannon Estuary determined by the EPA is

'moderate' due to biological elements, i.e. fish. All other contributing elements, including chemical surface water status and hydromorphological conditions are classified as good or better; tropic status is 'unpolluted', dissolved oxygen levels are satisfactory and capable of supporting nearly all forms of aquatic life, and the level of oxygen demand in the water body is acceptable.

11.48. The construction phase potential significant environmental impacts on water quality from the jetty and works on lands at Durnish arise from release of fine sediment during piling, concrete and cement pollution, release of oils/chemical, release of herbicides and a small physical modification of the coastline. The construction phase mitigation measures may be summarised as management and auditing to ensure that works with potential to impact on the aquatic environment are carried out in accordance with best practice, ensuring that the drainage infrastructure illustrated on the drainage layout (drawing number M0679-RPS-00-XX-DR-PR-08) are protected from damage and the measures set out especially in chapter 2 to ensure that pollutants don't escape the site.

11.49. The operational phase water impacts arising from the jetty will be managed by;

- Provision of adequate bunding for all fuel, oils or chemicals stored on-land,
- Regular inspection and routine maintenance of the chemical and fuel storage facilities.
- No waste will be disposed of at sea,
- Ballast water will be treated in accordance with MARPOL standards;
- Ballast tanks will be separate from hydrocarbon storage areas and no potentially contaminated streams will be diverted to the ballast tanks,
- De-ballasting will be undertaken offshore in accordance with IMO guidelines;
- Hazardous wastes will be stored in sealed, labelled drums in locked chemical cabinets,
- Vessels will be equipped with oil-water separation systems in accordance with MARPOL requirements,
- Spills on deck will be contained and controlled using absorbing materials;

- Vessels without sewage treatment systems will have suitable holding tanks and will bring waste onshore for treatment by licensed contractors,
- All chemicals used on-board will be handled in compliance with COSHH[4] instructions on handling hazardous materials,
- Chemicals will be stored appropriately in suitably bunded areas and with material safety data sheets; and
- All waste discharges will be monitored and recorded as per vessel procedures.

11.50. The operational phase of the predicted impacts at Durnish will be mitigated by proper treatment of all foul effluent arising in a package wastewater treatment plant which provides both primary and secondary treatment of foul waters in accordance with the EPA Guidance for Treatment Systems for Small Communities, Business, Leisure Centres and Hotels (EPA, 1999). All surface water in constructed drains with petrol interceptors and infiltration into the soil.

11.51. The DCHG commented that there may be potential for water pollution arising from discharge of ballast water from ships. The applicant responded that ballast water is already treated prior to discharge and that spills of potential pollutants will continue to be treated in accordance with an already agreed protocol on the Shannon Estuary Oils and Chemical Spill Contingency Plan managed by the Shannon anti-pollution team.

11.52. A further issue was raised by DCHG in relation to the potential for ships to carry invasive species. The applicant responded that ships hulls do not generally carry invasive species and that if any invasive species were identified on site when construction commences they can be dealt with within the context of an Invasive Species Management Plan.

11.53. Potential contributors to cumulative impacts are identified as a previously permitted east jetty reclamation project, solid fuels manufacturing plants in the port and development at Aughinish Alumina but with the mitigation measures set out these are not significant.

[4] Control of Substances Hazardous to Health Regulations 2002 (British Regulations).

11.54. The EIAR examines at 9.2 flood risk. The history of flooding in the wider Foynes area is set out in the EIAR. Water passes through and around Foynes port, the Durnish site, the village and surrounding agricultural lands via the Shannon estuary, the Robertstown River and a series of land drains, significantly, through the Durnish lands. Where flooding has occurred, or is predicted to occur in the area of Foynes port this occurs because of its coastal location.

11.55. The more important issue is the impact of development of the Durnish lands on other lands in the area. The impact of factors such as climate change and the durability of flood defences particularly the berm between the Durnish lands and the Robertstown River are considered. No additional impacts arise from coastal flooding from infill of the Durnish lands. Two breech locations are considered (see figure 9.2.27 and 9.2.28) and this would give rise to additional flooding in agricultural lands to the southeast where there are no significant flood receptors but reduce flood levels in Foynes village. The drainage system at Durnish is designed to SuDS standards and where the drain enters the Robertstown River it is fitted with a flap so that water cannot back flow into the system and lead to flooding. The construction phase impacts are not regarded as significant as good construction practices will be followed so that no blockage of existing water courses will occur and existing flood defences will be protected from damage.

11.56. Mitigation measures will include a finished site level of 4.44mOD Malin and a finished floor level of the buildings at 4.74mOD Malin. Culverts into the site will be 1.2m diameter to assist water flow, a 5m wayleave will be kept around all OPW maintained water courses, a phasing programme will provide for incremental installation of flood mitigation works and a construction management plan will ensure that existing drainage networks and flood defences will not be compromised.

11.57. I have considered the material set out in the EIAR and all the written submissions made in relation to water quality and flood risk on file. I am satisfied that impacts identified on water quality and flood risk would be avoided, managed and/or mitigated by measures that form part of the proposed scheme, by the proposed mitigation measures and with suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect or cumulative impacts.

11.58. **Air and Climate**

11.59. Chapter 10 addresses air quality and climate. Baseline air quality is described referencing NO_2, SO_2, PM_{10} and $PM_{2.5}$, general dust, volatile organic compounds. The main source of fuel related emissions is from shipping (about 6 vessels per week) but there are other ports along the estuary. Dust also arises from open storage and handling of shipped materials. The port maintains a log of complaints and has received 8 complaints since 2011. Residential and commercial premises in Foynes but outside the application site also contribute NO_2, SO_2, PM_{10} and $PM_{2.5}$ to the local environment.

