



An
Bord
Pleanála

Inspector's Report

ABP-314487-22

Development

Dredging of harbour, treatment of dredged material, reclamation of land, landscape reclaimed land, construction of slipway and construction of embankment and rock armour around reclaimed land

Location

Howth Fishery Harbour Centre,
Howth, Co. Dublin

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F21A/0368

Applicant(s)

Minister for Agriculture, Food and the Marine

Type of Application

Permission

Planning Authority Decision

Grant Permission

Type of Appeal

Third Party

Appellant(s)

Michael O'Neill

Observer(s)

Cllr. David Healy

Date of Site Inspection

24th July 2023

Inspector

Elaine Power

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1.0 Site Location and Description

- 1.1. The appeal site is located at Howth Harbour, on the northern side of Howth Peninsula, to the north of Dublin Bay. The harbour itself comprises 3 no. main areas, a trawler basin, swing moorings area and a marked channel to the yacht club marina in addition to 3 no. piers, East Pier, West Pier and Middle Pier.
- 1.2. The appeal site has a stated area of 31 ha and forms part of a larger area within the control of the Department of Agriculture, Food and the Marine (the applicant). The site incorporates the majority of West Pier, the majority of Middle Pier, the harbour area and open water to the west of West Pier. The appeal site does not include East Pier. West Pier provides c. 450m of berthing quay wall within the trawler basin. The western side of the pier is primarily used for retail and restaurant uses. The facilities on West Pier include a fish auction, ice plant, boat lift, a repairs shipyard, light industrial operations related to the fishing industry. There is also public open space, car parking and the Howth Tourist Information Office located on West Pier. Middle Pier consists of c. 180m of quay wall and an additional 130m of rock armour revetment, which serves as a breakwater- type structure within the harbour. There are commercial fishing operations located on Middle Pier. The core fishing fleet within the harbour is c. 65 no. vessels. There is also significant marine leisure activity undertaken within the harbour including Howth Yacht Club and Howth Sailing and Boating Club.
- 1.3. Water depths within the harbour vary due to sedimentation. Water depths immediately outside of the harbour are relatively shallow, however, they become deeper further north of the harbour area in the Irish Sea.

2.0 Proposed Development

- 2.1. It is proposed to dredge c. 240,000 cubic meters of material from the seabed within Howth Harbour, process this material on site and re-use it to create an additional 4.8ha of land to the west of the West Pier. The aim of the project is to increase the depth of the water in the harbour to provide safe access for the largest range of vessel sizes and types on the widest range of tides.
- 2.2. The main elements of proposed development comprises:
 - Dredging of the harbour;

- Stabilisation of the potentially contaminated dredge material;
- Reclamation of c. 4.8ha of land on the west side of the West Pier using the stabilised dredge material;
- Construction of an embankment and rock armour revetment around the perimeter of the reclamation area;
- Landscaping of the reclamation area and provision of pavements, including footways, roadways and parking areas;
- Construction of a slipway access to the water;
- Provision of storage areas for harbour activities; and
- Provision of services, including surface water drainage, mains water supply, lighting, and associated underground ducting.

2.3. The development includes works to the West Pier, which is a protected structure (RPS 0595b) and listed on the NIAH (ref. 11359040).

2.4. The proposed development also requires an industrial Emissions (IE) licence or waste licence from the Environmental Protection Agency.

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to 11 no. conditions. Conditions 3 and 5 are considered relevant.

3. *That before commencement of the proposed dredging and reclamation works proposed, a Howth Harbour Bird Conservation Plan shall be submitted to the Fingal County Council Biodiversity Officer for written agreement, this plan shall include:*

a) details of the locations, fencing and screening of the roosting sites for waders and other water birds it is proposed to establish at the south west and northern ends of the area to be reclaimed at the rear of the West Pier, Howth, as part of the proposed works.

b) The details of the locations, design and methodology and timing of installation six Black Guillemot nesting boxes / tunnels to be installed in or on the existing pier structures at Howth Harbour before the commencement of the proposed works, and similar details relating to the installation of another six such boxes / tunnels in the reclaimed area to the rear of the West Pier on completion, to monitor the bird populations utilising the Howth Harbour Area.

Reason: *to conserve bird species frequenting Howth Harbour that might potentially be affected by the development works proposed, including species which are Special Conservation Interests for nearby European sites, and the breeding colony of Black Guillemots, and to assess the effectiveness of the mitigation measures to be implemented to minimise the impacts of the proposed development on these bird species.*

5. *The following requirements shall be strictly adhered to:*

i) Documentation shall be provided for the file on the different options considered to address item 2 of the request of Additional Information and the rationale for the chosen option, along with comments of the Conservation Architect engaged to assist with the design.

ii) Exact details and images (or samples) of the proposed finish and the capping for the parapet wall to the to the new area, particularly to the road bridge and the water channel shall be submitted to the planning authority for agreement prior to work commencing. Consultation shall take place with the Architectural Conservation Officer prior to submission to discuss suitable finishes. Elevation drawings at a suitable scale shall be included with the details. Information on any fencing or security measures to curtail public access to the water channel, particularly at the southern / inner end shall be set out with the details, if they are intended.

iii) Exact details of the break being formed in the wall of the West Pier at the point of connection needs to be provided and the changes to the layout of the area on the West Pier at this junction. Consultation shall take place with the Architectural Conservation Officer prior to submission of the proposed design

which shall be agreed with the planning authority prior to commencement of works. Elevation drawings at a suitable scale shall be included with the details.

iv) Where elements on the West Pier such as bin or fuel storage need to be relocated on foot of the proposed breach then the opportunity shall be taken to create well-designed enclosed spaces for these. The design and materials for such elements shall be submitted to the planning authority for agreement prior to work commencing. Elevation drawings at a suitable scale shall be included with the details.

v) The applicant shall submit details on the design and operation of the water channel outlining the functionality of the water channel, how it will be managed in relation to access and cleaning, the expected depth of the water being retained in the channel at low tide at the southern end, and whether the northern half will retail water within it at low tide due to the slope of the channel.

vi) The design of the fencing and any storage structures to be provided for agreement with the planning authority prior to works commencing.

Reason: In the interest of visual amenity and to protect the historic context of the existing pier.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial Area Planners Report dated 30th August 2021 raised some concerns regarding the proposed development and recommended further information be requested with regard to 7 no. items. These items are summarised below.

1. The northern end of the West Pier still retains historic features such as the West Pier Roundel. The reclaimed area should be reduced to ensure that the West Pier Roundel is maintained as a tip of a pier jutting out into the sea.
2. The extent and layout of the landbank should be re-examined to enable as much of the original plan of the historic pier to remain legible as possible and any surviving historic features on the western face of the pier are avoided.

3. Reconsideration of the position of the proposed road, to allow for a more acceptable boundary interface between the rear of properties fronting onto West Pier.
4. Clarify why the proposed reclaimed land rises to the north.
5. An Instrument Flight procedure (IFP) opinion is required.
6. Having reviewed the submitted EIAR together with the details of the proposed development and associated documentation the applicant is requested to supply the following information and submit a revised and updated EIAR addressing all of the items raised.
 - a. The baseline sections of population, landscape and visual aspects and heritage in the EIAR, and others as relevant, should be revised to present a more complete presentation of the baseline.
 - b. The impact assessment for each chapter of the EIAR should be clearly set out under 'Construction Phase' and 'Operational Phase'.
 - c. The impact assessment sections of all chapters of the EIAR should be reviewed and the construction phase impacts accurately assessed in terms of magnitude and duration of effects.
 - d. The section on human health requires further consideration and detail in terms of potential health risks to construction works, to other workers, local residents, visitors and tourists, etc. both on lands and in the water.
 - e. We note that the Architectural Heritage Impact Assessment is provided under Appendix 11 of the EIAR. However, for completeness, this assessment should be integrated into Chapter 11 Heritage of the main volume of the EIAR.
 - f. The assessment of the impact of dust in Chapter 8 Air and Climate should be reviewed and considered in detail in terms of potential impact on the surrounding marine environment, harbour and local amenities, businesses and residential area.
 - g. The assessment on Climate Change / CO₂ emissions in Chapter 8 Air and Climate is considered inadequate with no detail provided.

- h. The assessment of noise as presented in Chapter 12 is over-reliant on the use of 'temporary' (i.e. less than one year), when the duration of the construction phase of the project is stated as 2-years. It is considered that the assessment does not take adequate cognisance of the sensitivity of the site and adjoining environment and its use as a place of employment (often in the open air), or its amenity, heritage and tourist value. There is no assessment of likely vibration effects associated with the breaking of over 28,000 cubic meters of rock from the bed of the harbour.
 - i. The assessment of Interaction of Effects (Chapter 14) is summary in nature and needs to be reviewed in light of the points raised elsewhere in this review.
 - j. Section 3.4.2 (Chapter 3) and Chapter 7 of the EIAR should be expanded with reference to The National Marine Planning Framework (June 2021), and in particular how the proposals comply with Policies 1 to 10, as appropriate.
 - k. Section 3.4.2.3 (Chapter 3) under Fingal Development Plan 2017-2023, should identify and discuss the presence of protected structures (including listing), preserved views, local objectives, amenity / high amenity areas, etc, as appropriate, as part of the local planning policy pertaining to the site and surrounds.
7. The applicant is requested to review that AA Screening Report and the Natura Impact Statement and revise / update if necessary, to take account of any changes to either the design or construction methodology, of the assessment of potential environmental impacts arising as a result of this Further Information request.

