



An
Bord
Pleanála

Inspector's Report

ABP-307352-20

Development

The proposed development for Brexit Infrastructure will consist of -
Installation of porta-cabin structures.
Resurfacing and amalgamation of existing yards. Parking for heavy good vehicles, cars and bicycles.
Gates, signage and all ancillary site works.

Location

Dublin Port, Dublin 3

Planning Authority

Dublin City Council North

Applicant(s)

Minister for Public Expenditure and Reform appointing the Brexit unit of the Office of Public Works to oversee the development.

Type of Application

Application for approval under Section 181 (2A)(b) of the Planning and Development Act.

Observer(s)

None

Date of Site Inspection

24th August 2019.

Inspector

Sarah Lynch

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1.0 Introduction

Pre-Application Consultation

- 1.1. Dublin Port Company requested Pre-Application Consultations under Section 37B of the Planning and Development Act, 2000, as amended. A pre-application meeting were held with the Office of Public Works Brexit Unit on behalf of the Minister in relation to the requirement under Section 181(2A)(b) of S.I. No. 418/2019 to seek the Boards approval where EIA and AA are required for development proposed to be carried out by or on behalf of a Minister of the Government or the Commissioners. This meeting took place on the 5th November 2019.
- 1.2. It should be noted at the outset that the prospective applicant is not seeking planning permission for the proposed development as this is provided for by way of the emergency provisions provided in Section 181(2)(a) of the Planning and Development Act 2000, as amended. For the Boards information, a draft order made by the Minister accompanies the application for approval under this section and following the approval of An Bord Pleanala, the Minister for Public Expenditure and Reform issue a Ministerial Order.
- 1.3. S.I. No. 418/2019 European Union (Environmental Impact Assessment and Habitats)(Section 181 of the Planning and Development Act 2000) Regulations 2019 provides at Section 181(2A)(b) that *“where development is proposed to be carried out by or on behalf of a Minister concerned pursuant to an order under subsection (2)(a) and the Minister concerned is satisfied, having had regard to Part X and Part XAB, that an environmental impact assessment or an appropriate assessment, or both such assessments of the proposed development is or are required, the Minister concerned shall prepare or cause to be prepared an application for approval, which shall include the documents and information referred to in paragraph (c), in respect of the development and shall apply to the Board for such approval”*.
- 1.4. The following report is, therefore, an assessment of the EIAR and NIS submitted for consideration to the Board in accordance with the foregoing.

2.0 Site Location and Description

- 2.1. The site of the proposed development comprises two elements and has a total area of c.5.4 hectares located within Dublin Port. The current site is divided into multiple holdings. The larger area of the site between the Bond Drive Extension and Dublin Bay comprises 8 individual logistics, transport and storage compounds with a combined area of 3.75 hectares. All of these sites consist of tarmac or concrete surfaces and contain a number of portacabins. There is a belt of trees located at the northern boundary for the full extent of the northern site providing a buffer between Dublin Bay and this section of the subject site.
- 2.2. To the south the site adjoins Bond Drive Extension and an adjoining yard to the south west. To the west the site is adjoined by Bond Road. The smaller area of the site comprises a rectangular shaped area of ground adjoined to the north and west by the Bond Drive Extension and the south by the Promenade Road and comprises the former Bord na Mona yard and former O'Tooles transport yard. To the east of this site there are warehouse units and parking areas.
- 2.3. The sites are disused at present with the exception of the central section of the larger site to the north which is currently in use and contains a number of porta cabin structures and lorry and trailer parking. The remainder of the northern section of the subject site is bounded by 2 metre palisade fencing and is currently being used to store mounds of road cuttings and aggregate associated with current road works in the area.
- 2.4. The smaller site to the south is disused and is also enclosed with palisade fencing and contains a number of shipping containers and porta cabins.
- 2.5. Dublin Bay is located directly to the north of the site and the surrounding area comprises developed industrial port lands. The nearest residential development is 500 metres north of the site.

3.0 Proposed Development

- 3.1. The proposed development provides for what is referenced as the 'Central Case project' and provides part of the new infrastructure required at Dublin Port to accommodate the processing of certain goods and vehicles entering Ireland from the

United Kingdom in a post Brexit scenario. I would note for the Board's information the provisions of subsection 2Q whereby it is stated that nothing in subsections (2A) to (2AA) of Section 181 shall require the disclosure of a Minister of the Government, the Commissioners or the Board of details of the internal arrangements of a proposed development which might prejudice the internal or external security of the development or facilitate any unauthorised entrance to, or exit from, the development of any person when it is completed. In this regard, internal floor plans are not considered appropriate and are not submitted with the documents.

The Proposed Development

3.2. The proposed Brexit related facilities will comprise the following:

Compounds along Bond Drive Extension, Dublin Port

- Installation of 5 single storey portacabin structures totalling 375m² (75m² each) to provide an import office, a facilities management office and driver welfare facilities;
- Resurfacing and amalgamation of 8 existing yards including modifications of existing drainage and lighting infrastructure;
- Parking for 175 heavy goods vehicles, 62 cars and 48 bicycles;
- Gates, signage and ancillary works.

Former Bord na Mona site on Yard 3, Bond Drive Extension, Dublin Port, Dublin 3,

- Installation of 2 single storey portacabin structures totalling 150m² (75m² each) to provide an export office and sanitary facilities;
- Parking for 30 heavy goods vehicles and 10 cars;
- Gates, signage and all ancillary works.

Former O'Toole Transport site in Yard 4, Promenade Road, Dublin

- Extension (1760m²) and refurbishment of an existing industrial building on Promenade Road to provide inspection facilities for customs, sanitary and phytosanitary (SPS) and health checks and controls;
- Parking for 3 cars and 28 bicycles
- Gates, signage and all ancillary works.

3.3. Prescribed Bodies

- HSE – Environmental Health impacts have been adequately addressed within the EIAR.
- Transport Infrastructure Ireland – no observations to make.
- Inland Fisheries – all measures should be taken to ensure the protection of local aquatic ecological integrity by avoidance or mitigation. Works should not result in deterioration of water quality within water bodies. Drainage of topsoil may need to be directed to a settlement area for treatment. Interceptors should be installed and adequate capacity should be available to accept predicted volumes from the proposed development. Ongoing aquatic ecological monitoring both during construction and operational phases should be implemented.
- Irish Aviation Authority – No observations to make.
- Department Culture, Heritage and the Gaeltacht – Archaeology – Mitigation measures detailed in Section 12 of the EIAR should be carried out in full.
- Department Communications, Climate Action and Environment – GSI – Should any significant bedrock cuttings or coring be created, they should be designed to remain visible as rock exposure rather than covered with soil and vegetated. This would permit ongoing improvement of geological knowledge of the subsurface and could be included as additional sites of the geoheritage dataset.
- Commission for Railway Regulation – Observations or issues raised by Irish Rail should be addressed, railway in the port is under the remit of the Commission.

3.4. Third Party Observations

None

4.0 Planning History

PL.305687 Pre application consultation was carried out by the OPW on behalf of the Minister for Housing, Planning and Local Government.

PL. 304888 Permission was granted for a 15-year permission for development at Oil Berth 3 and Oil Berth 4, Eastern Oil Jetty and at Berths 50A, 50N, 50S, 51, 51A, 49, 52, 53 and associated terminal yards to provide for various elements including new Ro-Ro jetty and consolidation of passenger terminal buildings.

ABP-29N.PA0034 (SID) – Permission was granted for the Alexandra Basin Redevelopment (ABR) Project which is one of the most significant permissions in the port in recent times and comprises the following:

Berth 52 and 53

- Demolition of existing Berths 52 and 53;
- Construction of a jetty at Berth 52 (500sq.m);
- Concrete Dolphin at Berth 53 (500sq.m);
- Construction of:
 - New river berth at Berths 52/53 (300m);
 - New 75m mooring jetty at new river berth;
 - New 40m long mooring jetty to extend existing Berth 49 (50m long);
- Infilling of the Terminal 5 Ro-Ro basin (45,650sq.m);
- Raising of existing levels by 1.4m over an area of 95,000sq.m; and
- Dredging of new river berth to -10.0m CD.

Liffey Channel

- Construction of a marina protection structure to a height of +7.0m CD and a length of 220m on the south side of the river channel.
- Dredging of the shipping channel to a depth of -10m CD from a point 55m to the east of the East link bridge, to a location in the vicinity of Dublin Bay comprising a total distance of 10,320m.

Alexandra Basin

- Excavation and restoration of historic Graving Dock No. 1;

- Infilling of Graving Dock No. 2 (6,055sq.m);
- Demolition of the bulk jetty (3,200sq.m);
- North Wall Quay extension (21,700sq.m);
- Extension of Alexandra Quay West (130m);
- Construction of a new Ro-Ro jetty (273m) and 3 Ro-Ro ramps; and
- Dredging of 470,000m.cu of contaminated material, to a depth of -10.0m CD over an area of 194,000m.cu within the redeveloped Alexandra Basin, and its remediation.

Ref. S0024-01 - EPA Dumping at Sea Permit –granted September 2016.

29N.PA0007(SID) – Permission was refused for environmental reasons by the Board for a Gateway Project - extension of 21 hectares of landfill to the east of the port to provide for both additional open container storage, handling areas, new quayside facilities and berth.

A full list of all projects within the vicinity of the site are included within table 3.1 of the EIAR.

Previous Orders

- 4.1.1. A series of Brexit related Orders have been made by way of the powers conferred on the Minister by Section 181(2)(a) of the Planning and Development Act, 2000 (as amended), where they are satisfied that the carrying out of the development on their behalf by the Office of Public Works as set out in the following Orders is required by reason of an emergency, that being the exceptional circumstances arising as a result of the impending withdrawal and/or the withdrawal of the United Kingdom from the European Union. A number of Orders have already been made as follows:
- 4.1.2. **S.I No. 57/2019** - The Planning and Development Act 2000, Section 181(2)(a) Order No. 1, 2019 provide for the required infrastructure for customs, sanitary and phytosanitary and health checks and controls at Former Crosbie’s Yard at Crosbies Yard, Tolka Quay Road and Former Storecon site at Tolka Quay Road (site bounded by 1 Branch Road South to the east and by Promenade Road to the north).

4.1.3. **S.I No. 100/2019** - Planning and Development Act 2000, Section 181(2)(a) Order No. 2, 2019 – Interim Government Control Centre at Rosslare Harbour.

4.1.4. **S.I No. 284/2019** - Planning and Development Act 2000, Section 181(2)(a) Order No. 3, 2019 – refurbishment of existing industrial buildings with demolitions to facilitate the construction of ancillary custom, agriculture and health inspection structures at to provide for the required infrastructure for customs, sanitary and phytosanitary and health checks and controls Dublin Airport.

S.I No. 285/2019 - Planning and Development Act 2000, Section 181(2)(a) Order No. 4, 2019 - refurbishment of existing industrial buildings with demolitions to facilitate the construction of ancillary custom, agriculture and health inspection structures to provide for the required infrastructure for customs, sanitary and phytosanitary and health checks and controls at Terminal 10, Tolka Quay Road.