11.60. Dust emissions to air will arise in the context of construction works at the jetty extension and the Durnish lands. Construction traffic along the Foynes main street and the N69 where the impacts on air quality will be negligible. Operational phase impacts will arise from the nature and duration of activities being undertaken (loading, unloading, open storage), the meteorological conditions (wind speed, direction and rainfall); the proximity of receptors to the activities; the adequacy of the mitigation measures applied to reduce or eliminate dust; and the sensitivity of the receptors to dust.

11.61. Construction phase mitigation measures will include;

- Site roads shall be regularly swept, cleaned and maintained, un-surfaced roads shall be restricted to essential site traffic only. Site traffic in these areas will be restricted to 20km/hr to minimise dust.
- All vehicles exiting the site will go through a wheel wash. Wheel washes will be self-contained systems that do not require discharge of the wastewater to water bodies.
- Public roads outside the site shall be regularly inspected for cleanliness, and cleaned as necessary.
- The contractor will be required to submit for approval the methodology for monitoring dust emissions both on and beyond the site boundary.
- Material handling will be carried out to minimise drop heights. Water sprays will be used for particularly dusty activities during dry or windy periods.

11.62. CO_2 emissions will be minimised through the implementation of the Traffic Management Plan. The main features of this plan will aim to;

- minimise congestion and queuing,
- reduce distances of deliveries,
- locally source of construction materials such as reuse of excavated material on site,
- reduce idle times to save up to 10% of total emissions during construction phase and turning off engines when not in use for more than five minutes.
- Regular maintenance of plant and equipment to ensure efficient performance.

11.63. Operational phase dust impacts will be mitigated through the implementation of the port's 'Handling of Dry Bulk Cargoes' standard operating procedures. These are set out at 10.6.2 and operate limit the avoid windblown particles from dry bulk cargo handling, movement and storage. Additionally, all spillage of bulk cargo will be cleaned up in accordance with the port's Waste Management Plan. Spillages on vessels will be cleaned up and no spillages are disposed of into the sea.

11.64. I have considered the EIAR and all the written submissions made in relation to air quality and climate in this case. I am satisfied that impacts identified on air quality and climate would be avoided, managed and/or mitigated by measures that form part of the proposed scheme, by the proposed mitigation measures and with suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts or cumulative in terms on air quality and climate.

11.65. **Noise and Vibration.**

11.66. Noise will result, primarily, from traffic and construction activity. Noise sensitive properties are listed in Table 11.17 and, generally, comprise the houses in Foynes close to the port. Construction phase noise impacts will be mitigated through;

- choosing quiet plant and machinery and fitting it with effective exhaust silencers,
- machines should be shut down when not in use,

- where possible generators, compressors and pumps should be placed behind existing physical barriers.

11.67. Operational phase noise will be mitigated through;

- The provision of a 4m acoustic barrier located on the southern and western boundaries of the Phase 1 lands at Durnish (see drawing number M0679-RPS-00-PL-DR-C-0160) and the proposed boundary planting (see drawing number 1773.5.01).
- Limiting indoor and outdoor use of plant/equipment to times that are strictly necessary during evening and night-time periods,
- Storing materials/stacks in areas so that they can act as additional noise barriers.

11.68. Section 11.2 addresses underwater noise. The sensitive receptors to under water noise are identified as salmon, river lamprey, sea lamprey, eel, smelt and shad, the bottlenose dolphin and otters. The sources of underwater noise (see table 11.2.3) are piling, the jack up barge used for piling, and support vessel. Construction phase impacts will arise from the works to the jetty. The bottlenose dolphin will be protected as set out in chapter 7 (for example keeping a look out for dolphins in the area, gradually increasing the noise levels). Operational phase noise levels are not expected to change.

11.69. The DCHG queried the potential impact of noise and vibration on the bottlenose dolphin. The applicant responded that that there are bottlenose dolphins in the estuary and they may come within 1,000m of the pile driving and be impacted by the resulting noise. The applicant will comply with the NPWS Guidance to Manage Risk to Marine Mammals from Manmade Sound Sources and, in particular, ‘soft start’ allows for a gradual and sequential rise in noise levels over a 20/40minute period to habituate marine mammals to the noise and minimise impact on these mammals.

11.70. The DCHG queried if noise impact would arise for birds over and above those set out in the EIAR. The applicant responded that the site is not significant for any of the bird species for which the nearby European sites have been designated. In relation to the department’s comments on construction phase noise impacts on birds the

applicant responded that repetitive noise is not experienced by birds as disturbing and the piling, being repetitive, will not disturb birds.

11.71. Operational phase noise regime will not be significantly different from that which applies at present and will not impact on birds.

11.72. Construction phase vibration impacts will be minor and operational phase impact will remain unchanged.

11.73. I have considered the EIAR and all of the written submissions made in relation to noise and vibration. I am satisfied that impacts identified for noise and vibration would be avoided, managed and/or mitigated by measures that form part of the proposed scheme, by the proposed mitigation measures and with suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts or cumulative impacts.

11.74. **Material Assets**

11.75. Chapter 12 addresses impacts on material assets. These impacts are identified as those arising from the additional piling and are limited to tidal flows and changes to coastal processes. It is concluded that the installation of the additional piles to facilitate the jetty extension will have very little effect on tidal currents and therefore negligible impact on coastal processes. No mitigation works are necessary.

11.76. The DCHG made the related points that use of topsoil for building perimeter screening berms was not an appropriate use of a relatively valuable material and the use of fill from Barrigone quarry has a potential indirect impact on a European site since part of the Barrigone quarry is within a European site. The applicant responded that topsoil will be used for planted areas on top of screening berms and that fill would only be sourced from authorised quarries and that the proposed development is not dependent on fill from Barrigone quarry.