Following receipt of further information, the applicant considered that all items had been adequately addressed and recommend that permission be granted subject to 11 no. conditions.

3.2.2. *Other Technical Reports*

Water Services Department: The report dated 17th August 2021 raised no objection.

Conservation Officer: The report dated 13th August 2021 recommended that further information be requested regarding a potential impact on the historic West Peir. This was reflected in the request for further information. The report dated 22nd July 2022 notes the proposed amendments. However, the preferred approach would be partial land reclamation and partial re-location / removal / treatment elsewhere. It is essential that due to the sensitive historic built heritage and the protected natural environment adjoining the proposed new land mass that all aspects of the proposal are well considered.

Transportation Planning Section: The reports dated 3rd August 2021 and the 15th June 2022 raised no objection in principle subject to conditions.

Parks and Green Infrastructure Division: The reports dated 27th July 2021 and 17th June 2022 raised no objection subject to conditions.

Environmental Health, Air and Noise: The report dated 5th August 2021 raised no objection subject to conditions.

3.3. Prescribed Bodies

Department of Housing, Local Government and Heritage – DAU

The submission from the DAU dated 8th August 2021 is summarised below: -

- The predicated impact upon archaeological heritage and the relevant mitigation measures are detailed in Sections 10.3 and 10.4 of the Cultural Heritage Chapter of the EIAR. It is recommended that the mitigation measures be carried out in full.

The submission from the DAU dated 23rd August 2021 is summarised below: -

- Having regard to the information provided in the NIS, it is concluded that the proposed development works are unlikely to pose a significant likely risk to the Qualifying Interests and Special Conservation Interest bird species associated with the Natura 2000 sites in the vicinity subject to mitigation measures referred to in Section 8 of the NIS being fully implemented.
- To mitigate the impact of the development on the Black Guillemots and enhance their breeding habitat additional numbers of nesting boxes should be installed in Howth Harbour, both before and on completion of the reclamation

works, to give the birds to be displaced as many potential nesting sites as possible.

- It is recommended that 2 no. conditions be attached to any grant of permission relating to (1) mitigation measures outlined in the NIS, EIAR and Construction Environmental Plan and (2) preparation of a Howth Harbour Bird Conservation Plan.

Department of the Environment, Climate and Communications – Geological Survey Ireland.

The submission from the Geological Survey Ireland dated 8th August 2021 is summarised below: -

- There are no envisioned impacts on the integrity of current County Geological Sites (CGS) by the proposed development.
- The use of online GSI data sets that may be of use in assessing planning applications and for assessing EIAR's is encouraged. A list of publicly available data sets was included.

Uisce Eireann: No objection

Irish Aviation Authority: The report dated the 20th July 2021 raised no objection. The report (email) dated 30th July 2021 recommended that an Instrumental Flight Procedure (IFP) opinion be requested.

Environmental Protection Agency (EPA)

- The proposed development may require a licence under Class 11 of the EPA Act. The Agency has not received a licence application relating to the development.
- Should a licence application be received the EIAR will be considered and assessed. The Agency shall ensure that before the licence is granted, the licence application will be made subject to an EIA with respect to the matters that come within the functions of the Agency and in accordance with Section 83(2A) and Section 87 (1G)(a) of the EPA Act.

- Consultation on licence application and EIAR will be carried out in accordance with Section 87(1B) to (1H) of the EPA Act.
- Should a licence application be received all matters to do with emissions to the environment from the activities proposed, the licence application documentation and EIAR will be considered and assessed.
- If the activities proposed cannot be carried on or cannot be effectively regulated under licence, then a licence cannot be granted for such activity.
- If a licence is granted it will incorporate conditions that will ensure that appropriate National and EU standards are applied, and that Best Available Techniques (BAT) will be used in the carrying on of the activities.
- A dumping at sea permit is required in the event that any deliberate disposal of a substance or material in the maritime area, as defined in Section 1 of the Dumping at Sea Act 1996, as amended is proposed.
- A proposed determination cannot be issued on a licence application, which addresses the proposed development until a planning decision has been made.

3.4. Third Party Observations

An submission was received from Michael O'Neill. The concerns raised are similar to those outlined in the appeal below. Following the re-advertising of significant additional information, a submission was received from Howth Yacht Club in support of the proposed development.

4.0 Relevant Planning History

There are a large number of planning applications relating to Howth Harbour. The most relevant applications are outlined below.

Reg. Ref. F19A/0296: Permission was granted in 2019 to amend Reg. Ref. F18A/0074. The works included the provision of a 134m long quay wall, associated deck and hard standing area, road access, dredging to the front of the new quay wall to provide berthing depth and land reclamation of an approximate area of 0.30 ha on the east side of the Middle Pier. The amendment primarily related to a clarification on

the use of percussive means of excavating rock to form the foundation of the quay wall and the berthing pocket.

Reg. Ref. F18A/0074: Permission was granted in 2018 for the provision of a 130m long quay wall, associated deck area, road access, hard standing and localised dredging (to -4m) to facilitate works along the front of new quay wall to provide berthing depth and land reclamation of approximate 0.30 ha on the east side of Middle Pier.

Reg. Ref. 16A/0063: Permission was granted in 2016 to construct a new ferry pontoon and gangway system at the eastern side of West Pier.

Reg. Ref. 10A/0353: Permission was granted in 2010 for an extension to the existing marina facilities for the provision of 158 no. additional berths for boats, including mooring pontoons and associated infrastructure facilities and relocation of breakwater at Howth Yacht Club, Harbour Road.

Reg. Ref. F03A/110: Permission was granted in 2003 to construct a single storey structure to provide a sales, service, repair and maintenance facility for fishing and pleasure craft. The development also included an ancillary external service yard, a floating pontoon, and a gangway access to the floating pontoon and berths for 15 no. boats. The proposed development included the reclamation of an area of land from the sea, (approx. 3,160sqm).

5.0 Policy Context

5.1. Fingal County Development Plan 2023 - 2029

The vast majority of the site is located on unzoned lands within Howth Harbour. The southern portion of the overall site, which incorporates a section of Harbour Road is zoned Open Space OS with the associated land use objective to preserve and provide for open space and recreational amenities.

The southern portion of West Pier, which is located within the red line boundary is zoned GE – General Employment with the associated land use objective to provide opportunities for general enterprise and employment.

There are 6 no. no. protected structures within the red line boundary and 3 no. preserved views on West Pier. The protected structures are:

- RPS 0595b - West Pier
- RPS 0560 – Former Mariner’s Hall, West Pier
- RPS 0562 – Former Lifeboat House, West Pier
- RPS 0563 – Harbour Building, West Pier
- RPS 564 – Harbour Master’s Office, West Pier
- RPS 0954 – Arsenal Building, West Pier

The site is also immediately adjacent to East Pier which is also a protected structure (RPS 595a).

The majority of the Howth peninsula is covered by the 1999 Special Amenity Area Order (SAAO) and has a Coastal Character Type. The Coastal Character Type is categorised as having an exceptional landscape value. This value is arrived at due to the combination of visual, ecological, recreational and historical attributes. The area has magnificent views out to sea, to the islands and to the Mourne and Wicklow mountains and contains numerous beaches and harbours. The area’s importance is highlighted by the High Amenity zoning covering substantial parts of the area. The area is rich in archaeological, architectural and natural heritage and is of high ecological value.

Section 2.7.2 of the development plan states that *‘Howth continues to demonstrate a wider range of economic functions due to its performance as a high-quality tourist destination and due to its important marine activities. The extension of the Middle Pier to improve access, maintenance, and berthing facilities will further strengthen and enhance Howth’s maritime industry’.*

The following objectives are considered relevant: -

Objective EEO74 – Avoidance of Adverse Impacts on the Environment, Residential and Visual Amenities: Ensure that proposals for extraction and land reclamation avoid significant adverse impacts on the environment, residential amenities and the visual amenity of the area through environmental assessment, mitigation and appropriate provision for the restoration of the landscape.

Objective EE075 – Mineral Extraction and Land Reclamation: Prohibit mineral extraction and land reclamation along the coast, particularly in proximity to estuaries, except in exceptional circumstances, where it can be demonstrated that there will be no significant adverse impact on the environment, visual amenity, heritage or the conservation objectives of European Sites.