4.2. **Other Consents/Licences**

The following are considered of relevance:

4.2.1. **Industrial Emission Licence (IEL)**

Licence Number P1022-01 – Dublin Port Company obtained an Industrial Emission Licence in respect of the existing Sea Truck terminal site. The existing Seatruck terminal area is also identified as an Integrated Pollution Prevention and Control Facility.

4.2.2. **Licensed Hazardous Waste**

Licence – Ref. W0036-02 – Indaver Ireland Limited has a licenced hazardous waste facility to the north of Tolka Quay Road.

5.0 **Policy Context**

5.1. **EU Directives and Policy**

Habitats Directive

5.2. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.

European Communities (Birds and Natural Habitats) Regulations, 2011

5.3. These Regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats)(Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in judgments of the Court of Justice of the European Union (CJEU).

EC Guidance on the implementation of the Birds and Habitats Directives in estuaries and coastal zones, with particular attention to port development and dredging, 2011

5.4. This document provides sector specific guidance on the implementation of the Birds and Habitats Directives in estuaries and coastal zones. Ports are often situated in or near estuaries which are dynamic and highly productive ecosystems and in many cases designated Natura 2000 sites; estuaries provide the necessary shelter and suitable conditions for maritime access to ports; and ports fulfil a strategic role in the development and realisation of global trade and they periodically need to expand. This document provides a number of recommendations and elements of good practice to enhance port development and management in or near Natura 2000 sites. In particular section 3.2 deals with spatial planning and the integrated management of ports, estuaries and the coastal zone.

Trans-European Transport Network (TEN-T) Regulations, 2013

5.5. The TEN-T network is based on a comprehensive network and a core network and these networks comprise the highest level of infrastructure planning within the EU. The preamble states that appropriate measures should be taken for the development of the Core network by 2030. It is proposed that action will concentrate on those

components of the TEN-T network with the highest European added value, in particular cross-border sections, missing links, multimodal connecting points and major bottlenecks, serving the objective of reducing greenhouse gas emissions from transport.

- 5.6. Maritime ports of the Core network must be connected with the railway and road transport network by December 2030. There is one Core Network Corridor crossing Ireland which comprises the North Sea – Mediterranean Corridor that stretches from Belfast, Cork and Dublin, through the UK, Belgium, Luxembourg and France. Regulation (EU) No. 1315/2013 refer and establishes guidelines for the development of a trans-European transport network comprising a dual-layer structure consisting of the comprehensive network and of the core network, the latter being established on the basis of the comprehensive network. This repeals Decision No. 661/2010/EU Regulation which establishes guidelines for the development of a trans-European transport network comprising a dual-layer structure consisting of the comprehensive network and of the core network, the latter being established on the basis of the comprehensive network.
- 5.7. (EU) No. 1316/2013 establishes the Connecting Europe Facility ("CEF"), which determines the conditions, methods and procedures for providing Union financial assistance to trans-European networks in order to support projects of common interest in the sectors of transport, telecommunications and energy infrastructures and to exploit potential synergies between those sectors. The application documentation notes that once the UK withdrawal process from the EU is completed, parts of the alignment of the North Sea – Mediterranean Core Network Corridor related to the United Kingdom will become obsolete. To address this, Regulation (EU) No. 2019/495 amends Regulation (EU) No 1316/2013 providing for a realignment of the corridor once the United Kingdom leaves the EU. This regulation also makes provision for infrastructure for purposes of security and checks on external borders. As noted elsewhere in this report, the Minister for Public Expenditure and Reform has made an Order to enable infrastructure provisions to be put in place.

European Union Ports 2030 Gateways for the Trans European Transport Network, 2014

5.8. This document states that the EU is highly dependent on seaports for trade with the rest of the world and within its Internal Market. Ports are the nodes from where the multimodal logistic flows of the trans-European network can be organised, using short sea shipping, rail and inland waterways links to minimise road congestion and energy consumption. The 2011 White Paper on Transport and the Single Market Act II emphasised the need for well-connected port infrastructure, efficient and reliable port services and transparent port funding. The availability of adequate port infrastructure, good performance of port services and a level playing field are vital if the EU is to remain competitive in the global markets, improve its growth potential and create a more sustainable and inclusive transport system.

Marine Spatial Planning Directive

5.9. The adoption of Directive 2014/89/EU in 2014 established an EU-wide framework for maritime spatial planning. The following summary provides the requirements of the Directive:

- Balanced and sustainable territorial development of marine waters and coastal zones;
- Optimised development of maritime activities and business climate;
- Better adaptation to risks; and
- Resource-efficient and integrated coastal and maritime development.

5.10. Ireland transposed the Directive through the European Union (Framework for Maritime Spatial Planning) Regulations 2016 and is required to have a National Marine Spatial Plan in place by 31 March 2021.

5.11. **National Planning Context**

Planning Order S.I. No. 57 of 2019

5.12. The Planning and Development Act 2000, Section 181(2)(a) Order No. 1, 2019 [S.I. No. 57 of 2019] was made by the Minister for Public Expenditure and Reform, in February 2019, in advance of the impending withdrawal of the United Kingdom from the European Union. Pursuant to that Order, the provisions of the Planning and Development Act 2000, and the provisions of Part 9 of the Planning and Development Regulations, 2001 shall not apply to the development being carried out on behalf of the Minister by the Office of Public Works.

The locations and descriptions of the development are set out in the schedule included within the order. The order relates to development on the following sites:

- Northern site at Bond Drive Extension, Dublin Port, Dublin 3.
- Southern site comprising former Bord na Mona site, Yard 3, Bond Drive Extension, Dublin Port, Dublin 3, and
- Former O'Toole Transport site, Yard 4, Promenade Road, Dublin Port, Dublin 3.

National Ports Policy, Department of Transport, Tourism and Sport, 2013

5.13. This document sets out Government policy in relation to the ports in the State. It states that the core objective of national policy is to facilitate a competitive and effective market for maritime transport services. It is stated that given we are an island nation, that it is critically important that our international maritime gateways are fit for purpose.

5.14. In respect of Dublin Port, it is categorised as one of the three Tier 1 Ports of National Significance which is responsible for 15-20% of overall tonnage, with clear potential to lead the future development of port capacity in the medium and long term.

5.15. The policy document states at section 2.5.1 in relation to Dublin Port Company, that is the State's largest port company and handles approximately 43% of all seaborne trade in the State with its importance even more pronounced in the higher-value unitised (LoLo & RoRo) sectors where it handles approximately 70% of all LoLo and 85% of all RoRo trade in the state.

5.16. National Development Plan

5.17. The National Development Plan 2018 - 2027 (NDP) sets out the investment priorities that will underpin the implementation of the National Planning Framework, through a total investment of approximately €116 billion. Reference is made at Section 1.3 to the fundamental objectives of the NPF which include: Further supporting Ireland's high-quality international connectivity which is crucial for overall international competitiveness and addressing opportunities and challenges from Brexit through investment in our ports and airports. Major national infrastructure projects include investment at Ports including Dublin Port to create high quality international connectivity. In respect of planning and investing for the implications of Brexit,

significant investment in international access and supply chains through our ports and airports is highlighted (section 4.1).

Project Ireland 2040 National Planning Framework

- 5.18. Project Ireland 2040 National Planning Framework (NPF), published in July 2018, is the primary articulation of spatial, planning and land use policy in Ireland. The framework is based on directing development to existing settlements rather than allowing the continual expansion and sprawl of cities and towns. The NPF confirms that the role of Tier 1 ports (Dublin Port Company) will be considered in tandem with long-term infrastructural requirements as part of the Regional Spatial and Economic Strategy and Metropolitan Area Strategic Plan processes through National Policy Objective 40 which states:

“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, metropolitan area and city/county development plans, to ensure the effective growth and sustainable development of the city regions and regional and rural areas”.

Regional Planning Context

Regional Spatial and Economic Strategy for the Greater Dublin Area 2019-2031

- 5.19. The Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Region including the Metropolitan Area Spatial Plan (MASP) for Dublin was published in June 2019. The RSES is a strategic plan and investment framework to shape the future development of the region to 2031 and beyond. Growth enablers for Dublin City and Metropolitan area include protecting and improving access to the global gateways including Dublin Port and to support and facilitate its continued growth. The M50 Dublin Port South Access is considered a key transport investment. Dublin Port has the potential to connect into a number of strategic greenways including the East Coast Route and River Liffey Greenway. Section 8.5 of the RSES addresses international connectivity with Dublin Port stated as the largest port in the Country with growth of 35.7% over the last five years with a record throughput of 38million gross tonnes in 2018. Relevant regional Policy Objectives guiding the development of ports, and specifically Dublin Port, within the RSES include:

RPO 8.21: The Eastern and Midland Region Authority will support the role of Dublin Port as a Port of National Significance (Tier 1 Port) and its continued commercial development, including limited expansion and improved road access, including the Southern Port Access Route.

Greater Dublin Area Transport Strategy 2016-2035

- 5.20. The Strategy provides a framework for the planning and delivery of transport infrastructure and services in the Greater Dublin Area (GDA) from 2016-2035 providing a transport planning policy around which other agencies involved in land use planning, environmental protection, and delivery of other infrastructure such as housing, water and power, can align their investment priorities. Section 3.3.7 of the Strategy addresses international gateways including Dublin Port and states that the safeguarding of landside access to the national gateways at Dublin Port and Dublin Airport should be considered as a priority strategic objective for all relevant agencies.

Local Planning Context

Dublin City Development Plan 2016-2022

Context

- 5.21. Chapter 4 provides the context within which the role of the Port in the City is expressed where it is stated that Dublin City Council fully supports and recognises the important national and regional role of Dublin Port in the economic life of the city and the region and the consequent need in economic competitiveness and employment terms to facilitate port activities which may involve port development or relocation in the longer term. In addition to the strategic support, the City Plan contains a number of specific policies and objectives facilitating Dublin Port operations and activities, including inter alia:

SC9: To support and recognise the important national and regional role of Dublin Port in the economic life of the city and region and to facilitate port activities and development, having regard to the Dublin Port Masterplan 2012 - 2040.

CEE23 (iii): To recognise that Dublin Port is a key economic resource, including for cruise tourism, and to have regard to the policies and objectives of the Dublin Port Masterplan.

5.22. Section 16.21 notes that the planning authority will have regard to the following in assessing proposals for the Dublin Port area:

- Recognition of the important role of Dublin Port in the economic life of the city and the region and the consequent need in economic and employment terms to facilitate port development;
- Periphery of the port area facing residential areas to be designed and landscaped to minimise the impact of its industrial character
- Impact on nature conservation, recreation, and amenity use, and other environmental considerations, including having regard to the designation of Dublin Bay as a UNESCO biosphere and other environmental designations such as Special Area of Conservation (SAC) and Special Protection Area (SPA);
- Protection of the amenities of residential and commercial uses in adjoining areas;
- Design criteria including landscaping, finishes, signage and site layout;
- Facilitating plans to make Dublin a 'home port' for cruise tourism, with complementary cruise tourism facilities in the port and wider city/region.