11.77. I have considered the EIAR and all of the written submissions made in relation to material assets. I am satisfied that impacts identified on material assets would be avoided, managed and/or mitigated by measures that form part of the proposed scheme, by the proposed mitigation measures and with suitable conditions. I am

therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on material assets.

11.78. **Traffic and Transport.**

11.79. Chapter 13 addresses traffic and transport impacts. The traffic impact assessment is based on four aspects of the proposed development; jetty construction, phase 1 Durnish Lands; phase 2 Durnish Lands and phase 3 Durnish lands. Figure 13.38 estimates the construction traffic over a 39-month period. While variations will occur, this period will give rise to 1,820 vehicles per month and 8/9 per working day (eight or 10 hours working days). There will be two haulage routes one to the west for the jetty/one to the east for the Durnish lands.

11.80. There are two access junctions with the N69 east and west. The east access (the N69 and port access road junction) operates within capacity as set out in table 13.12. Modelling for future years up to 2041 and predicted traffic increases show that the junction will continue to operate within its capacity out to the end of the modelled period. The western access (the junction with the jetty access road) has been modelled and for the years out to 2014 and table 13.11 demonstrates that the junction will operate well within capacity in all the predicted scenarios.

11.81. Irish Rail in its submission on the application commented that the proposed development should not impact on the potential of the Limerick/Foynes rail line to be re-commissioned. This point was addressed in the EIAR and the applicant responded to the Irish Rail submission stating that the proposed development would not impact on the rail line and undertook to consult with CIE on the matter. The NTA recommended that the Mobility Management Plan should be amended. The applicant made the point that no amendments are necessary because there is adequate stacking area between the N69 and the site.

11.82. Improvements and mitigation measures for traffic and transport are detailed as;

- The provision of a new roundabout at the junction of the N69/eastern port access road as part of the Foynes/Limerick N69 road improvement scheme.
- A new roundabout on the eastern port access road to facilitate the Durnish lands.

- Improvements to public transport by way of a bust stop on the eastern port access road to facilitate the Bus Eireann 314 which serves Tralee/Foynes/Limerick,
- Improvements to walking and cycling facilities.

I have considered the EIAR and all the written submissions made in relation to traffic and transport in this case. I am satisfied that impacts identified on traffic and transport would be avoided, managed and/or mitigated by measures that form part of the proposed scheme, by the proposed mitigation measures and with suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms traffic or transport and that cumulative effects are not likely to arise.

11.83. **Archaeology and Cultural Heritage.**

11.84. Chapter 14 addresses Archaeology and Cultural Heritage. Desk studies of written and cartographic sources combined with a visual assessment and survey were undertaking in preparation for this chapter. The study divides the application site into 3 areas[5], area one and two are either end of the proposed new jetty while area 3 is the Durnish lands. These studies allowed for the following conclusions;

- Extensive foreshore reclamation undertaken at Foynes in the 1960s has served to remove much of the potential historical and archaeological material that may have been present along the original shoreline.
- The data review and geotechnical investigations yielded no archaeological potential the site.
- There are no surface archaeological indicators on site.
- There is an enclosure site (RMP: LI 010-0009) 85m (which includes a 20m buffer zone) outside the application site.
- Fisthtrap sites F01-F04 are located 65m and 84m outside the site within the intertidal foreshore on the west side of Robertstown River.

[5] It may be noted that the 'plates' referred to in chapter 14 are designated 'drawing no/figure' in appendix 14 attached in volume 2 of the EIAR.

11.85. Table 14.4 sets out the predicted impacts on known archaeological remains and concludes there are none. There are no impacts for the fishtraps near the mouth of the Robertstown river (see figure 14.12 in volume 2).

11.86. The application proposes removal of a small craft landing pontoon currently located in the area where the new jetty will link the east and west jetties. This small craft landing jetty will be relocated on the western face of a masonry wall at the western edge of the site (I have marked up in green on figure 14.9 in appendix 14 in volume 2 of the EIAR). This masonry sea wall is listed in the national inventory of architectural heritage (NIAH number 21829004). The EIAR identifies a slight negative permanent impact on the masonry quay wall arising from the fittings necessary to fix the new landing pontoon to the western face of this wall. The EIAR recommends that construction phase monitoring should be undertaken by a suitably qualified person when the piling for the jetty extension in areas 1 and 2 is being undertaken and of the Durnish lands during stripping and construction works.

11.87. I have considered the EIAR and all of the written submissions made in relation to archaeology and cultural heritage. I am satisfied that impacts identified on archaeology and cultural heritage would be avoided, managed and/or mitigated by measures that form part of the proposed scheme and by an appropriate condition. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect impacts or cumulative impact on archaeology and cultural heritage.

11.88. **Landscape and Visual Impact**

11.89. Chapter 15 addresses landscape and visual impact. The jetty extension will give rise to negligible visual impacts. There will be visual impacts from the proposed buildings and new access road but these will be mitigated by the existing landscape and urban features. No significant impacts are expected in views from the N69 as proposed mitigation measures, including retention of existing hedgerows and landscape planting, are proposed.

11.90. I have considered the EIAR and all the written submissions made in relation to landscape and visual impact. I am satisfied that impacts identified can be avoided, managed and/or mitigated by measures that form part of the proposed scheme, and with suitable conditions. I am therefore satisfied that the proposed development

would not have any unacceptable direct, indirect or cumulative impacts in terms of landscape and visual impact.