Objective EE077 – Preserve and Protect Coastal Wetlands, Coastal Habitats and Estuarine Marshes: Preserve and protect coastal wetlands, coastal habitats, and estuarine marsh lands in coastal areas from inappropriate development, including land reclamation. Any proposals for land reclamation in coastal areas shall be subject to Screening for Appropriate Assessment and to an assessment of impacts on any such wetlands, coastal habitats, and estuarine marsh lands and its impacts on coastal processes including erosion, deposition, accretion and flooding particularly in light of climate change.

Objective EEO11 – Economic Growth of Metropolitan Area: Ensure that towns, villages and other locations within the Metropolitan Area pursue development policies of consolidation, and maximise their economic strengths and competitive advantages such as tourism and marine sectoral activities in Malahide and Howth...

5.2. ***National Marine Planning Framework, 2021***

The Marine Spatial Planning for Ireland is underpinned by Directive 2014/89/EU and outlines the approach to managing Ireland's maritime activities to ensure the sustainable use of marine resources up to 2040. Activities include offshore renewable energy, fisheries, ports, harbours and shipping, safety at sea, sport and recreation, tourism, and wastewater treatment and disposal.

Chapter 18 Ports, Harbours and Shipping notes that dredging is essential to maintain channels and deepen berths especially as the sector is moving to ever-larger ships with greater capacity. Dredged material may be disposed of at marine sites licensed by the EPA or, if possible, used for alternative purposes such as land reclamation or beach nourishment to minimise disposal at sea.

Relevant Policy Objectives include:

- *Policy 7: Proposals for maintenance dredging activity will be supported where:*

- *relevant decisions by competent authorities incorporate the outcome of statutory environmental assessment processes, as well as necessary compliance assessments associated with authorisations, including in relation to the planning process;*
- *there will be no significant adverse impact on marine activities or uses or the maritime area. Any potential adverse impact will be, in order of preference, avoided, minimised or mitigated;*
- *dredged waste is managed in accordance with internationally agreed hierarchy of waste management options for sea disposal;*
- *if disposing of dredged material at sea, existing registered disposal sites are used, in preference to new disposal sites; and*
- *where they contribute to the policies and objectives of this NMPF.*
- Policy 9: Proposals for the management of dredged material must demonstrate that they have been assessed against the waste hierarchy.

5.3. **National Planning Framework**

The National Planning Framework provides a guide to public and private investment, to create and promote opportunities for people, and to protect and enhance the environment up to 2040.

Chapter 7 Realising our Island and Marine Potential notes that continued investment in Fishery Harbour Centres is required to enhance and further develop their capacity to optimise the contribution of our marine resources to rural and coastal communities.

Relevant Policy Objectives include:

- National Policy Objective 39: Support the sustainable growth and development of the maritime economy and continue to invest in the seafood sector and our Fishery Harbour Centres, particularly in remote rural coastal communities and islands.
- National Policy Objective 40: 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.

- National Policy Objective 41a: Ensure that Ireland's coastal resource is managed to sustain its physical character and environmental quality.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal was received from Michael O'Neill. The appeal is summarised below:

Principle of Development

- There is no objection in principle to the dredging works, however, there are concerns regarding the impact of the reclamation works. An alternative scheme should be provided. The scheme could be improved by refusing any development north of the boat yard and focus all of the infill to the area closest to the railway station.
- The tidal area close to the start of the walkway could be reclaimed. This would serve the majority of people travelling by public transport. By reclaiming this area the useability and accessibility would be maximised, traffic and car parking spaces would be removed from the harbour pier area and the views across open water retained for the public.
- The development is on unzoned land. The proposed development would materially contravene the development plan with regard to zoning, conservation, and protected views and prospects.

Transportation

- The harbour area is congested, especially at weekends and bank holidays. It is difficult and dangerous to egress the harbour area. Traffic lights should be installed to manage traffic and pedestrians. The proposed crossing is in a dangerous location, on a corner.

- The number of car parking spaces provided should be minimal as there are sufficient car parking spaces on the pier and on the roads and car park area on the harbour front.

Heritage

- The appeal notes that concerns raised by the planning authority's conservation officer, which states that the EIAR has not fully considered the impact of the proposal on the western face of the pier.
- There would be interference with protected views and prospects.

Other Issues

- No site notice was located at the site entrance, at the junction with Harbour Road as required under legislation. The site notice was located more than 100m from the site entrance and was not seen by many people.

6.2. Applicant Response

The applicant's response is summarised below: -

Traffic

- Traffic is addressed in detail in Chapter 13 of the EIAR. No significant adverse impacts are envisioned during the construction phase and the operational phase would not have a significant traffic impact. Therefore, no mitigation measures are proposed.
- Traffic impact on the Howth Road from the construction phase would be mitigated by a Construction Traffic Management Plan (TMP).
- As stipulated by condition no. 7 of the grant of permission HGV traffic would be restricted to periods outside of the peak.
- The introduction of a one-way system on the West Pier would alleviate traffic issues that currently exist.
- The junction of West Pier and Howth Road is outside of the control of the applicant and is not related to this development.

Visual Impact

- Landscape / seascape visual impacts were assessed in Chapter 9 of the EIAR. It is considered that the proposed development would not give rise to any significant landscape / seascape or visual impacts in EIA terms.
- The nature of visual change is unlikely to be perceptible from the majority of the 10 no. selected viewpoints.
- The protected view at the northern end of the West Pier was identified and included in the assessment. The protected view would still be intact for 180degrees in line with the orientation of the pier. The view that was available at the end of the West Pier would now be available on the outer walkway of the proposed reclaimed land.
- The 360degree view is only available by climbing up a granite wall at the head of the pier. The view at the end of the reclaimed land would replicate the current view at the end of the West Pier with the addition of:
 - Being able to view the West Pier itself and its historic features.
 - Being accessible to all users.
 - Greater panoramic views encompassing the Claremont Beach area, Burrow beach and entry to Baldoyle estuary, as well as previously available vistas.

Heritage

- The appellants concerns appear to relate to the original design and does not take account of the redesign following the request for further information.
- The following changes have been made from the original design.
 - The northern limit of the reclaimed land and the West Pier was relocated, c. 17m, south to fully expose the roundel at the head of the West Pier.
 - The water channel (with a gap of 15m – 20m) is to be left between the West Pier and the northernmost 175m of the reclaimed area.
 - The above changes resulted in a slight increase to the east – west width of the reclaimed area by c. 6.5m to 9m.

- Alterations to the road and path alignments.

These changes allow full visibility for the Roundel, the heritage structures on the west side of the West Pier and the visual integrity of that section of West Pier

Alternatives

- The area suggested to be reclaimed by the appellant is within the Baldoyle SAC and not within the ownership of the DAFM.
- Alternatives are addressed in Chapter 3 of the EIAR.
- Several options were considered for the management of the dredged material from Howth Harbour. Disposal of dredge material to either landfill or to the sea is not considered a beneficial re-use of material.
- Reclamation to the west of the West Pier was selected as the preferred method of disposal of dredge spoil for the following reasons: -
 - Disposal at sea is not feasible due to the concentrations of contaminants within the dredge soil.
 - Disposal to land / landfill is not considered feasible due to the volumes and costs involved.
 - Greater benefit in terms of future safe operations and access within the harbour, allows for a more practical and accessible development, and provides for a significant community, recreational and leisure gain.
 - An alternative reclamation east of the pier was not preferred due to the present use of the east pier for amenity purposes and the additional costs of protecting an area of reclamation in this area.
 - Reclamation of areas within the harbour would reduce the water area within the harbour, potentially reducing the value of the harbour. The volume of dredge within the harbour would significantly reduce the usable harbour area.

Other Issues

- 4 no. site notices were erected in conspicuous locations, adjacent to public roads and the head of the east pier which is used by large numbers of pedestrians.
- The DAFM undertook considerable pre-planning consultation.

6.3.Planning Authority Response

The planning authority's response is summarised below: -

- The application was assessed against the policies and objectives of the Fingal County Development Plan 2017-2023 and existing government policy and guidelines. The development was assessed having regard to the development plan zoning objective as well as the impact on adjoining neighbours and the character of the area.
- Concerns set out in the third-party objections are acknowledged and considered.
- The site notices were erected in locations visible for the public in line with legislation.
- Traffic implications were adequately assessed by the transportation section.
- The impact on the historic pier was assessed and changes were made on foot of additional information request to preserve the identity of the pier.
- The location of the new open space area was assessed in relation to its impact on the environment and the location identified in the third-party submission was assessed and discounted in the EIAR supporting document.
- The proposed development is considered to be consistent with the proper planning and sustainable development of the area.
- An Bord Pleanála is requested to uphold the decision of the planning authority.
- In the event that the appeal is successful, a condition should be attached regarding a Section 48 development contribution.

6.4. Observations

An Observation was received from Cllr. David Healy. The main issues raised in the observation are summarised below.