Zoning

5.23. The subject site is zoned F within the Dublin City Development Plan which seeks to provide for the protection and creation of industrial uses and facilitate opportunities for employment creation. Heavy employment uses are acceptable within this zoning.

Natural Heritage

The following policies are considered to be relevant:

GI23: *"To protect flora, fauna and habitats, which have been identified by Articles 10 and 12 of Habitats Directive, Birds Directive, Wildlife Acts 1976–2012, the Flora (Protection) Order 2015 S.I No. 356 of 2015, European Communities (Birds and Natural Habitats) Regulations 2011 to 2015".*

GI24: *"To conserve and manage all Natural Heritage Areas, Special Areas of Conservation and Special Protection Areas designated, or proposed to be designated, by the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs".*

Dublin Port Masterplan 2012-2040 (Reviewed 2018)

- 5.24. Dublin Port Company prepared this non statutory document to guide development in Dublin Port up to 2040. It was framed within the context of EU, national, regional and local development plan policies. The masterplan was reviewed in 2018 which concludes that the Port should be developed to provide capacity based on an increased average annual growth rate of 3.3% from 2010-2040 rather than the originally assumed 2.5%. The revised plan seeks to allow essential projects to be brought forward through the consenting process and to be constructed in time to meet demand. The Masterplan provides an indication of how the Port will be developed to meet needs in the coming years. The fundamental approach of the masterplan is to provide capacity in the Port to maximise the utilisation of brownfield lands rather than resort to an infill/reclamation option.
- 5.25. The subject site is zoned E within the Dublin Port Master Plan which is identified as lands currently used for non-core activity for future redevelopment.

5.26. Natural Heritage Designations

The following sites adjoin or are in close proximity to the subject site:

- South Dublin Bay & River Tolka Estuary SPA
- North Bull Island SPA
- North Dublin Bay cSAC
- South Dublin Bay cSAC

5.27. EIA Screening

- 5.28. The proposed project is not listed within Annex I of the EIA Directives and is below the relevant threshold as set out in the Planning and Development Regulations 2001-2019 for Annex II projects. The threshold for 'urban development which would involve greater than 2 hectares in the case of a business district' as set out in Part 2 of schedule 5 of the Regulations was considered, by the applicant to be most relevant threshold in the context of the proposed development in the subject location. As the proposed development exceeds this threshold an EIAR was prepared.

6.0 Assessment

- 6.1. As mentioned at the outset of this report the prospective applicant is not seeking planning permission for the proposed development as this is provided for by way of the emergency provisions provided in Section 181(2)(a) of the Planning and Development Act 2000, as amended. The following is therefore an assessment of the EIAR pertaining to the proposed works and an Appropriate Assessment of the proposed project for the purpose of satisfying Section 181(2A)(b) of the Planning and Development Act 2000, as amended.

7.0 Appropriate Assessment

- 7.1.1. The NIS dated June 2020 has been prepared by Moore Group on behalf of the OPW. The NIS prepared by Moore Group describes the proposed development, its receiving environment and relevant European Sites in the zone of influence of the development. It was informed by a desk top study, maps and ecological and water quality data from a range of sources.
- 7.1.2. The report concluded that, taking into account the project design and the implementation of mitigation measures identified in the NIS, the proposed development will not result in adverse effects on the integrity of any Natura 2000 site.
- 7.1.3. Having reviewed the NIS and the supporting documentation, I am generally satisfied that it provides adequate information in respect of the baseline conditions, identifies the potential impacts, uses best scientific information and knowledge and provides details of mitigation measures. I am satisfied, that the information provided is generally sufficient to allow for appropriate assessment of the development.

Stage 1 Screening

- 7.1.4. Notwithstanding the submission of a NIS, it is prudent to review the screening process to ensure alignment with the sites brought forward for AA and to ensure that all sites that may be affected by the development have been considered.
- 7.1.5. Having regard to the information and submissions available, nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle and sensitivities of the ecological receptors, the

following European Sites are considered relevant to include for the purposes of initial screening for the requirement for Stage 2 appropriate assessment on the basis of likely significant effects.

European Site Name & Code	Distance	Qualifying Interest	Source-pathway-receptor	Considered further in screening
North Bull Island SPA (004006)	c.1.96km	Wintering Waterfowl	Pathway via surface water discharge to sea.	Yes
North Dublin Bay SAC (000206)	c. 1.97km	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p>Petalophyllum ralfsii (Petalwort) [1395]</p>	Pathway via surface water discharge to sea.	Yes
South Dublin Bay and River Tolka Estuary SPA (004024)	0.02km	Wintering Waterfowl	Pathway via surface water discharge to sea and potential for	Yes

			noise disturbance to the qualifying interests of the SPA.	
South Dublin Bay SAC (000210)	c. 1.89km	[1140] Tidal Mudflats and Sandflats [1210] Annual vegetation of drift lines [1310] Salicornia and other annuals colonising mud and sand [2110] Embryonic shifting dunes	Pathway via surface water discharge to sea.	Yes
Baldoyle Bay SPA (004016)	c.7.24km	Wintering Waterfowl	Pathway via surface water discharge to sea.	No No potential for effects given the separation distance of the works from the SPA and the dilution and dispersion factor provided by the sea.
Baldoyle Bay SAC (000199)	c.7.23km	[1140] Tidal Mudflats and Sandflats [1310] Salicornia Mud [1330] Atlantic Salt Meadows [1410] Mediterranean Salt Meadows	Pathway via surface water discharge to sea.	No No potential for effects given the separation distance of the works from the SAC and the dilution and dispersion factor provided by the sea.

Rockabill to Dalkey Island SAC (003000)	c. 8.07km	[1170] Reefs [1351] Harbour Porpoise (Phocoena phocoena)	Pathway via surface water discharge to sea.	No No potential for effects given the separation distance of the works from the SAC and the dilution and dispersion factor provided by the sea.
Howth Head Coast SPA (004113)	c.10.37km	[A188] Kittiwake (Rissa tridactyla) [breeding]	Pathway via surface water discharge to sea.	No No potential for effects given the separation distance of the works from the SPA and the dilution and dispersion factor provided by the sea.
Howth Head SAC (000202)	c.7.72km	[1230] Vegetated Sea Cliffs [4030] Dry Heath	Pathway via surface water discharge to sea.	No No potential for effects given the separation distance of the works from the SAC and the dilution and dispersion factor provided by the sea.
Irelands Eye SPA (004117)	10.68km	[A017] Cormorant (Phalacrocorax carbo) [breeding] [A184] Herring Gull (Larus argentatus) [breeding]	Pathway via surface water discharge to sea.	No No potential for effects given the separation

		[A188] Kittiwake (<i>Rissa tridactyla</i>) [breeding] [A199] Guillemot (<i>Uria aalge</i>) [breeding] [A200] Razorbill (<i>Alca torda</i>) [breeding]		distance of the works from the SPA and the dilution and dispersion factor provided by the sea.
Irelands Eye SAC (002193)	c.10.88km	[1220] Perennial Vegetation of Stony Banks [1230] Vegetated Sea Cliffs	Pathway via surface water discharge to sea.	No No potential for effects given the separation distance of the works from the SAC and the dilution and dispersion factor provided by the sea.
Malahide Estuary SPA (004025)	c.11.04km	Wintering Waterfowl	Pathway via surface water discharge to sea.	No No potential for effects given the separation distance of the works from the SPA and the dilution and dispersion factor provided by the sea.
Malahide Estuary SAC (000205)	c.10.39km	[1140] Tidal Mudflats and Sandflats [1310] Salicornia Mud [1330] Atlantic Salt Meadows [1410] Mediterranean Salt Meadows [2120] Marram Dunes (White Dunes)	Pathway via surface water discharge to sea.	No No potential for effects given the separation distance of the works from the SAC and the dilution and dispersion

		[2130] Fixed Dunes (Grey Dunes)*		factor provided by the sea.
Dalkey Islands SPA (004172)	c.11.48km	[A192] Roseate Tern (<i>Sterna dougallii</i>) [passage] [breeding] [A193] Common Tern (<i>Sterna hirundo</i>) [passage] [breeding] [A194] Arctic Tern (<i>Sterna paradisaea</i>) [passage] [breeding]	Pathway via surface water discharge to sea.	No No potential for effects given the separation distance of the works from the SPA and the dilution and dispersion factor provided by the sea.
Wicklow Mountain SAC 002122	c.13km south west of site	Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110] Natural dystrophic lakes and ponds [3160] Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010] European dry heaths [4030] Alpine and Boreal heaths [4060] Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130] Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230] Blanket bogs (* if active bog) [7130] Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) [8110] Calcareous rocky slopes with chasmophytic vegetation [8210]	No pathway to the site	No No potential for effects given the lack of pathway and distance from the site.

		<p>Siliceous rocky slopes with chasmophytic vegetation [8220]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Lutra lutra (Otter) [1355]</p>		
Wicklow Mountain SPA 004040	c.13km	<p>Merlin (Falco columbarius) [A098]</p> <p>Peregrine (Falco peregrinus) [A103]</p>	Site is not suitable habitat for the qualifying interests of this site, no pathway exists.	<p>No</p> <p>No potential for effects given the lack of pathway and distance from the site.</p>

Screening Determination

7.1.6. The NIS submitted screens out all Natura 2000 sites on the grounds that they are removed from the development and will not be affected by disturbance except the following:

- South Dublin Bay and River Tolka Estuary SPA,
- North Dublin Bay SAC,
- South Dublin Bay SAC
- North Bull Island SPA

7.2. This approach seems reasonable. Therefore, based on my examination of the NIS report and supporting information, the scale of the proposed development, its likely effects by way of the potential to contaminate the South Dublin Bay and River Tolka Estuary SPA, North Dublin Bay SAC, South Dublin Bay SAC and North Bull Island SPA by way of water pollution and sedimentation from surface water runoff and or noise disturbance, I would conclude that a Stage 2 Appropriate Assessment is required for these Natura 2000 sites. It is important to note that mitigation measures have not been considered in the Appropriate Assessment Screening.

Stage II Appropriate Assessment

7.2.1. The following Appropriate Assessment of the implications of the proposed works alone and in combination with other relevant plans and projects will be carried out in relation to the following European sites in view of their conservation objectives:

- South Dublin Bay and River Tolka Estuary SPA,
- North Dublin Bay SAC,
- South Dublin Bay SAC
- North Bull Island SPA

7.2.2. The NIS submitted on behalf of the OPW concluded that the proposal will not beyond reasonable scientific doubt, adversely affect the integrity of any European Site either directly or indirectly.

7.2.3. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

7.2.4. **Potential for direct and indirect effects**

Water Ecology and habitat

7.2.5. It is important to note at this juncture that observations received from the IFI note that the port is located within the catchments of the River Tolka, Liffey and Dodder. It is stated that the Tolka constitutes a salmonid river under significant ecological pressure while the Liffey and Dodder represent some of the foremost salmonid systems in the region. As such development in the port has the potential to impact directly on aquatic ecology in the area. Migratory salmon, sea trout and lamprey have to pass through Dublin Harbour on their return to sea. Such transitional waters act as important spawning and nursery grounds for a wide variety of fish species.