11.91. **Conclusions**

11.92. Having regard to the examination of environmental information contained above, to the EIAR and supplementary information provided by the applicant and the submissions from the observers and prescribed bodies, the contents of which I have noted, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- Impacts on population and human health will be generally positive in terms of employment creation. Construction phase impacts will be addressed in a health and safety statement and construction phase management plan which will address mitigation by noise and vibration mitigation measures, such as the limiting of construction hours, the use of plant with low potential of noise and / or vibration, the use of noise barriers and locating plant away from noise sensitive receptors. Noise and vibration levels would be within acceptable emissions limits during normal operation.
- Impacts on Biodiversity are likely to arise during construction due to the removal of shrub/tree grassland habitat and disturbance associated with noise and human activity on site. Potential impacts on water quality are considered under the relevant heading and it is concluded that significant impacts are not likely to arise. The impacts arising from the removal of habitat and disturbance would be mitigated by minimising the removal of existing vegetation and reinstatement of vegetation, seeking the advice from a qualified ecologist and following best practice and procedures during the construction phase. The impact of underwater noise on marine mammals will be mitigated through observation of a buffer zone especially between the jetty related works and the bottlenose dolphins further out in the estuary and graduated noise levels to allow marine mammals to leave the impacted area. The matter of light spill onto the Robertstown River and Shannon Estuary was raised by the DAHG and responded to by the applicant that birds are not sensitive to low light levels and that directing light away from the site boundaries will adequately mitigate impact on birds within the Robertstown river and Shannon estuary.

- Cultural Heritage impacts would arise from the fixing of a pontoon to the western side of the West Quay wall which is recorded on the National Inventory of Architectural Heritage (NIAH record number 21829004). This impact is regarded as minor and acceptable. During the construction stage further impacts would be mitigated by requiring all works to be subject to full time archaeological monitoring with provision made for the resolution of any archaeological features or deposits that may be identified in consultation with the DCHG.
- Landscape and Visual impacts would arise on the landscape from the transition of the site from agricultural use to industrial use resulting from the cumulative impact of the access roads and warehouse buildings. Implementation of the landscape management plan to include the retention of existing landscaping features, and ongoing landscape maintenance will assist in assimilating the works into the landscape and reduce the impact at operational phase.

12.0 **Appropriate Assessment - Screening**

12.1. The application is accompanied by a AA Screening Report and a NIS. The Screening report identifies five European sites as being potentially impacted upon by the proposed development. These are;

- The Lower River Shannon SAC (002163).
- The River Shannon and River Fergus SPA (004077),
- The Stack's to Mullaghareirks, West Limerick Hills and Mount Eagle SPA (004161),
- The Askeaton Fen Complex SAC (004077)
- The Barrigone SAC (000432),
- The Curraghchase Woods SAC (000174),

12.2. Four assessment criteria are identified by which to test for likely significant effects. These are; water quality and habitat deterioration, underwater noise and disturbance, aerial noise and visual disturbance effects, and habitat loss.

12.3. The Stack's to Mullaghareirks, West Limerick Hills and Mount Eagle SPA (004161) is 6.2kms south west and inland of the application site. The qualifying interest of the site is common hen harrier of which there are 45 recorded pairs. The core range is 2kms and the maximum range is 10kms. As reported in the EIAR (section 7.3.3) the hen harrier is not common in coastal areas and none were identified in the monthly bird surveys on the site between November and March 2017. On this basis this European site is screened out for AA.

12.4. The Askeaton Fen Complex SAC (004077) is designated for the occurrence of 2 Annex I habitat types (Calcareous fens with *Cladium mariscus* and species of the *Caricion davallianae* [7210] and Alkaline fens [7230] which are wetland habitats of fen, reedbeds, open water, marsh and wet grassland. This European site is connected to the Shannon by the River Deel and the Washpool Creek 8kms and 4kms up stream of the application site. Since there is no pathway for emissions between the application site and this European site it is screened out form further consideration.

12.5. The Barrigone SAC (000432) is located 2.4km southeast of the site of proposed development. The qualifying interests for which it is designated is the occurrence of 3 Annex I habitat types (*Juniperus communis* formations on heaths or calcareous grasslands [5130]; Semi-natural dry grasslands and scrubland facies on calcareous substrates (*Festuco-Brometalia*) (* important orchid sites) [6210]; and Limestone pavements [8240]) and 1 Annex II species (Marsh Fritillary *Euphydryas aurinia* [1065]). No pathway can be established between the SAC and the proposed development site. Therefore, Barrigone SAC is screened out from further consideration. The DCHG raised the issue of sourcing fill from the Barrigone quarry which is partly within an European site. The applicant responded that fill would not be sourced from this quarry and sourced only from permitted quarries.

12.6. The Curraghchase Woods SAC (000174) is located 13km east of the site of the proposed development and the qualifying interests are the occurrence of 2 Annex I habitat types (Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)[91E0]; and Taxus baccata woods of the British Isles [91J0]); and the hibernation site of 1 Annex II species (Lesser Horseshoe Bat Rhinolophus hipposideros [1303]). A pathway cannot reasonably be established between the SAC and the application site. Section 7.3.2.5[6] of the EIAR recorded the Lesser Horseshoe Bat is a visitor to the site but the nearest roost is 3kms away. The screening assessment notes that hedgerow and treeline habitats are retained in the site. On this basis it is concluded that there is no residual impact predicted for the bats and Curraghchase Woods SAC (000174) is screened out for further consideration.

12.7. **Cumulative and In-combination Effects.**

12.8. The screening report did not address the potential cumulative and in-combination effects on the foregoing four European sites. However, having regard to the qualifying interests for which the sites were designated, to the separation distances between the application site and European sites and the lack of pathways for emissions between the application site and the European sites, the planning history for the site and nearby sites set out in the EIAR I am satisfied, in light of the conservation objectives set out for these European sites, that there are no likely significant direct or indirect effects or in-combination effects with other plans or projects on these European sites.