- No response was received to a submission made during the non-statutory pre-planning phase. A copy of this submission is attached with the observation. No results of the consultation phase have been provided.
- The dredging of the application is clearly essential for the ongoing use of the harbour and appears to have been fully analysed. However, the infill proposal has not received the necessary attention.
- The design and management of the reclaimed area should been addressed in the application or by way of further information and should not be addressed by way of condition without public consultation.
- The Department of the Marine has handed over responsibility of the maintenance of the green areas within the Harbour to the Parks Department of Fingal County Council. There is a strong argument for the Council to take responsibility for the new reclaimed area. This possibility has not been discussed with the Parks Department.
- The proposed one-way road has the potential to increase vehicular traffic on the pier. This is not consistent with proper planning and development and would significantly damage the existing amenity of the West Pier as well as damaging the potential for amenity on the infill area.
- The plan for the harbour should be to manage the car parking area rather than increase the car parking area.
- The impact of the infill on the erosion and sedimentation processes on Claremont and Burrow Beaches has not been adequately addressed.

6.5. Applicants Response to Request for Further Information

Further information was sought from the applicant on the 30th August 2023 with regard to proposals to designated part of the north-west Irish sea an SPA. The applicant's

response to the request for further information was received on the 8th February 2024. The submission is summarised below:

- The report provides confirmation of the continued relevance of the findings of the bird surveys, Natura Impact Statement and Environmental Impact Assessment Report (EIAR).
- The bird survey data used in support of the NIS and EIAR covered the part of the North-West Irish Sea cSPA that is relevant to this project. There is no requirement for additional bird surveys.
- Much of the area to be reclaimed is sub-tidal, except for an intertidal strip along the west face of West Pier. The intertidal habitat, comprising of fine sand to slightly muddy gravel, is not considered to be of high ecological value.
- All bird species that utilise Howth Harbour co-existed with existing harbour activities. This site has been used for commercial and leisure activities for c. 7 centuries and may be considered as being of less conservation value than a pristine site.
- The bird species confirmed to be breeding with Howth Harbour, Black Guillemot, Pied Wagtail and Rock Pipit, are not species of conservation interests of the cSPA.
- The proposed development would have no impact on any bird species, including the displacement of foraging, roosting and breeding birds.

6.6. Further Responses

EPA: A submission was received from the EPA on 23rd August 2023. The submission received is similar to that received by the planning authority and is summarised below.

- The proposed development may require a licence under Class 11 of the EPA Act or a licence under the Waste Management Act and states that the Agency has not received a licence application relating to the development.
- Should a licence application be received the EIAR will be considered and assessed. The Agency shall ensure that before the licence is granted, the licence application will be made subject to an EIA with respect to the matters that come within the functions of the Agency and in accordance with Section

83(2A) and Section 87 91G)(a) of the EPA Act / Section 40(2A) and Section 42(1G)(a) of the Waste Management Act.

- Consultation on licence application and EIAR will be carried out in accordance with Section 87(1B) to (1H) of the EPA Act / Section 42 (1B) to (1H) of the Waste Management Act, as appropriate.
- Should a licence application be received all matters to do with emissions to the environment from the activities proposed, the licence application documentation and EIAR will be considered and assessed.
- If the activities proposed cannot be carried on or cannot be effectively regulated under licence, then a licence cannot be granted for such activity.
- If a licence is granted it will incorporate conditions that will ensure that appropriate National and EU standards are applied, and that Best Available Techniques (BAT) will be used in the carrying on of the activities.
- A dumping at sea permit is required in the event that any deliberate disposal of a substance or material in the maritime area, as defined in Section 1 of the Dumping at Sea Act 1996, as amended is proposed.
- A proposed determination cannot be issued on a licence application, which addresses the proposed development until a planning decision has been made.

Planning Authority: The planning authority's submission dated 22nd March 2024 noted the response to further information submitted by the applicant and states that the onus is on An Bord Pleanála to determine if the application.

Michael O'Neill: The submission dated 25th March 2024 states that the appellant has no further comments.

DAU: A submission was received from the DAU on 15th April 2024. The submission is summarised below:

Underwater Archaeology: The Department has reviewed the EIAR and is broadly in agreement with the findings in relation to Archaeology and Cultural Heritage section. The submission recommends that standard conditions be attached to any grant of permission.

Nature Conservation: The Department draws An Bord Pleanála's attention to Drogheda Port Company's infilling of the Stagrennan polder, mudflats in the Boyne Coast and Estuary SAC/SPA in 2000 (as part of the Port Company's capital dredging works) and in particular the European Commission's involvement with the Irish State in relation to that activity.

Architectural Heritage: The report of the planning authority's Conservation Officer is noted. It is recommended that if permission is granted that condition numbers 5 (i-vi) and 6 of the planning authority's grant of permission be attached.

7.0 Assessment

7.1. Having examined the appeal details and all other documentation on file, including all of the submissions received in relation to the appeal, the report/s of the local authority and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development
- Built Heritage
- Material Contravention - Views and Prospects
- Other Issues

7.2. To avoid repetition, potential impacts of the proposed development on transportation and visual amenities are addressed in Section 8 Environmental Impact Assessment below.

7.3. *Principle of Development*

7.3.1. The planning authority assessed the scheme against the provisions of the Fingal County Development Plan 2017 - 2023, which was the relevant statutory plan in place when the application was decided. The current development plan was adopted in April 2023 and my assessment is based on the policies and objectives of the current statutory plan, which is the Fingal County Development Plan 2023-2029.

- 7.3.2. The proposed development comprises the dredging of c. 240,000 cubic meters of potentially contaminated material from the seabed within Howth Harbour, the processing and re-use this material to the west of the West Pier to create an additional 4.8ha of land. The aim of the project is to increase the depth of the water in the harbour to provide safe access for the largest range of vessel sizes and types on the widest range of tides, within Howth Harbour.
- 7.3.3. Howth Harbour is one of six Fishery Centres in Ireland. These harbours are managed in accordance with the Fishery's Harbour Centres (FHC) Act 1968 (as amended). The Act provides for the establishment and operation of these harbours to promote, develop and carry on sea fishing, fish processing, fish related activities and matters connected with the fish industry as well as any other purpose, including the provision, improvement and development of leisure or amenity facilities or for facilitating or promoting social or economic development of the area in which the Fishery Harbour Centre is located.
- 7.3.4. The National Marine Planning Framework outlines the approach to managing Ireland's maritime activities to ensure the sustainable use of marine resources up to 2040. Chapter 18 notes that dredging is essential to maintain channels and deepen berths especially as the sector is moving to ever-larger ships with greater capacity. Dredged material may be disposed of at marine sites licensed by the EPA or, if possible, used for alternative purposes such as land reclamation or beach nourishment to minimise disposal at sea. This is supported by Policy 7 and Policy 9 of the framework.
- 7.3.5. The National Planning Framework also aims continued investment in Fishery Harbour Centres to enhance and further develop their capacity to optimise the contribution of marine resources to rural and coastal communities. This is supported by National Policy Objective 39.
- 7.3.6. The Planning Report submitted with the application notes that Howth Fishery Harbour Centre (FHC) was last dredged in the early 1980's and due to a build-up of siltation in parts of the harbour and due to increasing craft size it is necessary to dredge the existing basins and approach channels in Howth Harbour to provide safe access, navigation and berthing for vessels. To reach the required depth it is proposed to dredge c. 240,000m³ of material. The majority of the material consists of sand, silt and

clay, it is estimated that 10% is rock and the remainder of the material comprises sand and gravel with some cobbles.

- 7.3.7. The information submitted indicates that if dredging works are not carried out, the Fishery Harbour Centre will not be able to provide for larger vessels which would result in negative impacts on operation of the harbour, including fishing, leisure, vessel repair, emergency services and would be contrary to the responsibilities of the Department of Agriculture, Food and Marine as outlined in the Fishery's Harbour Centres Act 1968 (as amended).
- 7.3.8. It is noted that no concerns were raised in the appeal or the observation regarding the dredging of the harbour and that a submission in support of the works was received by the planning authority from Howth Yacht Club. However, concerns are raised by the third parties regarding how the dredged material would be disposed of. This is addressed in detail in Section 8 below.
- 7.3.9. The vast majority of the development site comprises open water and is located on unzoned lands within Howth Harbour and to the west of West Pier. The southern portion of the overall site is zoned Open Space OS with the associated land use objective *to preserve and provide for open space and recreational amenities*. Concerns are raised in the appeal that as the development is on unzoned land it would materially contravene the development plan.
- 7.3.10. The proposed development includes landscaping of the reclaimed area and provision of pavements, including footways, roadways and parking areas, the construction of a slipway access to the water, the provision of storage areas for harbour activities and the provision of services, including surface water drainage, mains water supply, lighting, and associated underground ducting. The zoning for this new land would be for the council to decide. It is my view that the provision of an additional c. 4.8 ha of open space would be in compliance with the provision of Objective EEO11 to *maximise the economic strengths and competitive advantages such as tourism and marine sectorial activities in Howth*. While it is noted that the area to be dredged and the new land to be reclaimed are unzoned, I am satisfied that the proposed works are not a material contravention of the development plan.