7.2.6. Pollution of the adjacent waters arising from poor on site construction practices are cited by the OPW as having the potential to significantly impact the flora and fauna of the adjacent waters. The pollution and sedimentation of such waters has the potential to effect foraging grounds of over wintering waterfowl which are the qualifying interests

at risk within the South Dublin Bay and River Tolka Estuary SPA and the North Bull Island SPA. Such impacts will be examined below under the birds heading. Disturbance to the qualifying interests of the North Dublin Bay and South Dublin Bay SACs relate to the changes in water quality and increases in sedimentation arising from both the construction and operation of the proposed development.

- 7.2.7. Habitat such as Mudflats, Sandflats, Atlantic salt meadows and plant species such as petalwort and Salicornia and other annuals colonising mud and sand are the qualifying interests of the North Dublin Bay SAC and South Dublin Bay SAC most at risk of impacts from both water pollution and sedimentation arising from the development
- 7.3. The conservation objectives for North Dublin Bay and South Dublin Bay SACs aim to maintain or restore the favourable conservation condition for habitats and/or species at these sites. The maintenance of habitats and species within the Natura 2000 sites at favourable condition will contribute to the overall maintenance of favourable conservation status of those species at a national level.
- 7.4. The NIS submitted acknowledges that the proposed works will give rise to a potential for indirect impacts arising from pollution of surface waters and proposes measures to mitigate these impacts which will be examined in detail below.

Birds

- 7.5. In addition to the foregoing, North Bull Island and the South Dublin Bay and River Tolka Estuary SPA support an excellent diversity of waterfowl species in autumn and winter as well as breeding species during summer months. North Bull Island SPA is of international importance for waterfowl on the basis that it regularly supports in excess of 20,000 waterfowl. The site supports internationally important populations of three species, Light-bellied Brent Goose (1,548), Black-tailed Godwit (367) and Bar-tailed Godwit (1,529).
- 7.6. South Dublin Bay and River Tolka Estuary SPA, is also of ornithological importance as it supports an internationally important population of Light-bellied Brent Goose and nationally important populations of a further nine wintering species. Furthermore, the site supports a nationally important colony of breeding Common Tern and is an internationally important passage/staging site for three tern species. It is of note that four of the species that regularly occur at this site are listed on Annex I of the E.U. Birds Directive, i.e. Bar-tailed Godwit, Common Tern, Arctic Tern and Roseate Tern.

The overriding conservation objectives for the SPAs listed above aims to maintain the favourable conservation condition of these birds and habitats.

- 7.7. An Avian impact assessment was carried out by the applicant and forms part of the EIAR submitted. I note that I-WeBS count data for the area was consulted for the purpose of the NIS and details the mean bird counts for Dublin Bay over a 5 year period. It is stated within this assessment that no species listed on Annex I of the E.U Birds Directive were recorded within the site of the proposed development. Of the six species recorded on site only one, the Black-headed Gull, is a qualifying interest of the SPAs listed above. Only one of these birds was observed at the development site.
- 7.8. A single Herring Gull was also observed at the site during the surveys. The following birds were observed within the vicinity of the site but not within it:
- Light-bellied Brent Goose
 - Oystercatcher
 - Redshank
 - Dunlin
 - Bar tailed Godwit
 - Black-headed Gull¹
- 7.9. It was noticed during the bird surveys that the SPA immediately adjacent to the site is rocky with little or no exposed fine sediment below these rocks even at low tide. The number of waterbirds recorded using this area of shoreline were few, (three grey heron, two curlew, one greenshank and one common gull). Significant impacts arising from the development in terms of noise are therefore considered to be unlikely given the limited number of birds observed in the vicinity of the site, the presence of a wooded soil bank which provides a buffer to the development and the poor suitability of the adjacent habitat. The applicants NIS does acknowledge, however, that the proposed works will give rise to a potential for indirect impacts and proposes measures to mitigate these impacts. The impact of these effects will be discussed in detail within the integrity test section in the context of proposed mitigation measures.

¹ Exception of this bird seen once in site.

7.10. Potential in-combination effects.

7.11. The NIS refers to in combination effects in the context of existing established development in the area and the port. Planning permissions granted within the last 5 years were also reviewed, as were other BREXIT related developments and proposed projects and plans for the port and surrounding area including the overall functions of the port.

7.12. The NIS submitted, concluded that there would be no cumulative / in-combination effects arising from the proposed development.

7.13. Overall having regard to the information submitted, I consider that in-combination effects have been properly assessed and I consider that significant in-combination effects are not likely to arise.

7.14. Mitigation Measures

7.15. Mitigation measures have been set out within the NIS submitted and include standard best practice in relation to construction. Induction training will be provided to workers in relation to the environmental plan and operations adjacent to water courses. An emergency response plan will be in place in relation to spillages on site, flood events, exclusion zone breaches and storage of materials. Concrete will be prevented from entering watercourse through the use of an identified compound area, batch loads of concrete are to be delivered on a needs be basis, no washing of delivery trucks will be permitted on site, and best practice measures to be utilised in terms of shuttering, curing and use of trained concrete operators.

7.16. A Fuel management plan will also be implemented and will ensure that chemicals are stored in secure containers in bunded areas, spill kits will be available and all plant and machinery will be maintained to prevent fuel spillages or dripping. Refuelling will occur in the designated compound away from drains or watercourses and drip trays will be used at all times. Disused tanks and drums will not be stored on site.

7.17. Site boundaries are to be marked to safeguard features of interest, water will be prevented from entering local excavations through the use of cut off drains, dewatering if required will include the settlement tanks or silt buster stream to ensure that any de-watering do not increase background suspended solid levels in the environment. Protective fencing will be erected to prevent spoil from entering watercourses.

- 7.18. Deliveries will be supervised, and tanks checked prior to refilling. Ongoing monitoring of surface water drains will occur.
- 7.19. **The integrity Test**
- 7.20. I have considered the NIS along with the information submitted with the application and have had regard to the mitigation measures outlined. Potential for impacts to arise in relation to the leakage of oils and diesels or other such contaminants from construction vehicles has been dealt with within the mitigation measures outlined in Section 3.6 of the NIS submitted. All machinery will be checked prior to entering the works area and all fuel, lubricants and hydraulic fluids will be kept in a secure bunded area. Impacts arising from siltation will be prevented through the use of protective fencing and cut off drains.
- 7.21. These mitigation measures are standard in nature and are known to be effective. I am therefore satisfied that the mitigation measures outlined in relation to hydrocarbon contamination of soils and waters and siltation in relation to excavation and dewatering works are acceptable.
- 7.22. It is important to note at this juncture that surface water arising from the operation of the site will be directed to the Dublin Port surface water drainage system in which there are a number of hydrocarbon interceptors and other such measures to prevent contamination to adjacent watercourses. Wastewater will be connected to the public system and as such will be treated accordingly.
- 7.23. Impacts arising from disturbance during construction have been considered within the NIS submitted. It is stated that construction activity will result in an increase in human activity within the site, earth works will be minor including some new foundations and installation of some new drainage features, deep excavations and piling will not be involved.
- 7.24. Whilst the works will be close to the SPA, the works are shielded by the presence of a high bank and woodland and it is therefore considered that the net result on the SPA will be short term and imperceptible. I note from table 3 of the NIS submitted that a number of protected bird species were identified in proximity to the site, however the nearest birds were separated from the site by 400-500 metres. Other species observed were in excess of this distance and beyond 2km in some instances.

Overall Conclusion

7.25. I have considered the location of these birds from the proposed works and the existing context of the site within an operational port and the background noise levels associated with such activities and I consider, on the basis of the information provided with the application, including the Natura Impact Statement, and in light of the assessment carried out, I am satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European site Nos, 004006, 000206, 004024, 000210, in view of these sites Conservation Objectives.

Table 2 AA summary matrix – North Bull Island SPA

<p>North Bull Island SPA, site code: 004006</p> <p>Summary of likely significant effects</p> <ul style="list-style-type: none"> • Habitat Loss • Water Quality and water dependant habitats • Disturbance <p>Conservation Objectives: To maintain or restore the favourable conservation status of habitats and species of community interest</p>					
		Summary of Appropriate Assessment			
Qualifying Interest feature	Conservation Objectives Targets and attributes	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Wintering Waterfowl	Number and distribution of redds	Increase in siltation and pollution due to construction works could have an impact to foraging/nesting at this site.	Exclusion zone surrounding water courses. Collection of surface water, use of settlement ponds and standard best practice during construction.	Additional development in area	Yes
<p>Overall conclusion: Integrity test</p> <p>Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site.</p>					

Table 3. AA summary matrix – North Dublin Bay SAC

North Dublin Bay SAC, site code: 000206					
Summary of likely significant effects					
<ul style="list-style-type: none"> • Habitat Loss • Water Quality and water dependant habitats • Disturbance 					
Conservation Objectives: To maintain or restore the favourable conservation status of habitats and species of community interest					
		Summary of Appropriate Assessment			
Qualifying Interest feature	Conservation Objectives Targets and attributes	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glaucopuccinellietalia maritimae) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Embryonic shifting dunes [2110]	To maintain favourable conditions.	Increase in siltation and pollution due to construction works could have an impact to foraging/nesting at this site.	Exclusion zone surrounding water courses. Collection of surface water, use of settlement ponds and standard best practice during construction.	Additional development in area	Yes

Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]					
Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]					
Humid dune slacks [2190]					
<i>Petalophyllum ralfsii</i> (Petalwort) [1395]					
Overall conclusion: Integrity test					
Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site.					

Table 4. AA summary matrix – South Dublin Bay SAC

South Dublin Bay SAC, site code: 000210					
Summary of likely significant effects					
<ul style="list-style-type: none"> • Habitat Loss • Water Quality and water dependant habitats • Disturbance 					
Conservation Objectives: To maintain or restore the favourable conservation status of habitats and species of community interest					
		Summary of Appropriate Assessment			
Qualifying Interest feature	Conservation Objectives Targets and attributes	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
[1140] Tidal Mudflats and Sandflats	To maintain favourable conditions.	Increase in siltation and pollution due to construction	Exclusion zone surrounding water	Additional development in area	Yes

[1210] Annual vegetation of drift lines		works could have an impact to foraging/nesting at this site.	courses. Collection of surface water, use of settlement ponds and standard best practice during construction.		
[1310] Salicornia and other annuals colonising mud and sand					
[2110] Embryonic shifting dunes					
Overall conclusion: Integrity test					
Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site.					

Table 5. AA summary matrix – South Dublin Bay and River Tolka SPA

South Dublin Bay and River Tolka SPA, site code: 004024					
Summary of likely significant effects					
<ul style="list-style-type: none"> • Habitat Loss • Water Quality and water dependant habitats • Disturbance 					
Conservation Objectives: To maintain or restore the favourable conservation status of habitats and species of community interest					
		Summary of Appropriate Assessment			
Qualifying Interest feature	Conservation Objectives Targets and attributes	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Wintering Waterfowl	To maintain favourable conditions.	Increase in siltation and pollution due to construction works could have an impact to foraging/nesting at this site.	Exclusion zone surrounding water courses. Collection of surface water, use of settlement ponds and standard best practice during construction.	Additional development in area	Yes
Overall conclusion: Integrity test					

Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site.