12.9. **Appropriate Assessment Screening Conclusion.**

12.10. I consider that it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the Askeaton Fen Complex SAC(004077), The Barrigone SAC (000432), the Curraghchase Woods SAC (000174), The Stack's to Mullaghareirks, West Limerick Hills and Mount Eagle SPA (004161), in view of the sites' Conservation Objectives, and that a Stage 2

[6] This is a typographic error the EIAR section is 7.2.2.5

Appropriate Assessment (and the submission of a NIS) is therefore not required in relation to these European sites.

13.0 Appropriate Assessment

13.1. The AA screening report concluded that there is potential for impacts arising from the proposed development on the Lower River Shannon SAC (002165) and River Shannon and River Fergus Estuaries SPA (004161). Having regard to factors such as water quality and habitat deterioration, underwater noise and disturbance, aerial noise and visual disturbance effects, and habitat loss I agree that significant effects cannot be reasonably ruled out at screening stage and it is necessary to carry out an appropriate assessment.

13.2. The qualifying interests of the **Lower River Shannon SAC (002165)** are;

13.3. Annex 1 Habitats

- Sandbanks which are slightly covered by sea water all the time [1110]
- Estuaries [1130]
- Mudflats and sandflats not covered by seawater at low tide [1140]
- *Coastal lagoons [1150] (a priority habitat)
- Large shallow inlets and bays [1160]
- Reefs [1170]
- Perennial vegetation of stony banks [1220]
- Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]
- Salicornia and other annuals colonising mud and sand [1310]
- Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]
- Mediterranean salt meadows (Juncetalia maritimi) [1410]
- Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260]
- Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]

- *Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] (a priority habitat)

13.4. Annex II Species

- *Margaritifera margaritifera* (Freshwater Pearl Mussel) [1029]
- *Petromyzon marinus* (Sea Lamprey) [1095]
- *Lampetra planeri* (Brook Lamprey) [1096]
- *Lampetra fluviatilis* (River Lamprey) [1099]
- *Salmo salar* (Salmon) [1106]
- *Tursiops truncatus* (Common Bottlenose Dolphin) [1349]
- *Lutra lutra* (Otter) [1355]

13.5. The generic conservation objective for the site set out by the NPWS is to maintain habitats and species within Natura 2000 sites at favourable conservation condition which will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level. Furthermore, there are site specific objectives in relation to restoration of Annex II habitats, Annex II species and site-specific maintenance objectives for Annex 1 habitats and Annex II species.

13.6. The NIS examines the possible adverse impacts on the Lower River Shannon SAC (002165) having regard to the effect on a priority habitat – 'Sandbanks which are slightly covered by sea water all the time [1110]' is an issue in this instance. Map 3 attached to the NPWS published conservation objectives document illustrates the location of two sandbanks about 24kms west of Foynes in the estuary; these are the priority habitat for which the SAC has been designated. The proposed new jetty requires the driving of 69 tubular steel piles into the riverbed. The preparatory work for the EIAR revealed that this part of the site contains 'Subtidal sand to mixed sediment with Nephtys spp. Community complex' which is not part of the mapped habitat for which the SAC was designated. The DCHG in its comments on the application raised the issue of diversity of the 80m^2 which will be lost; the applicant makes the point that diversity of the habitat is low.

13.7. Although the application maps two 'locating piles' which are proposed to replace two existing piles for the small craft landing pontoon (see NIS/figure 3.6/page 19 and

drawing ‘Existing and Proposed Pontoon drawing number M0679-RPS-00-PL-DR-C-0138) and states that two piles will be installed in at the western quay wall these two piles are not further considered in the NIS. Nevertheless, I consider that these piles, while within the SAC are not within the priority habitat, are located in an area which has been subject to very significant anthropogenic change and are *de minimis* in terms of potential for adverse effect on the integrity of any species.

13.8. Having regard to the minor extent of the disturbance required by the piling, its location remote from the mapped sandbanks habitats for which the SAC has been designated and a the relatively low biodiversity recorded in the EIAR I consider it reasonable to conclude that the proposed development will not adversely affect the favourable conservation condition of this habitat.

13.9. There will be displacement of benthic fauna due to the use of support for the jack up barge which is required to construct the new jetty. This will be minor and temporary and will not adversely affect a conservation interest of the SAC.

13.10. The NIS considers the other habitats and species of for which the SAC has been designated. It predicts no adverse effect on the integrity of any of the habitats arising from pollution incidents. Furthermore, it predicts no adverse effect on the Integrity of the site as a result of disturbance or injury caused by noise and vibration disturbance or deterioration of suitable habitat or critical areas with suitable mitigation in place.

13.11. The DCHG sought an expanded assessment of the possible in-combination effects of new jetty with existing water side infrastructure on subtidal sandbanks, estuarine mudflats and sandflats within the European site. The applicant reviewed available scientific evidence and reviewed the relevant infrastructure and found three pipelines, four spillways/jetties/landings and one reclamation project in the SAC. The research concluded that pipeline projects that are laid on the bed of the estuary have not caused the removal of any subtidal sand/mixed sediment community. Three of the four spillways/jetties/landings have tubular piled open jetties while the fourth (Killimer) has a sheet piled jetty which predated the SAC designation. These have a *de minimis* permanent footprint within the subtidal sand/mixed sediment community and, therefore no in-combination effects with the proposed development.