- 7.3.11. Concerns are also raised by the observer that it is likely that Fingal County Council would also take on responsibility of the new reclaimed area and that this possibility has not been discussed with the Parks Department. The documentation submitted does not indicate that it is intended for the reclaimed land to be taken in charge. It is also noted that the taking in charge of land is an issue for the council to decide upon and does not form part of this application. I am satisfied that the proposed scheme is not reliant on the reclaimed area being taken in charge by Fingal County Council. It is also noted that the Parks and Green Infrastructure Division of Fingal County Council did not raise this concern during the application phase.
- 7.3.12. I am satisfied that the principle of the development is acceptable and in accordance with national and local planning policy and that the proposed development should be assessed on its merits.

7.4. *Built Heritage*

- 7.4.1. In the interest of clarity my assessment below relates to the revised design and layout submitted in response to a request for further information issued by the planning authority. The revised layout includes a 150m channel of c. 15m – 20m in width between the reclaimed area and West Pier. The design was revised was to address concerns raised by the planning authority's Conservation Officer regarding a potential impact on built heritage within the harbour.
- 7.4.2. An Architectural Heritage Impact Assessment (AHIA) was attached as Appendix 11 of the EIAR. The planning authority's request for further information regarding the baseline study relating to Heritage is noted. However, I agree with the applicant and consider that the AHIA was robust, and evidence based and provides adequate information to allow for an assessment of the potential impacts of the proposed development.
- 7.4.3. The AHIA notes that Howth Harbour was constructed in c. 1840 with 2 Piers (East Pier and West Pier). It is considered that East Pier was built upon a pre-existing 18th Century structure. A lighthouse was positioned at the end of East Pier. Previous archaeological investigations within Howth indicate that prior to the harbour being constructed the area was most like a beach or foreshore. The harbour was dried out

in 1979 and excavated in the early 1980's with the construction of Middle Pier and the East Pier breakwater.

- 7.4.4. Appendix 5 Record of Protected Structures and ACA's of the development plan identifies West Pier as a protected structure. (RPS 0595b), comprising of an early 19th century granite piers and seawalls (excluding 20th century additions). The harbour comprising East Pier and West Pier are also listed on the NIAH (ref. 11359041) with a regional rating. It is noted that East Pier is outside of the development site.
- 7.4.5. There are 5 no. additional protected structures located on West Pier. These structures include the Former Mariner's Hall (RPS 0560), which is a mid-19th century five-bay structure of Howth Stone, initially used for Presbyterian services for fishermen. A Former Lifeboat House (RPS 0562) which is a 19th century single-bay gable-fronted boathouse with slipway to rear. This building is also listed on the NIAH (ref. 11359037) with a regional rating. A Harbour Building (RPS 0563) which is a 19th century two-bay two-storey structure with oriel window near end of pier. This building is also listed on the NIAH (ref. 11359036). The Harbour Master's Office (RPS 0564) which is a 19th century two-storey structure at end of pier, containing Harbour Master Offices and Aqua Restaurant. A Former Warehouse (RPS 0937) which is a late 19th century gable-fronted three-bay two-storey former warehouse.
- 7.4.6. There are 5 no. additional buildings / structures on West Pier that are listed on the NIAH. These include lengths of railway (ref. 11359040), constructed c. 1940, A single-bay double-height granite ashlar gunpowder store or magazine (ref. 11359044), constructed c.1870, a detached five-bay two-storey clubhouse (ref. 11359035), constructed c.1880, a detached five-bay roughly dressed stone built mission hall (ref. 11359038), constructed c.1850 and a detached gable-fronted three-bay two-storey house (ref. 11359039), constructed c.1870. All of these buildings / structures have a Regional rating.
- 7.4.7. There are 17 no. additional sites of architectural heritage that are located in close proximity to the development site. These are listed in Table 10.6 of the EIAR

- 7.4.8. In my view West Pier and its protected structures and heritage buildings form an intrinsic part of the historic character and setting of Howth Harbour. The potential impacts on West Pier relate to the physical impacts and to the visual impacts.
- 7.4.9. The AHIA notes that the proposed works do not require the removal or demolition of any part of the original West Pier as new material would be placed on top of the existing West Pier revetment. While the proposed development would not physically impact on the protected features of West Pier, comprising the granite piers and seawalls there would be a significant visual impact as the western edge of the original pier would not be recognisable due to the reclaimed land and the original form of the pier as an independent structure may be less apparent.
- 7.4.10. There would also be no direct physical impact on any protected structure or building listed on the NIAH. However, the works include the removal of a section of wall, to the north of the former Harbour Master's House, to provide access from this end of the original pier to the proposed new reclaimed area. The wall to be removed is not original to the construction of the pier however it does form part of the existing historic fabric on West Pier. It is c. 2m – 2.5m in height and is of rubble masonry construction with concrete buttresses on the eastern side. The date of construction of the wall is unknown, however, it was likely constructed in the early 20th century. The AHIA states that the wall has signs of having undergone a number of phases or repairs and modifications with the concrete buttresses likely to be later additions. The wall is bound to the north and south by modern structures. The area to the west is used for storage purposes and car parking. The removal of this section of the wall would have a physical and visual impact on the character of the pier as it removes a physical barrier between the eastern and west sides of the pier. However, I am satisfied that the removal of the wall would not have a significant impact on the setting or character of any protected structure. It is noted that the third party and the Conservation Officer raised no specific concerns regarding the removal of the wall.
- 7.4.11. Concerns are raised in the appeal that the potential impact of the proposed development on the West Pier (RPS 0595b) has not been fully considered in the documentation submitted. The visual impact on the historic fabric on the protected structures and buildings listed on the NIAH, including West Pier itself would generally be limited to the eastern side of West Pier as the reclaimed area would open up the

harbour and allow the general public to view the rear of the protected structures. It is, therefore, acknowledged that the reclamation area has the potential to have a significant impact on the setting and character of West Pier.

- 7.4.12. The appellant also notes the report of the planning authority's Conservation Officer. The initial report of the planning authority's Conservation Officer recommended that further information be requested regarding a potential impact on the historic West Pier. The subsequent report notes the proposed amendments, which include a minimum 15m wide channel between a 150m section of West Pier and the proposed reclaimed land, however, the Conservation Officer states that due to the sensitive historic built heritage and the protected natural environment adjoining the proposed new land mass the preferred approach of the Conservation Officer would be partial land reclamation and partial re-location / removal / treatment elsewhere. In my view the concerns of the Conservation Officer comprise the consideration of alternative proposals to land reclamation to ensure as much of the original plan of the historic pier could remain legible and avoided any impact on surviving historic features on the western face of the pier, the impact to the natural environment and the impact to the sensitive historic built heritage.
- 7.4.13. The submission from the DAU raised no objection in principle to the impact on Architectural Heritage. The submission notes the report of the planning authority's Conservation Officer is noted and recommended that similar conditions to conditions 5 and 6 be attached to any grant of permission.
- 7.4.14. Conditions 5 and 6 generally related to detailed design and landscaping considerations and I agree that final detailed design should be agreed with the planning authority. However, in response to the concerns raised by the Conservation Officer Condition 5(i) requires that documentation be provided regarding the different options considered regarding the extent and layout of the reclaimed area and the rationale for the chosen option. The issue regarding alternative proposals with regard to land reclamation are addressed in detail in the EIAR. While the concerns of the third party and the Conservation Officer are noted I am satisfied that the EIAR clearly and sufficiently outlines the reasonable alternatives that were considered, including a do nothing scenario, reuse of the dredge spoil through land reclamation, disposal at sea, burial of dredge material at sea, disposal at a licenced landfill facility in Ireland and

disposal of the dredge spoil at a contaminated dredge spoil facility abroad, and sets out the reasons for selecting the chosen option, based on consideration of the environmental effects. In the prevailing circumstances the overall approach of the applicant is considered reasonable. I am satisfied that a condition is not required in this regard as the alternatives have been fully considered and that the provision of a channel between the reclaimed area and the protected structure ensures that the historic features including steps and slipways remain visible on the existing revetment. The northern limit of the reclaimed land was also relocated c. 17m to the south of West Pier, to fully expose the roundel at the head of West Pier.

- 7.4.15. The issue regarding the impact on the natural environment is address in Section 8 EIAR Assessment and Section 9 Appropriate Assessment below. I am satisfied that the impact on the receiving environment would not be significant.
- 7.4.16. With regard to the impact to the sensitive historic built heritage it is my view that this generally relates to visual impacts on the setting and character of the protected structures and buildings of architectural importance's, with the most significant impact from the eastern side (rear) of West Pier.
- 7.4.17. The Architectural Heritage Guidelines provides a number of conservation principles, including promoting minimum intervention. Section 14.3 Harbours, Canals and Associated Features of the Guidelines states that proposed works *should have the minimum possible impact on the protected structure* and Section 7.7.2 states *that a planning authority should be satisfied that works are necessary, whether these be repair works to the fabric of the building or adaptations to the structure to allow it to perform a new or enhanced function.*
- 7.4.18. The proposed project is required to enable Howth Harbour to continue to function in accordance with the responsibilities provided for the Fishery's Harbour Centres Act. Therefore, I am satisfied that the works are necessary. The design and layout, as submitted by way of further information, includes the provision of a channel between the reclaimed area and the protected structure to ensure that the historic features including steps and slipways remain visible on the existing revetment and the northern limit of the reclaimed land was also relocated c. 17m to the south of West Pier, to fully expose the roundel at the head of West Pier. The layout also provides a buffer area,

comprising paved pedestrian walkway and green space, between the rear open space associated with the protected structures (buildings) and the proposed new road. In my view the design and layout are appropriate and reduces both the physical and visual impact on the protected structures.