8.0 EIAR

- 8.1. The application is accompanied by an Environmental Impact Assessment Report (EIAR) which was prepared by AWN Consulting. The proposed development relates to the development of the installation of 5 no. single storey porto cabin structures totalling 375m² to provide import office space, a facilities management office and driver welfare facilities. Resurfacing and amalgamation of 8 no. existing yards including modifications of existing drainage and lighting infrastructure. Parking for 175 no. heavy goods vehicles, 62 no. cars and 48 no. bicycles. The development will be located at an existing commercial site which currently comprises warehouse buildings, existing hard stand areas and truck and car parking areas.
- 8.2. The proposed development is not listed within Annex I of the EIA Directives and is below the relevant threshold as set out in the Planning and Development Regulations 2001-2019 for Annex II projects. The threshold for 'urban development which would involve greater than 2 hectares in the case of a business district' as set out in Part 2 of schedule 5 of the Regulations was considered, by the applicant to be most relevant threshold in the context of the proposed development in the subject location. As the proposed development exceeds this threshold an EIAR was prepared.
- 8.3. A number of the environmental issues relevant to this EIA have already been addressed in the Appropriate Assessment at Section 6.0 of this report above. This EIA section of the report should therefore, where appropriate, be read in conjunction with the relevant parts of the Appropriate Assessment.
- 8.4. The 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. The application also falls within the scope of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018, as the application was lodged after these regulations come into effect on 1st September 2018.
- 8.5. 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 sets out a case regarding the background to and need for the project (Section 1.2.4). The EIAR provides detail with regard to the consideration of alternatives in Section 4.0. An overview of the main interactions is provided at Section 16. Section 1.5 of the EIAR lists the main contributors / authors and the qualifications of the EIAR manager, which meet the requirements of the EIA Directive in my view. Details of the consultation entered into by the applicant with An Bord Pleanála and other prescribed bodies as part of the preparation of the project are also set out and can be reviewed in Section 1.3. I am satisfied that adequate consultation has been carried out.

8.6. 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 ‘unplanned events’ is addressed in Section 2.6 Major Accidents and Emergency and the potential for ‘flooding’ is considered in Section 6 Hydrology. I consider that the requirement to consider these factors under Article 3(2) is met.

8.7. In terms of the content and scope of the EIAR, the information contained in the EIAR generally complies with article 94 of the Planning and Development Regulations 2001, as amended.

8.8. **Consideration of Alternatives**

8.9. Section 4.0 of the submitted EIAR addresses the alternatives considered. It is stated within the EIAR that the proposed development is required as a result of the United Kingdom’s withdrawal from the European Union and single market and customs union. As a non EU country goods will require check and controls in line with EU legislation. Certain goods being exported to the UK and beyond will also need checks and controls. EU legislation requires that the necessary checks and controls are carried out at the point of entry. Dublin Port is the designated point of entry for non EU goods and there are facilities to carry out these checks and controls, however, it is stated that given the volume of products entering the country from the UK, the current facilities do not have the capacity to cater for these additional checks and controls, additional facilities are therefore required.

- 8.10. In the event that a do nothing scenario was implemented it is stated that a backlog would occur and would create widespread disruption of traffic within the Port, the wider road network and on the seas.
- 8.11. An assessment of a number of alternative sites was undertaken, this assessment was limited to sites within Dublin Port as per EU regulations. The proposed site was selected due to its size and availability, all other sites reviewed were not available within the timeframe required.
- 8.12. The layout of the site was chosen as the most efficient for turning of vehicles given the processes involved with checks and controls. Technological features are to be used in tandem with infrastructure developments in order to ensure maximum efficiency and flexibility. Alternative mitigation measures were considered as part of the design and measures proposed have been carefully considered in the context of relevant legislation and guidance.
- 8.13. After consideration of the legislation and associated timeframe, the processes required to carry out the required checks and controls and the area of land required to facilitate these processes, the subject site was considered to be the most suitable for the proposed development from an environmental and planning perspective.
- 8.14. In my opinion reasonable alternatives have been explored and the information contained in the EIAR with regard to alternatives provides a justification in environmental terms for the alternatives chosen and is in accordance with the requirements of the 2014 EIA Directive.

Environmental Factors

- 8.15. The sections below address each of the environmental factors. The headings used in the EIAR are as follows:
- Population and Human Health
 - Hydrology
 - Biodiversity
 - Land, soils, geology, and hydrogeology
 - Air and Climate
 - Noise and Vibration

- Landscape and Visual Impacts
- Archaeology, Architecture and Cultural Heritage
- Traffic and Transportation
- Material Assets
- Waste Management
- Interactions of Impacts

8.16. The direct, indirect and cumulative effects of the project on the specified factors is identified, described and assessed in the following sections. In this regard I have examined the EIAR and any supplementary information and the contents of submissions received.

8.17. Section 1.0 of the EIAR discusses a scoping exercise that was carried out and a list of consultees are included.

Population and Human Health

8.18. Section 5 addresses population and human health. Effects are considered in the context of socio-economic and health and wellbeing considerations. CSO data was utilised to inform the socio-economic profile of the area. The EIAR included an examination of the population and employment characteristics of the area and states that incomes in Dublin County are higher than that within the state. The population living within the study area are identified as marginally above average.

8.19. During the construction and operational phases, it is predicted that there will be positive impacts on the local economy due to the presence of c. 180 construction workers on site using local facilities. Positive impacts to the local economy arising from the operation of the proposed works are also anticipated with the employment of 128 workers at the site.

8.20. Impacts on health and wellbeing arising from effects of the construction and operation phases of the development specifically in relation to noise, dust and soil material removal and movement operations and traffic are considered and discussed under the respective headings of the EIAR.

8.21. Residual impacts on human health and population are not anticipated provided that the proposed mitigation measures are fully implemented. It is of note that no highly

sensitive receptors such as housing, schools or hospitals are present in close proximity to the site, sensitive receptors in proximity to the site are offices and places of work. Emissions as a result of the proposed development are stated as being compliant with all National and EU ambient air quality limit values and therefore will not result in any impacts to human health.

- 8.22. I have considered all of the written submissions made in relation to population and human health and the relevant contents of the file including the EIAR. I am satisfied that the potential for impacts on population and human health can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the potential for direct or indirect impacts on population and human health can be ruled out. I am also satisfied that cumulative effects, in the context of existing development in the surrounding area and other existing and proposed development in the vicinity of the site, are not likely to arise.

Hydrology

- 8.23. Section 6 of the EIAR examines the potential for impact on hydrology. A desk study, field mapping and a walkover were carried out in order to inform the EIAR. The subject site is located within the Liffey and Dublin Bay catchment. Water quality monitoring nearest to the site is within the River Tolka Estuary. Water quality is recorded as being poor (Q3) at this monitoring station and is classified as being at risk or not achieving good status. Works within the subject site should therefore ensure that water quality will not be deteriorated further.
- 8.24. As mentioned above, the lands surrounding this reclaimed site are underlain by an aquifer of low vulnerability due to the depth of overburden. It is stated within Section 6.4.1 of the EIAR that excavations will not extend beyond 2 metres in depth. Given overburden depths no bedrock will be removed, and dewatering will only extend to removal of rainwater from excavations. Adequate provisions for settlement and release of this water will be provided for and are outlined within the CEMP provided. Having regard to the information submitted I consider impacts to ground water are unlikely.
- 8.25. Dublin Bay is most at risk of surface water run off during construction. Mitigation measures as outlined above in in Section 6 in relation to hydrocarbon and sedimentation are standard measures which are proven to be effective. As there are

no watercourses present on site there will be no direct discharge to surface water from this site.

- 8.26. The NIS report submitted considers the potential for effects on any Natura 2000 sites both individually and in combination with other plans or projects and considered that the risk of significant effects is unlikely.
- 8.27. I am satisfied, based on the information submitted with the file and discussed within the Appropriate Assessment section above, that the applicant has adequately demonstrated beyond reasonable scientific doubt that the proposed development would not adversely affect the integrity of these SPAs and SAC in view of these sites Conservation Objectives.
- 8.28. I note that rainwater runoff from impermeable areas within the site will be collected in storm water drainage channels and will be directed to either a storm water attenuation unit or to the Dublin Port storm sewer network. It is stated within Section 6.5.2 that storm flows from the site will be restricted using a flow control device. It is further stated that the on-site drainage will incorporate hydrocarbon interceptors to ensure the quality of storm water discharge is treated for any hydrocarbon release prior to attenuation. In addition to the full retention and bypass separators a hydrodynamic solid separator network to screen rubbish, debris and sediment from the surface water run off before it enters the attenuation tank will be installed. The attenuated storm water will then be discharged at the allowable greenfield runoff rate. This will be split between four individual connections to the existing Dublin Port storm water system.
- 8.29. As stated within Section 6.5.2 of the EIAR wastewater will connect to the existing foul sewer within Dublin Port. Given the developed nature of the site, cumulative impacts arising from the proposed development in the context of existing and permitted development in the area are not likely to arise.
- 8.30. Overall, based on the information submitted I do not consider that there will be any significant changes to the local hydrological regime in the site or surrounding area. Adequate measures are proposed to protect against accidental discharges and the use of attenuation and drainage through interceptors will minimise any potential impacts.
- 8.31. Further to the foregoing I note from the documents submitted that a Stage 1 flood risk assessment was completed. It is important to note at this juncture that the Flood Risk

Guidelines identifies docks and activities requiring a waterside location as 'water compatible developments'. Yard 3 & 4 is predominantly in flood zone C and partially in flood zone B, no flooding is indicated at the northern site at Bond Drive and it is therefore identified as being in flood zone C.

- 8.32. Given the water compatibility of the proposed development and the flood zones in which the subject sites are located, no justification test is required in this instance. Having regard to the existing developed nature of the site and the drainage services proposed it is not anticipated that the proposed works would exacerbate flooding in the area and as such I consider the proposed development to be acceptable in this regard.
- 8.33. I have considered all of the written submissions made in relation to hydrology and the relevant contents of the file including the EIAR. I am satisfied that the potential for impacts on hydrology can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the potential for direct or indirect impacts on hydrology can be ruled out. I am also satisfied, based on the information provided, that cumulative effects, in the context of existing and proposed development in the surrounding area, are not likely to arise.

Biodiversity

- 8.34. Section 7 of the submitted EIAR assesses and evaluates the potential for significant impacts on biodiversity. The impact of the proposed development on European sites is addressed in detail in Section 6 of this report. The site does not overlap with any European or nationally designated sites. However, it is located directly adjacent to the South Dublin Bay and Tolka Estuary SPA and North Dublin Bay SAC, South Dublin Bay SAC and North Bull Island SPA are the nearest European sites with a pathway to the subject site.
- 8.35. The risk of water pollution to these sites can be excluded due to the mitigation measures proposed, the separation distance from the site to the sites and the dispersion and dilution effects of the sea.
- 8.36. While the potential for effects on the qualifying interests of these sites is remote due to the nature of the works and their location within existing commercial lands and the level of separation in some cases and mitigation measures proposed, it is necessary to dispel any reasonable scientific doubt that may exist. The NIS Report submitted

considers the potential for effects on the aforementioned SACs and SPAs both individually or in combination with other plans or projects and considered that the risk of significant effects is unlikely.