13.12. The qualifying interests for the **River Shannon and River Fergus Estuaries SPA (004077)** are;

- Cormorant (Phalacrocorax carbo) [A017] (breeding + wintering)
- Whooper Swan (Cygnus cygnus) [A038] (wintering)
- Light-bellied Brent Goose (Branta bernicla hrota) [A046] (wintering)
- Shelduck (Tadorna tadorna) [A048] (wintering)
- Wigeon (Anas penelope) [A050] (wintering)
- Teal (Anas crecca) [A052] (wintering)
- Pintail (Anas acuta) [A054] (wintering)
- Shoveler (Anas clypeata) [A056] (wintering)
- Scaup (Aythya marila) [A062] (wintering)
- Ringed Plover (Charadrius hiaticula) [A137] (wintering)
- Golden Plover (Pluvialis apricaria) [A140] (wintering)
- Grey Plover (Pluvialis squatarola) [A141] (wintering)
- Lapwing (Vanellus vanellus) [A142] (wintering)
- Knot (Calidris canutus) [A143] (wintering)
- Dunlin (Calidris alpina) [A149] (wintering)
- Black-tailed Godwit (Limosa limosa) [A156] (wintering)
- Bar-tailed Godwit (Limosa lapponica) [A157] (wintering)
- Curlew (Numenius arquata) [A160] (wintering)
- Redshank (Tringa totanus) [A162] (wintering)
- Greenshank (Tringa nebularia) [A164] (wintering)
- Black-headed Gull (Chroicocephalus ridibundus) [A179] (wintering)
- Wetland and Waterbirds [A999]

13.13. The conservation objective set out by the NPWS is to maintain the favourable conservation condition of the populations of species listed for which the site has been designated.

13.14. The potential effects on the Natura site are outlined as;

- leaks and spillages (hydrocarbons and cement) during construction works,
- run off from the filling of the Durnish site and the new roads,
- runoff of herbicides used on vegetation,
- discharges (ballast, wastewater, oil) from vessels using the port,
- cargo leaks from containers when being handles or stored.

13.15. The mitigation measures are considered at construction and operational phase. Construction will be managed in accordance with a construction Stage Environmental Management Plan (CEMP) which will follow best construction practice and adhere to relevant national and international standards.

13.16. Sediment control will be achieved through;

- The construction of new berms and the boundary treatment on the Northern, Eastern, Southern boundaries and part of the Western boundary of the Durnish Lands to prevent run-off to adjoining water courses.
- The retention of a minimum 5m buffer at the Durnish Stream on the western boundary for OPW access to the drainage channel, should this be required for maintenance will provide a buffer along the Western boundary.
- At the site accesses, where the Durnish Stream is crossed twice, proposed culverts will be laid in both instances with bank protection using gabions and bed protection using reno mattress as illustrated in Drawings H0548-RPS-XX-00-DR-HE-510-01 Proposed Culvert Detail at Roundabout Access and H0548-RPS-XX-00-DR-HE-510-02 Proposed Culvert Detail at Secondary Access.
- The infill material will comprise clean crushed stone sourced from authorised quarries.

- Silt fences or other suitable barrier measures will be installed where the working area for the berm treatment encroaches within 10m of a watercourse (with the exception of dedicated site access locations as illustrated on the site layout plan) and the local topography indicates there is potential for run-off to directly enter the watercourse.
- Construction of additional capacity at the existing attenuation pond will be undertaken at an early stage in the construction programme as part of Phase 1. This measure will provide additional treatment of storm water from the construction areas prior to discharge to the Robertstown Estuary.
- All water bodies that occur in areas proposed for site compounds and storage facilities will be fenced off to a minimum distance of 10m. No sediment will discharge directly to a water body.
- Breaking of concrete will be carried out so as not to allow sediments to escape. The new jetty will be constructed of precast concrete beams and planks lifted into position.
- Fuels, oils and chemicals will be stored in impermeable bunded enclosures. Refuelling will be undertaken in accordance with international standards.

13.17. Operational phase mitigation measures are set out for the jetty, the lands at Durnish and the treatment of foul effluent arising from the warehouse/office/canteen uses on site. The applicant participates in the Shannon Estuary Anti-Pollution Team which has operated for 24 years to minimise the discharges to the estuary. The jetty will be subject to regular inspection and bunding of areas for the keeping of fuels, oils or chemicals. The control of pollutants from shipping will be is addressed through;

- No waste shall be disposed of at sea.
- Ballast tanks shall be separate from hydrocarbon storage areas and ballast water shall be treated in accordance with MARPOL[7] standards.
- De-ballasting shall be undertaken offshore in accordance with IMO guidelines.
- Hazardous wastes shall be stored in sealed, labelled drums in locked chemical cabinets.

[7] A 1973 International Convention on the Prevention of Pollution from Ships

- Vessels shall be equipped with oil-water separation systems in accordance with MARPOL requirements.
- Spills on deck shall be contained and controlled using absorbing materials.
- Vessels without sewage treatment systems shall have suitable holding tanks and will bring waste onshore for treatment by licensed contractors.
- All chemicals used on-board shall be handled in compliance with COSHH instructions on handling hazardous materials.
- Chemicals shall be stored appropriately in suitably bunded areas and with material safety data sheets; and
- All waste discharges shall be monitored and recorded as per vessel procedures.

13.18. Foul effluent arising from the warehouse/office/canteen uses on site will be treated in a system which complies with the EPA Guidance for Treatment Systems for Small Communities, Business, Leisure Centres and Hotels (EPA, 1999). The storm water drainage for Durnish lands will be installed during Phase 1 for all subsequent phases of the development will be fully operational in advance of operational phases. Storm drains will collect all surface water and convey it through interceptors (to collect hydrocarbons and silt) and the stormwater will then be conveyed through perforated pipes to allow percolation into the infilled ground.

13.19. **Appropriate Assessment - Conclusion.**

13.20. I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of the Lower River Shannon SAC (002165) and River Shannon and River Fergus Estuaries SPA (004077) or any other European site, in view of the sites' Conservation Objectives.