- 7.4.19. The significance of the visual impact on West Pier and the existing protected structures and buildings of architectural importance are acknowledged. However, it is my view this impact is mitigated by the facts that this is a functioning harbour, and the seaward (eastern) side of West Pier has undergone incremental changes over time and that the rear elevation of the existing buildings (protected structures) are secondary in significance to the front elevations. I am satisfied that the potential effects have been comprehensively addressed by the applicant in the submitted documentation to allow for a full assessment.
- 7.4.20. Overall, concerns of the third party and the planning authority's Conservation Officer are noted, however, I am satisfied that the design and layout achieves an appropriate balance between allowing for the continued functionality of the harbour, the feasibility of the project, the financial cost and the environmental impact and the potential to the impact on any protected structure and / or building of architectural importance.
- 7.4.21. The issue of material contravention is raised by the appellant with regard to conservation. The appellant does not refer to any specific sections of the development plan that it is considered the proposed development would materially contravene. In my view the relevant development plan policy and objectives include Policy HCAP8 Protection of Architectural Heritage and Policy HCAP12 Interventions to Protected Structures.
- 7.4.22. Policy HCAP8 aims, *inter alia*, to ensure the conservation, management, protection and enhancement of the architectural heritage of Fingal and Policy HCAP12 aims, *inter alia*, to ensure that direct or indirect interventions to Protected Structures or adjoining development affecting them are guided by architectural conservation principles. The development site contains 6 no. protected structures, protected views and prospects and contributes positively to the maritime and industrial heritage of Fingal County. As noted above, I am satisfied that the proposed reclamation works are in accordance with best practice architectural conservation principles so far as is practical given the scale of the project and are sympathetic, sensitive and appropriate

to the special interest, appearance, character, and setting of West Pier and its associated protected buildings. Therefore, I am satisfied that the proposed development would not result in a material contravention of Policies Policy HCAP8 or Policy HCAP12.

7.5. *Material Contravention - Views and Prospects*

- 7.5.1. To avoid repetition, my assessment of the potential impacts on the landscape and seascape are addressed below in Section 9. In summary, I am satisfied that while that the proposed reclamation area would be visible from some locations it would not have a significant effect on the landscape / seascape character of Howth Harbour. This section of my assessment relates to concerns raised by the appellant that the proposed development would materially contravene the development plan with regard to protected views and prospects. The appellant does not refer to any specific sections of the development plan that it is considered the proposed development would materially contravene.
- 7.5.2. In my view the relevant development plan policy and objectives include Policy GINHP26 – Preservation of Views and Prospects and Policy GINHP27 – Howth and Liffey Valley Amenity Orders. Policy GINHP26 aims to, *inter alia*, preserve views and prospects. The development plan identifies preserved views and prospects at the roundel / end of West Pier. These views are generally in a north and north west direction. The northern view from the tip of West Pier is towards Irelands Eye and would not be impacted by the proposed development. The north western view is generally towards Dublin Bay. Due to the c. 2m height of the existing pier wall / roundel this view is only visible from climbing on large steps / seating that is built into the pier wall / roundel. While the reclaimed area would be highly visible from this location the vast majority of it would be imperceptible from the pier due to the height of the existing wall / roundel and the relatively flat level of the new land. I am satisfied that the proposed development would not impede a protected view and, therefore, would not materially contravene Policy GINHP26.
- 7.5.3. Policy GINHP27 aims to protect and enhance the special amenity value of Howth (and the Liffey Valley), including its landscape, visual, recreational, ecological, geological, and built heritage value, as a key element of the County's Green Infrastructure network

and implement the provisions of the Howth (and Liffey Valley) Special Amenity Area Orders (SAAO). The photomontages included with the Landscape and Seascape Visual Impact Assessment, as set out in the EIAR, indicates that the proposed reclamation area would be visible from some of the viewpoints provided within the assessment. It is noted that the majority of these viewpoints are located within the SAAO. It is acknowledged that the proposed project would also impact on the landscape, recreational amenity, ecology, geology, and built heritage of Howth Harbour. Given the sites location in the context of the existing harbour facility and busy urban area and having regard to the design and siting of the reclaimed land I am satisfied that the reclamation area may be visible, it would have no significant effect on the special amenity value of the Howth SAAO and therefore, would not materially contravene the development plan.

7.6. *Other Issues*

- 7.6.1. *Site Notice:* The appellant raised concerns that no site notice was located at the site entrance, at the junction with Harbour Road as required under legislation. The site notice was located more than 100m from the site entrance and was not seen by many people. In response to the appeal the applicant states that 4 no. site notices were erected in conspicuous locations, adjacent to public roads and the head of the east pier and that they undertook considerable pre-planning consultation. The planning authority's response to the appeal states that site notices were erected in locations visible for the public in line with legislation. Having regard to the information available on the file I am satisfied that the site notices were provided in accordance with the legislation and the application was deemed to be valid by the planning authority.
- 7.6.2. *Development Contribution:* The submission from the planning authority requested that a Section 48 development contribution condition be attached to any grant of permission. It is noted that the planning authority did not attach a similar condition to the grant of permission. Having regard to the provisions of the Fingal County Council Development Contribution Scheme 2021-2025 it is my opinion that the proposed development would be exempt from the payment of a contribution. Therefore, it is my view that a section 48 condition is unwarranted in this instance.

8.0 Environmental Impact Assessment

8.1. *Environmental Impact Assessment Report*

- 8.1.1. This section sets out an Environmental Impact Assessment (EIA) of the proposed project. The proposed development is c. 31 ha and comprises dredging a total of 14ha within the existing harbour. The total volume of dredged material will be c. 240,000 cubic meters of material from the seabed. The proposed works also include the stabilisation of dredge material, the reclamation of 4.8ha of land on the west side of the West Pier using dredge material, the construction of an embankment and rock armour revetment around the perimeter of the reclaimed area, landscaping of the reclaimed area and provision of pavements, including footways, roadways and parking areas, the construction of a slipway access to the water, provision of storage areas for harbour activities and the provision of services, including surface water drainage, mains water supply, lighting, and associated underground ducting. The development includes works to the West Pier, which is a protected structure (RPS 0595b) and listed on the NIAH (ref. 11359040). The aim of the project is to increase the depth of the water in the harbour to provide safe access for the largest range of vessel sizes and types on the widest range of tides. The site is located within the administrative area of Fingal County Council. No concerns were raised in the appeal or the observation regarding the dredging of the harbour. However, concerns were raised regarding how the dredged material would be disposed of.
- 8.1.2. 2(d) Extractive Industry of Schedule 5, Part 2 of the Planning and Development Regulations, 2001, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involves the *extraction of stone, gravel, sand or clay by marine dredging (other than maintenance dredging), where the area involved would be greater than 5 hectares or, in the case of fluvial dredging (other than maintenance dredging), where the length of river involved would be greater than 500 metres*. The area to be dredged is c. 14 hectares therefore, the project is within a class of development described at 2(d) of Part 2 of Schedule 5 of the Regulations, and the submission of the Environmental Impact assessment Report is mandatory due to the nature and size of the development site, which exceeds 5 hectares.

8.1.3. The EIAR comprises a non-technical summary, a main volume and supporting appendices. The EIAR:

- Describes the project and provides information on the site, design, size and particular features of the proposed development;
- Describes the likely significant effects of the project on the environment;
- Describes the features of the project and/or measures envisaged to avoid, prevent, reduce, and if possible, remedy significant impacts;
- Provides a description of the main alternatives studied, and an indication of the main reasons for the choice of alternative put forward, taking into account environmental effects; and
- Includes a non-technical summary of the above information.

8.1.4. Additional relevant information relating to the EIAR was also submitted in response to the request for further information issued by the planning authority.

8.1.5. As is required under Article 3(1) of the Directive, the EIAR describes and assesses the direct and indirect significant effects of the project on the following factors: (a) population and human health; (b) biodiversity with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air, and climate; (d) material assets, cultural heritage, and the landscape. It also considers the interaction between the factors referred to in points (a) to (d). Article 3(2) includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and / or disasters that are relevant to the project concerned are considered.

8.1.6. I have carried out an examination of the information presented by the applicant, including the EIAR, the response to further information (RFI) request, and the submissions and observations made during the course of the application and subsequent appeal.