- 8.37. I am satisfied, based on the information submitted with the file and discussed within the Appropriate Assessment section above, that the applicant has adequately demonstrated beyond reasonable scientific doubt that the proposed development would not adversely affect the integrity of these SPAs and SACs in view of these sites Conservation Objectives.
- 8.38. Potential impacts on biodiversity associated with the proposed development include loss of habitat and disturbance or displacement of species. The assessment of impacts is supported by an ecological assessment, a desk top study was carried out on in 2019 and habitat surveys, consisting of site walkovers, were carried out on three occasions, on the 30th January, 26th February and 3rd April 2019.
- 8.39. Whilst it is acknowledged that the surveys were carried out outside of optimal survey period it is considered adequate given the developed nature of the site. Bird surveys were carried out on the 27th November and 4th December 2019. Two survey dates were considered adequate given the nature of the proposed works and the abundance of survey information available for the previous 5 years within this area. I consider, given the nature of the proposed works and the current use and location of the site that this is a reasonable approach.
- 8.40. The site comprises buildings and artificial surfaces, the footprint comprises tarmac and gravel and loose chippings. Plant species recorded within the site comprise mainly of common weeds such as dandelion, thistle, ragwort and brambles among others. The broadleaved/conifer woodland strip comprises pine, white poplar, alder and sycamore.
- 8.41. Japanese Knotweed is also present on site and is currently being eradicated in accordance with a Japanese Knotweed Management Plan and is due for final treatment at the end of 2020. This area of the site is cordoned off from the remainder of the lands to avoid the spread of this invasive species.
- 8.42. No suitable habitats for mammals such as badgers and otters is present and survey results did not record the presence of bats. Dublin Port is a highly lit up industrial zone and is therefore not suitable to such species.

- 8.43. Attention is drawn to a summer survey carried out for works relating to the EIS for the Alexandra Basin Redevelopment Project in which two species of bats were recorded as probably commuting over the subject site. While I acknowledge this, given the current use of the site and that no evidence of bats has been observed within the site I consider that the proposed development is unlikely to give rise to significant impacts in relation to bats.
- 8.44. Dublin Bay and environs has a wealth of marine mammals including seals, harbour porpoise, dolphins, and whales. Grey and Harbour Seals are regularly observed at the port.
- 8.45. The treelined boundary of the northern section of the site provides nesting habitat for smaller summer nesting birds. Species recorded include; Chaffinch, Goldfinch, Wren, Blackbird, Hooded Crow, Robin, Blue Tit and Common Buzzard. Only one Black-headed Gull and one Herring Gull were seen at the site and flying over.
- 8.46. Overall it is stated within the EIAR that no rare or protected habitats were recorded inside the proposed development boundary and the proposed development area is considered to be of low local ecological value. No direct impact on the Dublin Bay European sites is expected and there will be no habitat loss or fragmentation as a result of the proposed development. It is important to note that no discharge of surface water to sea will occur, all surface water will discharge to the Dublin Port drainage system. The drainage plan will utilise attenuation and interceptors on the site and there are further interceptors located along the extent of the Dublin Port system.
- 8.47. Potential for impacts to arise in relation to construction arise from the movement of soils, it is proposed to mitigate for this through the use of silt fencing which will ensure that sediment is contained within the site. Disturbance to bird species during both construction and operation is considered to be low due to the current use of the site and the woodland buffer present between the site and the SPA and having regard to the low numbers of birds observed within waters adjacent to the site. No mitigation measures are therefore proposed in this regard as impacts are not likely.
- 8.48. Cumulative impacts are considered within the EIAR and take in account other BREXIT related developments at nearby sites as well as relevant plans for the area and other permitted development within the last five years. In-combination/cumulative impacts

have been ruled out within the EIAR given the lack of ecological impacts associated with the proposed development.

- 8.49. I have considered all of the written submissions made in relation to biodiversity and the relevant contents of the file including the EIAR. I am satisfied that the potential for impacts on biodiversity can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. Potential for direct or indirect impacts on biodiversity can be ruled out. I am also satisfied that cumulative effects, in the context of other existing and proposed development in the vicinity of the site, are not likely to arise.

Lands, soils and geology

- 8.50. Section 8 of the submitted EIAR assesses and evaluates the potential for significant impacts on lands, soils, geology, and hydrogeology. A desk study of the subject site, and surrounding area was undertaken.
- 8.51. The lands are said to have formed part of the Liffey estuary until 1913 before being reclaimed for port use. The proposed site has been in port use since the mid1900s. It is stated within the EIAR that there are no known illegal landfills within 1km of the site, however there are a number of licenced waste facilities within 1km.
- 8.52. A geotechnical survey was undertaken by Priority Geotechnical Ireland between the 14th and 21st November 2019. 3 no. rotary boreholes were advanced to depths of 2.2m below existing ground level and to 21m bgl. Ground water was encountered at 4.5m bgl and 16.5m bgl. Soil permeability within the port and surrounding area is low due to the depths of overburden, however, permeability within the site may be higher due to the underlying strata of made ground. Hardstanding areas will provide a level of protection to underlying soil. The underlying aquifer is not identified due to the manmade nature of the lands, however a locally important aquifer of low vulnerability underlies the surrounding lands. Geohazards of any significance have been considered and do not arise in relation to the subject site.
- 8.53. No large scale excavations are proposed and any spoil material will be removed from site and suitably disposed of.
- 8.54. The proposed development will comprise the removal of topsoil, subsoil to allow for the construction of foundations and resurfacing and levelling of the site. While the

majority of soils will be reused on site it is anticipated that c. 32,208m³ will be exported from the site for reuse and disposal, where reuse is not possible.

- 8.55. Contamination of soils through leaks and spillages is identified as a risk of the development, however a number of measures are proposed in order to mitigate the potential for such risk. Measures including the maintenance and refuelling of vehicles will take place off site at a bunded area and will be carried out by a bowser with spill kits at hand. Fuel storage areas will be bunded and minimised on site. An emergency plan for accidental spillages will be specified. Silt fences are proposed within the site and are to be erected around stockpiles of soil to limit movement to surface water runoff.
- 8.56. It is stated within Section 8.6.2 that impacts during the operational stage of the development are considered to be low. Fuel storage areas will be checked regularly and emergency response measures will be in place. The proposed site drainage as outlined above will incorporate oil-petrol interceptors and will flow into the Dublin Port separator before entering the Liffey Estuary / Dublin Bay. Flow levels will be controlled by a hydro break or similar.
- 8.57. Overall impacts, inclusive of cumulative impacts, are considered to be negligible and imperceptible with no residual impacts expected.
- 8.58. I have considered all of the written submissions made in relation to lands, soils and geology and the relevant contents of the file including the EIAR as outlined within the foregoing biodiversity section. I am satisfied that the potential for impacts on lands, soils and geology can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the potential for direct or indirect impacts on lands, soils and geology can be ruled out. I am also satisfied that cumulative effects, in the context of existing development in the surrounding area and other existing and proposed development in the vicinity of the site, are not likely to arise.

Air & Climate

- 8.59. Section 9 examines the impacts of the development on climate and air. Potential air quality impacts are anticipated to be short term confined to the construction phase of the development. Concentrations of NO₂, PM₁₀ and PM_{2.5} have been modelled in order to demonstrate that there are no potential air quality compliance issues associated

with the development. It is stated within this Section of the EIAR that there are minimal receptors in the Port none of which are considered to be highly sensitive in the context of air quality assessments. Relevant current ambient air quality values were established and predicted values were compared against these values in order to determine the overall impact arising from the proposed development.

8.60. The adjacent Natura 2000 site is designated for birds and was considered in the context of the assessment and was considered not to be sensitive to nitrogen deposition.

8.61. Baseline conditions in terms of emissions and climate change targets are outlined within Section 9.33 and 9.3.4 respectively. Current nitrogen, PM₁₀ and PM_{2.5} levels obtained were significantly below permitted upper limits. The greatest impact on air quality arising from the development is from construction dust emissions and the potential for nuisance dust. It is stated within Section 9.5.2 of the EIAR submitted that fugitive dust emissions are not expected to be significant and will pose no threat to nearby receptors.

8.62. Works within the construction phase of the development have been assessed in relation to the particular elements of the development as follows:

- Demolition
- Earthworks
- Construction
- Trackout

8.63. It is stated within the EIAR submitted that the proposed works associated with each stage of the development are minimal due to the developed nature of the site. Overall dust emissions are therefore considered to be low to medium in terms of impacts and temporary in nature. A number of mitigation measures are proposed such as the stripping of blocks internally during demolition of existing structures, the use of water suppression, the use of cutting, grinding, or sawing equipment fitted or used with suitable dust suppression techniques and the minimisation of drop heights from conveyers, loading shovels, hoppers and other loading equipment to reduce dust.

- 8.64. The application of speed restrictions within the site will reduce dust levels generated from construction traffic. Sweeping of hard surfaces and water suppression of loose surfaces will also assist in the reduction of dust levels.
- 8.65. Stockpiling will occur in sheltered areas with regular watering, hoarding will be erected in suitable areas to prevent larger particles of material from impacting on nearby receptors. Dust minimisation measures are to be reviewed at regular intervals during the works to ensure effectiveness of the procedures in place. In the event that dust nuisance occurs outside of the site dust control measures will be employed to rectify the situation.
- 8.66. Well maintained machinery and vehicles and employing measures which reduce the number of delivery vehicles to the site will ensure that emissions from vehicles is minimised. It is considered within the EIAR submitted that air emission and impacts to climate will be short term and insignificant.
- 8.67. Cumulative impacts were considered under Section 9.9, developments within the vicinity of the site were considered and it was concluded within the EIAR that cumulative impacts would not arise.
- 8.68. I have considered all of the written submissions made in relation to Climate and Air and the relevant contents of the file including the EIAR. I am satisfied that the potential for impacts on Climate and Air can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the potential for direct or indirect impacts on Climate and Air can be ruled out. I am also satisfied that cumulative effects, in the context of existing development in the Port and other existing and proposed development in the vicinity of the site, are not likely to arise.

Noise and Vibration

- 8.69. Section 10 of the EIAR submitted examines the baseline noise conditions and outlines the predicted noise levels arising from the proposed development. Noise disturbance arising from construction is predicted to have a slight to moderate impact and will be short term. Noise arising from the operation of the site is considered to be long term and insignificant given current operations at the port and background noise levels in the area.