14.0 Recommendation

14.1. I recommend that planning permission be granted.

15.0 **Reasons and Considerations**

15.1. In coming to its decision, the Board had regard to the following:

a) EU legislation including in particular:

- The relevant provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU (EIA Directive) on the assessment of the effects of certain public and private projects on the environment,
- Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directives) which set the requirements for Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union,

b) National Legislation including in particular:

- Section 37A of the Planning and Development Act 2000 (as amended) which sets out the provisions in relation to strategic infrastructure development.

c) National Policy including in particular:

- The National Planning Framework (NPF), 2018.
- The National Ports Policy 2013

d) Regional Policy including in particular:

- Mid-West Regional Planning Guidelines 2010 – 2022

e) Local Planning Policy including in particular:

- The provisions of Limerick County Development Plan 2010-2016.

f) The following matters:

- the nature, scale and design of the proposed development as set out in the application and the pattern of development in the vicinity,
- the documentation and submissions of the applicant, including the environmental impact assessment report and associated

documentation submitted with the application, and the range of mitigation and monitoring measures proposed,

- The Appropriate Assessment screening report and the Natura Impact Statement submitted with the application,
- other relevant guidance documents,
- the submissions and observations made to An Bord Pleanála in connection with the application,
- the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on European sites and
- the report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment screening and environmental impact assessment.

15.2. **Proper Planning and Sustainable Development**

15.3. It is considered that the proposed port extension would accord with national, regional and local planning policy and that it is acceptable in respect of its likely effects on the environment and its likely consequences for the proper planning and sustainable development of the area.

15.4. **Environment Impact Assessment**

15.5. The Board completed an environmental impact assessment of the proposed development, taking into account:

- the nature, scale, location and extent of the proposed development,
- the environmental impact assessment report and associated documentation submitted in support of the application,
- the submissions from the local authority, the observers and the prescribed bodies in the course of the application, and
- the Inspector's report.

15.6. The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment. The Board is satisfied that the information contained in the EIAR complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated as follows:

- Impacts on population and human health will be generally positive in terms of employment creation. Construction phase impacts will be addressed in a health and safety statement and construction phase management plan which will address mitigation by noise and vibration mitigation measures, such as the limiting of construction hours, the use of plant with low inherent potential of noise and / or vibration, the use of noise barriers and locating plant away from noise sensitive receptors. Noise and vibration levels would be within acceptable emissions limits during normal operation.
- Impacts on Biodiversity are likely to arise during construction due to the removal of habitat and disturbance associated with noise and human activity on site. Potential impacts on water quality are considered under the relevant heading and it is concluded that significant impacts are not likely to arise. The impacts arising from the removal of habitat and disturbance would be mitigated by minimising the removal of existing vegetation and reinstatement of vegetation, seeking the advice from a qualified ecologist and following best practice and procedures during the construction phase. The impact of underwater noise on marine mammals will be mitigated through observation of a buffer zone and graduated noise levels to allow marine mammals to leave the impacted area.
- Cultural Heritage impacts would arise from the fixing of a walkway to the western side of the West Quay wall which is recorded on the National Inventory of Architectural Heritage (NIAH record number 21829004). This impact is regarded as minor and acceptable. During the construction stage further impacts would be mitigated by requiring all works to be subject to full

time archaeological monitoring with provision made for the resolution of any archaeological features or deposits that may be identified in consultation with the DCHG.

- Landscape and Visual impacts would arise on the landscape from the transition of the site from agricultural use to industrial use resulting from the cumulative impact of the access roads and warehouse buildings. Implementation of the landscape management plan to include the retention of existing landscaping features, and ongoing landscape maintenance will assist in assimilating the works into the landscape and reduce the impact at operational phase.

15.7. The Board completed an environmental impact assessment in relation to the proposed development and concluded that subject to the implementation of the mitigation measures proposed in the EIAR, including proposed monitoring as appropriate and subject to compliance with the conditions set out herein, the effects on the environment of the proposed development by itself or cumulatively with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the reporting inspector.

15.8. **Appropriate Assessment Screening**

15.9. The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on designated European sites. The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site. The Board considered the nature, scale and location of the proposed development, the appropriate assessment screening report submitted with the application, the submissions on file and the report of the Inspector. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the Askeaton Fen Complex SAC(004077), The Barrigone SAC (000432), the Curraghchase Woods SAC (000174), The Stack's to Mullaghareirks, West Limerick Hills and Mount Eagle SPA (004161) European sites, in view of the sites'

conservation objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not, therefore, required in relation to these European sites.

Appropriate Assessment

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Lower River Shannon SAC (002165) and River Shannon and River Fergus Estuaries SPA (004077) are the European sites for which there is a likelihood of significant effects.

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for these European Sites in view of the sites' Conservation Objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the assessment, the Board considered, in particular, the;

(i) likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, specifically the impact on water quality, benthic populations, marine mammals, birds and bats.

(ii) Conservation Objectives for these European Sites,

(iii) view of the Department of Culture, Heritage and the Gaeltacht, and

In completing the AA, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the Lower River Shannon SAC (002165) and River Shannon and River Fergus Estuaries SPA (004077) sites having regard to the sites' Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of these European sites in view of the sites' Conservation Objectives.

16.0 **Conditions**

1. The proposed development shall be carried out and completed in accordance with the plans and particulars, including the mitigation measures specified in the EIAR, lodged with the application to An Bord Pleanála on 8th day of May 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority the undertaker shall agree such details in writing with the planning authority prior to the commencement of development and the proposed development shall be carried out in accordance with the agreed particulars.

   Reason: In the interest of clarity.

2. All mitigation measures identified in the EIAR and other particulars submitted with the application shall be implemented in full by the applicant except as may otherwise be required in order to comply with the following conditions. The developer shall appoint a person with appropriate ecological and construction expertise as an environmental manager to ensure that the mitigation measures identified in the EIAR are implemented in full.