8.1.7. Table 1.1 EIAR Contributors to the Project describes the expertise of those involved in the preparation of the EIAR. I am satisfied that the EIAR has been prepared by

competent experts to ensure its completeness and quality, and that the information contained in the EIAR and supplementary information provided by the developer is up to date, adequately identifies and describes the direct and indirect effects of the proposed development on the environment and complies with article 94 of the Planning and Development Regulations 2001, as amended.

- 8.1.8. I am satisfied that the information before the Board is sufficient to allow the Board to reach a reasoned conclusion on the likely significant effects of the proposed development on the environment, taking into account current knowledge and methods of assessment.

8.2. ***Vulnerability of Project to Major Accidents and/or Disaster***

- 8.2.1. The requirements of Article 3(2) of the Directive include the expected effect deriving from the vulnerability of the project to risks of major accidents and/or disaster that are relevant to the project concerned. The EIAR addresses this issue Major Accidents and Disasters throughout the chapters. I note that the development site is not regulated or connected to or close to any site regulated under the Control of Major Accident Hazards Involving Dangerous Substances Regulations i.e. SEVESO. Therefore, this is not a source for potential for impacts. Chapter 4 addresses Population and Human Health. There are no significant sources of pollution in the development with the potential to cause environmental or health effects. Chapter 7 Water (Hydrology and Hydrogeology) of the EIAR identifies the potential for a large scale spillage of chemical resulting in water contamination of surface water during the construction phase. Having regard to the nature of the proposed development, the dilution effect of the Irish Sea and the implementation of the mitigation measures proposed within the EIAR, the likelihood of any accidental discharge is unlikely to have a significant impact on water quality. I am satisfied that the proposed use is unlikely to be a risk of itself and that there are unlikely to be any effects deriving from major accidents and or disasters.

8.3. ***Alternatives***

- 8.3.1. The issue of site selection and alternatives is addressed in Chapter 3 – Project Need and Alternatives of the EIAR. I note that Article 5(1)(d) of the 2014 EIA Directive requires:

“(d) a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment;”

- 8.3.2. Annex IV of the Directive (Information for the EIAR) provides more detail on ‘reasonable alternatives’:

“A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.”

- 8.3.3. Section 3.3 of the EIAR outlines 6 no. alternatives considered by the applicant. These are outlined below:

- Do Nothing Scenario
- Disposal at Sea
- Burial of Dredge Material at Sea
- Disposal at a licenced landfill facility in Ireland
- Disposal of the Dredge Spoil at a Contaminated Dredge Spoil Facility Abroad
- Reuse of the dredge spoil through land reclamation.

- 8.3.4. The alternatives were assessed having regard to feasibility, cost, environmental impact and beneficial re-use. The Do Nothing Scenario was not considered a feasible option as the harbour would lose its functionality over time. Disposal at Sea, Burial of Dredge Material at Sea, Disposal at a licenced landfill facility in Ireland and Disposal of the Dredge Spoil at a Contaminated Dredge Spoil Facility Abroad were also not considered feasible options due to a combination of quantity of dredge material, the possible contamination of dredge material, the environmental cost, the financial cost and / or not a beneficial or sustainable use of resources. The re-use of the dredge spoil locally through land reclamation was considered the most beneficial.

- 8.3.5. While no concerns were raised by third parties regarding dredging the basin, concerns were raised that an alternative scheme should be provided for the area to be reclaimed to improve useability and accessibility of the new land and to retain views across open water. Concerns were also raised by the planning authority's Conservation Officer that a combination of alternatives should be considered to reduce the quantity of material being deposited adjacent to the historic West Pier.
- 8.3.6. Section 3.3.7 of the EIAR outlines a number of areas that were considered for reclamation. These are the area to the west of West Pier, the area east of East Pier and the eastern section of the Marine Area. The area to the west of West Pier was considered the most beneficial use in terms of the harbour development due to the existing commercial and fishery uses on the West Pier. The area also provides sufficient volume to deposit the full dredge quantities. Based on the cost estimate and the sustainable re-use of dredge material this option is also considered the most appropriate. The applicant's response to the appeal also reiterates why the area to the west of West Pier is considered the most appropriate location for reclamation.
- 8.3.7. Section 3.4 of the EIAR identifies alternative layouts for the reclaimed area to the west of West Pier. The layouts were assessed with regard to planning policy, natural heritage context, built heritage context and visual impact. It is noted that the layout of the area to be reclaimed was altered in the response to the request for further information to address concerns raised regarding a negative impact on the historic character of West Pier. In this regard a water channel is currently proposed between the reclaimed area and a section of West Pier. The amended layout is acknowledged and detailed in the response to the RFI. I am satisfied that the modification to the layout does not impact on the information provided in the EIAR and that a full assessment of the potential impacts can be carried out.
- 8.3.8. While the concerns of the third party are noted I am satisfied that the EIAR clearly and sufficiently outlines the reasonable alternatives that were considered, including a 'do nothing' alternative, and sets out the reasons for selecting the chosen option, based on consideration of the environmental effects. In the prevailing circumstances the overall approach of the applicant is considered reasonable.

8.3.9. The consideration of alternatives is an information requirement of Annex IV of the EIA Directive, and the single most effective means of avoiding significant environmental effects. Having regard to this requirement and its purpose (i.e. avoidance of significant environmental effects) and noting the nature and purpose of the proposed development, I am satisfied that the consideration of alternatives that were studied by the applicant is adequate.

8.4. ***Consultations***

8.4.1. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.

8.5. ***Likely Significant Direct and Indirect Effects***

The likely significant indirect effects of the development are considered under the headings below which follow the order of the factors set out in Article 3 of the EIA Directive 2014/52/EU:

- Population and Human Health
- Biodiversity
- Land and Soils
- Water
- Air and Climate
- Landscape / Seascape and Visual Assessment
- Cultural Heritage
- Material Assets
- Noise and Vibration
- Traffic and Transportation
- Interaction of Effects

8.6. Population and Human Health

- 8.6.1. Chapter 4 of the EIAR addresses Population and Human Health with regard to potential impacts on human health, population, land use, socio-economic activity and employment, tourism, amenity and recreation and health and safety. Other environmental issues with the potential to impact on population and human health, such as air quality, noise, traffic & transport, visual impacts, soils and water are addressed separately in the relevant chapters of the EIAR and the relevant sections of this report.
- 8.6.2. I agree with the applicant's response to the request for further information requested by the planning authority and consider that the baseline assessment for Howth is robust and evidence based.
- 8.6.3. Howth Harbour is situated on the northern side of Howth Peninsula. It is a multi-purpose harbour facilitating both commercial fishing and recreational activities. The core fishing fleet is c. 65 no. vessels and there is significant marine leisure activity including the Howth Yacht Club and the Howth Sailing and Boating Club. There are a number of restaurants and shops along West Pier. Boat repair works are also undertaken on the harbour. The wider environs surrounding the harbour are generally residential in nature. The key receptors in the study area are identified as members of the public, visitors / tourists and staff.
- 8.6.4. Howth is a popular tourist destination with easy access via the DART. Tourist activities include sight-seeing at the harbour, walking on the piers and cliffs and boat trips. A passenger ferry pontoon is located on West Pier. It is estimated that between 70,000 and 1,000,000 people visit Howth peninsula per year. A large portion of which would move through the harbour due to its location and proximity to the DART station and public car parking areas.
- 8.6.5. The EIAR outlines the baseline population and settlement patterns and economic activity and employment for the area.

Submissions / Observations

- 8.6.6. The observation from Cllr. David Healy considered that the issue of amenity, particularly water-based amenity had not been addressed and that a full design for the infill area is required.

Potential Effects

<i>Do Nothing</i>	<p>The harbour would lose its functionality which would ultimately result in a reduced economic and employment opportunities for the area and a potential long term decline of harbour related business and commerce. This would have a negative impact on the local and regional economy.</p>
<i>Construction Phase</i>	<p><i>Economic Activity:</i> Construction compounds would result in the temporary loss of c. 90 no. car parking space.</p> <p>Construction workers would contribute positively towards the local economy.</p> <p>Inconvenience to the fishermen who work on Middle Pier who would be temporarily relocated to West Peir to facilitate the proposed construction compound on Middle Pier.</p> <p><i>Amenity and Recreational Activity:</i> disruption to existing amenity resources within the harbour.</p> <p>Temporarily relocate the RNLI lifeboat</p> <p>A section of the walkway on top of the East Pier wall would be closed for c. 6 months of the year (Autumn to Winter) to reduce the disturbance on a winter bird roost.</p> <p><i>Human Health:</i> The construction phase poses potential risk to the health and safety of the public..</p> <p><i>Project Health and Safety:</i> In terms of health and safety during the project there is potential for construction related hazards or injuries.</p>
<i>Operational Phase</i>	<p><i>Tourism, Amenity and Recreational Activity:</i> Increasing the size of the harbour would be a significant positive impact on land use and amenity resources.</p> <p><i>Project Health and Safety:</i> Appropriate safeguards would be in place.</p>

<i>Cumulative Effect</i>	Cumulative impacts have been considered in conjunction with future and current developments in the vicinity of the subject site. These developments are outlined in Table 3.1 of the EIAR. Potential cumulative impacts mainly relate to temporary increase in construction related traffic on the surrounding road network. During the operational phase cumulative impacts are not considered likely.
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Mitigation Measures

- 8.6.9. Mitigation measures are outlined in Section 4.4. The main measure to reduce a potential impact on the resources currently using the marina is to ensure close communication and co-ordination be carried out with the commercial fishermen, Howth Yacht Club, and the RNLI. The EIAR states that the applicant has actively engaged with relevant parties.
- 8.6.10. Potential impacts to human health and relevant mitigation measures are addressed elsewhere in the EIAR.