- 8.70. Baseline conditions were established utilising the EPA noise monitoring stations closest to the site. These sites are located at Bull Island and Ringsend Sports Centre. Average hourly noise levels were monitored over a two week period 15th to 29th October 2019.
- 8.71. It is stated within the EIAR that the closest noise sensitive buildings are located more than 400 metres beyond the site boundary. Indicative worst-case construction noise level assumptions are calculated at 55dB, at the closest noise sensitive location. This is within the recommended 70dB range outlined within the Transport Infrastructure Ireland Guidelines for the treatment of noise and vibration in national road schemes. No significant noise impacts are therefore anticipated. Similarly, given the limited nature of the proposed works, impacts arising from vibrations are not expected.
- 8.72. The potential for noise impacts to arise during the operation of the site, relate to the movement of vehicles to and from the facility on the local road network. It is stated within Section 10.5.5 of the EIAR submitted that the proposed development will not increase traffic volumes on the road network instead only results in the redistribution of traffic within the port itself. As such it is stated that the proposed operation of the development will not give rise to increases in traffic noise within the surrounding area.
- 8.73. It is important to restate at this juncture that the subject site is currently developed and the nearest noise sensitive receptor is located in excess of 400 metres from the site. Cumulative noise levels within the site at such locations will not exceed 55dB during daytime hours and 45dB at night.
- 8.74. A number of mitigation measures have been proposed within Section 10.6.2 of the EIAR, which seek to ensure that noise and vibration emissions are maintained within acceptable levels. Such measure include turning off idle engines, switching off of onboard refrigeration units where possible, disallowing amplified music etc from cabs and passive noise levels from users of the site are to be kept to a minimum.
- 8.75. Cumulative noise impacts have been considered within the EIAR and do not arise. It is important to note that the NIS report submitted considers the potential for effects on any Natura 2000 sites both individually and in combination with other plans or projects and considered that the risk of significant effects is unlikely.
- 8.76. I am satisfied, based on the information submitted with the file and discussed within the Appropriate Assessment section above, that the applicant has adequately

demonstrated beyond reasonable scientific doubt that the proposed development would not adversely affect the integrity of these SPAs and SAC in view of these sites Conservation Objectives.

- 8.77. I have considered all of the written submissions made in relation to noise and the relevant contents of the file including the EIAR. I am satisfied that the potential for impacts on noise can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the potential for direct or indirect impacts on noise can be ruled out. I am also satisfied that cumulative effects, in the context of existing wind development in the surrounding area and other existing and proposed development in the vicinity of the site, are not likely to arise.

Landscape and Visual Impact

- 8.78. Section 11 of the EIAR submitted examines the potential for impacts arising from the development to landscape and the visual amenity of the area. Field visits were undertaken in order to establish baseline conditions between November 2019 and March 2020. The proposed development will be located within Dublin Port which extends to c. 200 hectares both north and south of the River Liffey.
- 8.79. Section 11.3.2 of the EIAR describes the surrounding landscape and states that the wider context of the port includes North Lotts, IFSC, and the city centre to the west and the established residential areas of East Wall, Fairview and Clontarf to the north and north west. The Port estate includes parts of the Poolbeg Peninsula where similar port activity takes place along the River Liffey.
- 8.80. Dublin port is stated as being a low lying industrial landscape which has been developed overtime on successive areas of land reclaimed from the harbour area. The port is a substantially built environment, comprising large expanses of hard standing, accessed via a network of purpose built roadways. Section 11.3.3 of the EIAR examines each section of the port and the development and facilities within it.
- 8.81. It is important to note at this juncture that there are no landscape or visual designations within the site. Dublin Bay is a UNESCO designed Biosphere and the port area is considered a transition zone. Dublin City Development plan was reviewed as part of the visual assessment carried out and it is noted that there are no restrictions in terms of visual amenity relating to the subject site or surrounding port lands.

- 8.82. Dublin Port is recognised as a landscape of significance within the city, the totality of which is a significant landscape and imposing visual feature which is distinctive for the tall red and white banded stacks of the ESB Poolbeg Power Station and characterised by the overarching industrial /utility character comprising gantry cranes, storage tanks, industrial buildings and chimneys stacked, containers and the transient presence of container and passenger ships.
- 8.83. The proposed Dublin Port Brexit Infrastructure development are industrial in nature and are visually consistent with the prevailing industrial port related character and their surrounds. It is stated within the EIAR submitted that these lands are of low landscape and visual sensitivity and have no specific landscape or visual-related designations.
- 8.84. Surrounding landscapes such as Clontarf promenade are acknowledged within the EIAR as being sensitive landscapes of value. In order to properly assess the potential for impacts on these sensitive areas the applicant selected 4 no. view points. For which photomontages were prepared. The proposed development is indistinguishable from these vantage points. Visual impacts can therefore be discounted from the sensitive landscapes identified within the EIAR.
- 8.85. Cumulative visual impacts have been considered in the context of the foregoing and do not arise.
- 8.86. I note, that the applicant proposes to enhance the general presentation of the site through the use of appropriate landscaping and new perimeter fencing, which will be a welcome improvement to the overall appearance of the site.
- 8.87. I have considered all of the written submissions made in relation to Landscape and Visual Amenity and the relevant contents of the file including the EIAR. I am satisfied that the potential for impacts on Landscape and Visual Amenity can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the potential for direct or indirect impacts on Landscape and Visual Amenity can be ruled out. I am also satisfied that cumulative effects, in the context of existing development in the surrounding area and other existing and proposed development in the vicinity of the site, are not likely to arise.

Archaeology and Cultural Heritage

- 8.88. Section 12 of the EIAR examines the potential for impacts to arise on archaeology and cultural heritage. A desktop survey was carried out in order to identify constraints or features of archaeological / cultural heritage potential within or near to the development site. No recorded archaeological monuments are located within the site boundary. There are 13 recorded archaeological monuments within the study area which comprised a distance of 1.5km from the proposed development. All sites are listed within Appendix 12.1 of the EIAR. There are also 5 recorded ship wrecks within c. 2km of the site which are listed within Appendix 12.5. None of these sites will be impacted as a result of the proposed development.
- 8.89. Whilst there are no Recorded Monuments or Protected Structures within the subject site there is potential for negative impacts to occur to undisturbed unrecorded subsurface archaeology. However, given that the subject site comprises of made lands impacts arising from operation are unlikely to arise.
- 8.90. Mitigation measures are nonetheless outlined in the EIAR and include monitoring of groundworks during construction. I consider these mitigations measures to be appropriate and acceptable to ensure that impacts do not arise in relation to undisturbed archaeology and cultural heritage.
- 8.91. Cumulative impacts have been considered within the EIAR and do not arise.
- 8.92. I have considered all of the written submissions made in relation to archaeology and cultural heritage and the relevant contents of the file including the EIAR. I am satisfied that the potential for impacts on archaeology and cultural heritage can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the potential for direct or indirect impacts on archaeology and cultural heritage can be ruled out. I am also satisfied that cumulative effects, in the context of existing port development in the surrounding area and other existing and proposed development in the vicinity of the site, are not likely to arise.

Traffic & Transport

- 8.93. Section 13 of the EIAR examines the likely significant effects on traffic and transport. In relation to traffic the construction phase of the development is the critical period with respect to traffic effects experienced on surrounding roads in terms of additional

traffic volumes. I note that road systems within the vicinity of the site are currently being improved and altered as part of the Port roads improvement project including the Greenway scheme.

- 8.94. Baseline traffic conditions were established, a 24hr count was carried out on Wednesday 23rd May 2018. Two particular junctions were considered as part of this; 1) Junction 10 – Promenade Road/Bond Drive Roundabout, and 2) Junction 17 – Tolka Quay Road/Bond Drive priority junction. Current road works are to be complete by the end of 2020 and it is envisaged that some reassignment of existing traffic routings will need to be considered. These are listed within Section 13.3.4 of the EIAR submitted.
- 8.95. The Bond Drive extension yard will provide for a total of 175 HGV parking spaces, 62 car parking spaces and 48 bike spaces. Yard 3 located on promenade road will provide for 7 inspection bays, 30 HGV parking spaces, 13 car parking spaces and 28 bicycle spaces. It is of note that the Dublin City Development Plan does not specify parking standards for customs uses. Carparking spaces are therefore based on the OPW staffing requirements for the proposed works. Given the location of the carparking within the sites and the nature of the surrounding lands I am satisfied that the level of car parking proposed will not give rise to significant environmental impacts.
- 8.96. In terms of operational traffic it is anticipated that 193 vehicles arriving at peak hours between 05.30 and 06.00 will require inspection and will be routed to the various yards. The Bond Extensions site will also process vehicles from two other sites which have been permitted under Ministerial Orders and has been designed accordingly to adequately accommodate all vehicles requiring further inspection. Traffic movements from additional sites has been included in the overall traffic assessment.
- 8.97. Overall, 128 staff movements into and out of the site are anticipated and will occur outside of peak traffic flows, as such impacts arising from staff movements are considered to be low.
- 8.98. It is important to note at this juncture that the proposed development will not give rise to additional traffic arriving at the port but will result in an increase of traffic movements within the port lands. It is these movements that are evaluated within the EIAR in relation to the operational traffic impact. I consider this approach to be reasonable. It is also stated that hauliers will move away from mixed consignments allowing for a

greater number of consignments to be green routed. This will result in a decrease in the number of vehicles being red routed and therefore reduce traffic movements within the port.

- 8.99. Results of junction modelling indicate that Junction 10 has sufficient capacity to cater for the additional movements. Positive impacts are noted in relation to junction 17, based on proposed alterations relating to the greenway project (which is a future planned project for the area), and the associated re-routing of traffic in this area.
- 8.100. In order to ensure impacts do not arise in relation to traffic, section 13.6 of the EIAR states that a Construction Management Plan will be prepared and will include measures to minimise the impacts associated with the construction phase of the development upon peak periods on the surrounding road network. These measures will include the arrival of construction workers to the site outside of peak times and the spread of HGV trips over the day to avoid peak hours.
- 8.101. It is stated within Section 13.5 of the EIAR submitted that minimal demolition and construction works are required as part of the proposed project as they are generally hardstand areas with warehousing facilities. As such there will be construction traffic to the site will not be excessive. Residual impacts arising from construction traffic are predicted as being short term and imperceptible.
- 8.102. Residual Operational impacts, due to current road improvements and the frequency and quantum of trips associated with the proposed development are considered within section 13.7 of the EIAR to be being long term and of slight effect.
- 8.103. Cumulative impacts have been considered and will be long term and of slight significance.
- 8.104. I have considered all of the written submissions made in relation to traffic and transport and the relevant contents of the file including the EIAR. I am satisfied that the potential for impacts on traffic and transportation can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the potential for direct or indirect impacts on traffic and transport can be ruled out. I am also satisfied that cumulative effects, in the context of existing port development in the surrounding area and other existing and proposed development in the vicinity of the site, are not likely to arise.