   Reason: In the interest of clarity and to protect the environment during the construction and operational phases of the development.

3. All proposed works to the western masonry wall (NIAH inventory number 21829004) shall be carried out under the supervision of a qualified professional with specialised conservation expertise.

   Reason: To secure the authentic preservation of this structure and to ensure that the proposed works are carried out in accordance with best conservation practice.

4. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed standards of the planning authority for such works.

Reason: In the interests of amenity and of traffic and pedestrian safety.

5. A four-arm roundabout junction shall be provided on the realigned access route from the junction with the N69 to the application site at Durnish. This roundabout shall, generally, be in accordance with the applicant's submission received by An Bord Pleanála on the 7th day of September 2018. Prior to commencement of development the specific location and design details of this roundabout shall be submitted to and agreed in writing with the planning authority.

Reason: In order to facilitate access to undeveloped lands zoned for port related activities.

6. The developer shall appoint a suitably qualified ecologist to monitor all works relating to the proposed development and ensure that all avoidance / mitigation measures relating to the protection of flora and fauna identified in the EIAR and other particulars submitted with the application are implemented in full in accordance with best ecological practice and to liaise with consultants, the site contractor, the NPWS and Inland Fisheries Ireland as appropriate. A report on the implementation of these measures shall be submitted to the planning authority and retained on file as a matter of public record.

Reason: To protect the environmental and natural heritage of the area.

7. Water supply shall comply with the requirements of Irish Water for such works in respect of both the construction and operation phases of the proposed development.

Reason: To ensure adequate servicing of the proposed development and prevent pollution.

8. Prior to commencement of development the developer shall submit for the written agreement of the planning authority details of measures to control the surface water run-off from the Durnish lands to the adjoining drainage ditches. Surface water attenuation shall be sufficient to prevent surcharging in the drainage ditches and release of silt, hydrocarbons or other contaminants to the drainage ditches.
Reason: To ensure adequate servicing of the proposed development and prevent pollution.

9. a) A proprietary effluent treatment and disposal system shall be provided. This shall be designed, constructed and maintained in accordance with the Guidance for Treatment Systems for Small Communities, Business, Leisure Centres and Hotels (EPA, 1999). Details of the system to be used, and arrangements in relation to the ongoing maintenance of the system, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

   b) Within three months of the first use of any sanitary facility permitted under this grant of planning permission, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner.

Reason: In the interest of public health.

10. The site shall be landscaped in accordance with a comprehensive scheme of landscaping and in accordance with the landscaping proposals set out in the EIAR. Landscaping details shall be submitted to, and agreed in writing

with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

(i) Existing trees and hedgerows to be preserved and details for the protection of same during the construction and operational phases of the development.

(ii) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species.

(iii) Details of all hard and soft landscaping works, specifying surfacing materials and finished levels.

(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.

(c) A timescale for implementation.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

11. Construction of the proposed development shall be completed in accordance with a construction environmental management plan details of which are to be agreed with the planning authority prior to the commencement of development. The plan shall incorporate following mitigation measures:

- The location of the site and material compound including areas identified for the storage of construction refuse.

- The location of areas for construction site offices and staff facilities.
- Details of site security fencing and hoardings.
- Details of on-site car parking facilities for site workers during the course of construction.
- Details of the timings and routing of construction traffic to and from the construction site and associated directional signage to include proposals to facilitate the delivery of abnormal loads to the site.
- Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
- Measures for the protection of all road surfaces, culverts, watercourses and ditches during construction.
- Details of appropriate mitigation measures for noise, dust, vibration including the monitoring of such levels.
- The containment and bunding of all construction related fuel and oil within special constructed bunds to ensure that fuel spillages are fully contained.
- Disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- A water and sediment management plan providing for the means to ensure that surface water run-off is controlled such that no silt or other pollutions enter the local water courses or drains.

The construction environmental management plan shall be forwarded to Limerick City and County Council prior to the commencement of development. The developer shall agree in writing with the planning authority a protocol for reporting and managing accidental spillages during the construction and operational stage that may cause soil contamination or surface water pollution.

Reason: In the interest of public health.

12. All waste generated during construction including any surplus excavation material shall be taken off site and shall only be recovered or disposed of at an authorised site which has a current waste licence or waste permit in accordance with the Waste Management Acts 1996 – 2008. This shall not apply to the reuse of excavated material within the applicant's site boundary. The developer shall ensure that all waste removed from site is collected and transported by an authorised collector. The applicant shall ensure that all activities pertaining to collection and transportation are as detailed in any waste collection permit.

Reason: In the interest of sustainable waste management.

13. a) All of the flood mitigation measures set out in the application shall be implemented in full.
    b) Prior to commencement of development the sizing of culverts within the site shall be submitted and agreed in writing with the planning authority.

Reason: To prevent flooding on site and on adjoining lands.

14. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the developer. Details to be agreed with the planning authority shall include the provision of facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

Reason: In the interest of encouraging the use of sustainable modes of transport.

15. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard the developer shall:

(a) Engage the services of a suitably qualified archaeologist who shall monitor all site development and excavation works on a full-time basis. The archaeologist shall liaise with consultants, the site contractor and the Department of Culture, Heritage and the Gaeltacht.

(b) Notify the relevant planning authority and the Department of Culture, Heritage and the Gaeltacht in writing at least 4 weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development.

(c) Implement in full and in accordance with best practice all of the avoidance and mitigation measures relating to the preservation, recording and protection of archaeological materials identified in the EIAR and other particulars submitted with the application.

(d) Arrange for the recording and removal of any archaeological material subject to the written agreement of the planning authority.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

16. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by

or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Hugh Mannion
Senior Planning Inspector

30th November 2018