Material Assets

- 8.105. Section 14 of the EIAR examines the likely significant effects on material assets, including built services and infrastructure that has not been considered elsewhere in the EIAR. The subject lands are currently serviced with electricity from the existing electrical transmission infrastructure located in Dublin Port. It is stated within the EIAR that a new fibre optic cable distribution network will be required for the proposed development site. Surface water and foul drainage are examined above and will not be repeated in this section of the assessment. Water supply connections are present on site and will be utilised.
- 8.106. During construction it is stated that power will be provided via on site supply, no impacts to this supply are expected. Similarly, there are no potential impacts associated with telecommunications for the proposed development during the construction phase. Strict quality control measures will be undertaken while laying all pipes to minimise or eradicate infiltration, no impacts are therefore expected in relation to surface water, foul sewer or water supply infrastructure at the site and surrounding area.
- 8.107. The use of sustainable drainage systems and the provision of adequate capacity within the water supply and foul sewer will ensure that no impacts arise to infrastructure during the operational phase of the development.
- 8.108. Cumulative impacts have been considered in the context of existing and permitted port development and do not arise. Residual impacts are stated as being long term and imperceptible.
- 8.109. I have considered all of the written submissions made in relation to material assets and the relevant contents of the file including the EIAR. I am satisfied that the potential for impacts on material assets can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the potential for direct or indirect impacts on material assets can be ruled out. I am also satisfied that cumulative effects, in the context of existing port development in the surrounding area and other existing and proposed development in the vicinity of the site, are not likely to arise.

Waste Management

- 8.110. Section 15 of the EIAR examines the likely significant effects on waste management. A site specific waste management plan has been prepared to deal with the waste generation during the construction phase of the development. Estimates of waste generation during construction and operational phases of the development have been calculated. Mitigation measures are proposed to minimise the effect of the proposed development on the environment during the construction and operational phases and include strict adherence to a C&D waste management plan which has been submitted with the EIAR under Appendix 15.1. This plan will ensure effect waste management and minimisation, reuse, recycling recovery and disposal of waste material generated during demolition and construction phases. Other mitigation measures include the use of materials which will design out waste, on site waste segregation, reuse of materials, the use of a waste manager, training of all staff regarding waste management procedures.
- 8.111. Residual impacts are considered to be long term and imperceptible. Cumulative impacts have also been considered in the context of existing and permitted port development and are not considered to arise.
- 8.112. I have considered all of the written submissions made in relation to waste management and the relevant contents of the file including the EIAR. I am satisfied that the potential for impacts on waste management can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the potential for direct or indirect impacts on waste management can be ruled out. I am also satisfied that cumulative effects, in the context of existing port development in the surrounding area and other existing and proposed development in the vicinity of the site, are not likely to arise.

Interactions between the Factors and Cumulative Impacts

- 8.113. I have considered the interrelationships between factors and whether these may as a whole affect the environment, even though the effects may be acceptable when considered on an individual basis. Section 16 of the EIAR provides a matrix of the impact interactions.
- 8.114. I consider that there is potential for population and human health to interact with all of the other factors (biodiversity, water, air and climate, noise, landscape and visual,

cultural heritage and material assets – traffic). The details of all other interrelationships are set out in Section 16 of the EIAR which I have considered.

8.115. I am satisfied that effects as a result of interactions, indirect and cumulative effects can be avoided, managed and / or mitigated for the most part by the measures which form part of the proposed development, the proposed mitigation measures detailed in the EIAR, and with suitable conditions.

Reasoned Conclusion

8.116. Having regard to the examination of environmental information contained above, to the EIAR and supplementary information provided by the applicant and the submissions received, 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.

- Negative impacts on **human health and population** arising from construction include noise, traffic and dust disturbance to residents of neighbouring dwellings. All of these impacts are neutral to imperceptible. Adequate mitigation measures are proposed to ensure that these impacts are not significant and include adequate mitigation for operational noise.
- Benefits / positive impacts to human health and population will arise in relation to local business activity during the construction phase with construction workers availing of local services, the proposed increase in permanent workers will also have slight longterm positive impact.
- Negative impacts on the **Air and Climate**, there is a potential for construction activity to impact on air quality in terms of dust, but adequate mitigation is proposed will ensure that impacts will be short term and not significant.
- Negative impacts on **hydrology** could arise as a result of accidental spillages of chemicals, hydrocarbons or other contaminants entering the sea from the site, mitigation measures are proposed to manage surface water from the site. Discharge of surface water will be directed following treatment through the port storm and foul drainage systems prior to discharge. These impacts will be mitigated by measures outlined within the application and can therefore be ruled out.

- Negative **Noise and Dust** impacts arise during the construction phase from construction activities. These impacts will be mitigated through adherence to best practice construction measures. Noise disturbance from the operation of the site is not likely to arise given the separation distances between the development and noise sensitive receptors which include the qualifying interests of the South Dublin Bay and River Tolka Estuary SPA South Dublin Bay and River Tolka Estuary SPA. Impacts arising from noise and dust disturbance during both the construction and operational stage can therefore be ruled out.
- Negative **traffic** impacts arise during the construction phase of the development, these impacts will be mitigated through the implementation of a traffic management plan and a construction management plan. Impacts arising from traffic can therefore be ruled out.

8.117. The EIAR has considered that the main significant direct and indirect effects of the proposed development on the environment would be primarily mitigated by environmental management measures, as appropriate. I am satisfied on the basis of the submitted information that impacts can be adequately mitigated and that no residual significant negative impacts on the environment would remain as a result of the proposed scheme. I am, therefore, of the view that the potential for unacceptable direct or indirect effects on the environment can be excluded on the basis of the submitted information.

9.0 Conclusion

9.1. The Board considered that, subject to compliance with the conditions set out below, the proposed development complies with EU Directives, national and local policy and would be acceptable in terms of biodiversity, noise, landscape, cultural heritage and traffic. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Recommendation

10.1. I recommend that permission is granted.

11.0 Reasons and Considerations

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

European legislation, including of particular relevance:

- 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.
- Trans-European Transport Network (TEN-T) Regulations, 2013 and 2019 which address the development of a trans-European transport network within the European Union.

National and regional planning and related policy, including:

- The National Development Plan – Ireland 2040, which identifies major national infrastructure projects including investment at Ports including Dublin Port to create high quality international connectivity.
- The National Planning Framework – Ireland 2040, which states that the role of Tier 1 ports (Dublin Port Company) will be considered in tandem with long-term infrastructural requirements as part of the Regional Spatial and Economic Strategy and Metropolitan Area Strategic Plan processes through National Policy Objective 40.
- National Port Policy, 2013 which states that the Government endorses the core principles of the Dublin Port Masterplan and the continued commercial development of Dublin Port Company is a key strategic objective of national Ports Policy.
- The Regional Spatial and Economic Strategy for the Eastern and Midlands Regional Assembly (RSES) 2019-2031 which supports the role of Dublin Port as a Port of National Significance (Tier 1 Port) and its continued commercial

development, including limited expansion and improved road access, including the Southern Port Access Route.

The local planning policy including:

The provisions of the Dublin City Development Plan 2016-2022, which seeks the protection of *flora, fauna and habitats, which have been identified by Articles 10 and 12 of Habitats Directive, Birds Directive, Wildlife Acts 1976–2012, the Flora (Protection) Order 2015 S.I No. 356 of 2015, European Communities (Birds and Natural Habitats) Regulations 2011 to 2015*” and the conservation of all Natural Heritage Areas, Special Areas of Conservation and Special Protection Areas.

Appropriate Assessment:

The Board agreed with and adopted the screening assessment and conclusion carried out in the inspector’s report that the South Dublin Bay and River Tolka Estuary SPA (004024), North Dublin Bay SAC (000206), South Dublin Bay SAC (000210) and the North Bull Island SPA (0040006) 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 proposal for the South Dublin Bay and River Tolka Estuary SPA (004024), North Dublin Bay SAC (000206), South Dublin Bay SAC (000210), North Bull Island SPA (0040006), in view of these sites Conservation Objectives.

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

- (a) the likely direct and indirect impacts arising from the development of the proposed development, both individually, when taken together and in combination with other plans or projects,
- (b) the mitigation measures, which are included as part of the current proposal, and
- (c) the conservation objectives for the European sites.

In completing the appropriate assessment, 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 aforementioned European sites, having regard to the sites’ Conservation Objectives. In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans

or projects, would not adversely affect the integrity of the European Sites, in view of the sites' Conservation Objectives.

Environmental Impact Assessment:

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

- (a) The nature, scale and extent of the proposed development.
- (b) The Environmental Impact Assessment Report and associated documentation submitted.
- (c) The submissions from prescribed bodies.
- (e) The Inspector's report.

The Board agreed with the summary of the results of consultations and information gathered in the course of the EIA, and the examination of the information contained in the Environmental Impact Assessment Report and the associated documentation submitted by the applicant and the submissions made in the course of the application as set out in the Inspector's report. The Board was satisfied that the Inspector's report sets out how these various environmental issues were addressed in the examination and recommendation and are incorporated into the Board's decision.

Reasoned Conclusions on the Significant Effects:

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 proposed development on the environment, taking into account current knowledge and methods of assessment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and 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 those arising from the impacts listed below. A Construction Environmental Management Plan (CEMP) is the overarching general mitigation relevant to the project design and delivery for the construction stage. This CEMP includes mitigation measures arising from the EIAR.

The main significant effects, both positive and negative are:

- Negative impacts on **human health and population** arising from construction include noise, traffic and dust disturbance to residents of neighbouring dwellings. All of these impacts are neutral to imperceptible. Adequate mitigation measures are proposed to ensure that these impacts are not significant and include adequate mitigation for operational noise.
- Benefits / positive impacts to human health and population will arise in relation to local business activity during the construction phase with construction workers availing of local services, the proposed increase in permanent workers will also have slight long term positive impact.
- Negative impacts on the **Air and Climate**, there is a potential for construction activity to impact on air quality in terms of dust, but adequate mitigation is proposed will ensure that impacts will be short term and not significant.
- Negative impacts on **hydrology** could arise as a result of accidental spillages of chemicals, hydrocarbons or other contaminants entering the sea from the site, mitigation measures are proposed to manage surface water from the site. Discharge of surface water will be directed following treatment through the port storm and foul drainage systems prior to discharge. These impacts will be mitigated by measures outlined within the application and can therefore be ruled out.
- Negative **Noise and Dust** impacts arise during the construction phase from construction activities. These impacts will be mitigated through adherence to best practice construction measures. Noise disturbance from the operation of the site is not likely to arise given the separation distances between the development and noise sensitive receptors which include the qualifying interests of the South Dublin Bay and River Tolka Estuary SPA South Dublin Bay and River Tolka Estuary SPA. Impacts arising from noise and dust disturbance during both the construction and operational stage can therefore be ruled out.
- Negative **traffic** impacts arise during the construction phase of the development, these impacts will be mitigated through the implementation of a

traffic management plan and a construction management plan. Impacts arising from traffic can therefore be ruled out.

The Board completed an environmental impact assessment in relation to the proposed development forming part of the overall proposed project and concluded that, subject to the implementation of the mitigation measures referred to above, including proposed monitoring as appropriate, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions set out in the Inspector's report.

12.0 Conditions

1. (a) All mitigation, environmental commitments and monitoring measures identified in the Environmental Impact Assessment Report shall be implemented in full as part of the proposed development.
- (b) All mitigation and environmental commitments identified in the Natura Impact Statement shall be implemented in full as part of the proposed development.

Reason: In the interest of development control, public information and clarity.

Sarah Lynch

Senior Planning Inspector

4th September 2020