Residual Impact

- 8.6.11. Once mitigation measures are implemented regarding communication and co-ordination the population and human health residual impacts from the proposed development range from a short term slight negative effect at construction phase to a permanent significant positive effect at operational phase.

Assessment

- 8.6.12. I have examined, analysed and evaluated Chapter 4 of the EIAR and all of the associated documentation and submissions on file in respect of population and human health. I have inspected the application site, the surrounding area. I also had regard to the policy outlined in the Fingal County Development Plan.
- 8.6.13. The information submitted indicates that the construction phase (dredging and reclamation works) would take c. 24 months. Vehicular and pedestrian access to West Pier would continue during the construction phase. Construction compounds would result in the temporary loss of c. 90 no. car parking space. This may negatively impact

on the local economy. However, construction workers would contribute positively towards the local economy.

- 8.6.14. There are commercial fishing operations located on Middle Pier. These operations would be temporarily relocated to West Pier during the construction phase to facilitate the proposed construction compound on Middle Pier. This may cause inconvenience to the fishermen who work on Middle Pier and the intensification of West Pier could also impact on existing users, visitors and staff which could negative impact on commercial operations within the harbour.
- 8.6.15. The construction phase has the potential to negatively impact on commercial fishing operations located on Middle Pier and the temporary loss of car parking spaces has the potentially to negatively impact on the local economy. However, the construction phase would also result in substantial investment in the area with employment opportunities for construction workers and secondary benefits for local services and materials providers. Given the short-term nature of the construction phase I am satisfied that there would be any significant impact on the population or economy during the construction phase.
- 8.6.16. A section of the walkway on top of the East Pier wall would be closed for c. 6 months of the year (Autumn to Winter) to reduce the disturbance on a winter bird roost. Access to the pier would remain available on the inside of the pier wall. Middle Pier may be closed off for public access. The size of the area closed off will depend on the stockpile sizes required for the dredged coarse material. Having regard to the temporary nature of the works I am satisfied that this would not have a significant effect on tourism, recreation or amenity.
- 8.6.17. During the construction stage The RNLI lifeboat will have to be temporarily relocated to the trawler basin as dredging occurs at the lifeboat station and its access channel. There would also be some disruption to existing amenity resources within the harbour. Floating marina berths associated with Howth Yacht Club will be temporarily removed in sections to facilitate the dredging phase of the proposed development. It is noted that the observation from Cllr. David Healy considered that the issue of amenity, particularly water-based amenity had not been addressed. This concerns is noted, however, having regard to the temporary nature of the works, and the phasing of the

dredging activity, I am satisfied that the proposed construction phase would not negatively impact on amenity during the construction phase. It is noted that the proposed development would result in the loss of c. 4.8ha of open water, however, given the location I am satisfied that this loss would not impact on water-based activity in the area.

8.6.18. As the majority of the harbour will be free from construction activity, I am satisfied that the construction phase would have no significant impact on access to the tourist destinations within Howth Harbour.

8.6.19. The construction phase poses potential risk to the health and safety of the public. A preliminary Construction Environmental Management Plan is provided in Appendix 8 of the EIAR. A site-specific Health and Safety Plan would be produced prior to initiating construction activities. In addition, a detailed Construction Traffic Plan will be prepared by the main contractor prior to works commencing. Potential negative impacts to Human Health are outlined in relevant chapters of the EIAR. However, I am satisfied that the project would not have a significant effect on human health subject to appropriate controls and mitigation measures.

8.6.20. In terms of health and safety during the project there is potential for construction related hazards or injuries. Serious risks to human health and safety are not envisaged as the project would be managed in accordance with all applicable legislation and guidelines. I also note the applicant's response to the request for further information requested by the planning authority that it is a requirement by law that a health and safety plan is in place with specific method statements for the works that are proposed.

8.6.21. During the operational phase appropriate safeguards would be in place. The proposed works represent a positive impact as it would improve the existing safety conditions.

8.6.22. With regard to human health, I address the potential health-related issues such as noise, air/dust, water pollution etc. below. Given the nature of the proposed development it is unlikely to significantly impact on health and safety during the construction phase and I am satisfied that the proposed mitigation measures, including the CEMP, adequate training and good practice construction methods, would be capable of mitigating any potential impacts to an acceptable residual level. From the

information submitted I am satisfied that the proposed project would not have a significant impact on population and human health.

Conclusion

8.6.23. Having regard to the examination of environmental information in respect of Population and Human Health, in particular the EIAR and supplementary information provided by the applicant and the report of the planning authority in the course of the application I consider that the proposed development would have a neutral impact on the local socio-economic environment. I am also satisfied that the potential for significant adverse impacts on human health during the construction phase can be avoided, managed and mitigated by measures that form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on population or human health.

8.7. *Biodiversity*

- 8.7.1. Chapter 5 of the EIAR addresses biodiversity. It describes the biodiversity and ecological characteristics of the proposed dredging and reclamation works with an emphasis on designated sites, habitats, flora and fauna and water quality. The information outlines the baseline ecological environment, provides a prediction of the likely effects, details mitigation measures and describes any residual ecological effects.
- 8.7.2. An Appropriate Assessment Screening Report and a Natura Impact Assessment were prepared as standalone documents. To avoid any repetition the potential impact on the designated sites is addressed in Section 9 below.
- 8.7.3. A desk study was undertaken, including a review of available ecological data within zone of influence. A number of surveys were carried out between 2019 and 2020 to provide baseline information of the existing ecology of the study area with regard to coastal habitats, wintering and breeding birds and terrestrial mammals. A survey of the intertidal sub-tidal benthos to identify the biological communities within the study area was also carried out. The Irish Whale and Dolphin Group (IWDG) were also

commissioned to carry out a Marine Mammal Risk Assessment. Full details of the surveys carried out are provided in Section 5.5.1 of the EIAR.

- 8.7.4. A Hydrodynamic and Sediment Regime Assessment (Appendix 4) and a Generic Quantitative Risk Assessment (Appendix 10) were also submitted in support of the EIAR.

Submissions / Observations

- 8.7.5. The observation from Cllr. David Healy considers that the issue of biodiversity has not been addressed and that specifically the impact of the infill on the erosion and sedimentation processes on Claremont and Burrow Beaches has not been adequately addressed.
- 8.7.6. The submission from the DAU dated 23rd August 2021 states that to mitigate against the impact of the development on the Black Guillemots and enhance their breeding habitat additional numbers of nesting boxes should be installed in Howth Harbour, both before and on completion of the reclamation works as this would give displaced birds as many potential nesting sites as possible.

Potential Effects

<i>Do Nothing</i>	<p>Continued deposition of sediment in the harbour would further increase the bed level and decrease the available water depth for navigation in and out of the harbour. The harbour would lose its functionality over time.</p> <p>Contaminated sediment would remain within the harbour.</p>
<i>Construction Phase</i>	<p><u>Habitat:</u> The total volume of dredged material will be c. 240,000 cubic meters of material from the seabed. This would result in the short term loss of primarily infralittoral Muddy Sands (SS2) habitat, when sediments are dredged out of the harbour.</p> <p>The proposed dredging works would result in the deposition of suspended solids in intertidal habitats.</p>

	<p>Direct impacts on terrestrial habitats include the removal of habitats and possible impacts from the spread of invasive species. Indirect impacts related to damage and disturbance.</p> <p><u>Coastal Processes:</u> There is potential for direct impacts on shoreline habitats and on coastal processes due to sediment plumes during dredging. The main impact is anticipated to be an annual deposition at Claremont Beach in the order of 0.4mm.</p> <p><u>Marine Mammals:</u> Disturbance and displacement of marine mammals from noise.</p> <p><u>Fish:</u> Direct mortalities from high suspended solids are likely to be rare as fish are highly mobile they can avoid turbidity plumes. In addition, bottom dwelling species tend to be more tolerant of solids exposure and are accustomed to shifts in sediment.</p> <p><u>Birds:</u> Potential for disturbance to foraging and roosting birds during the construction phase.</p>
Operational Phase	<p><u>Habitat:</u> The loss of c. 4.8ha of coastal habitat is a direct result of the reclamation along the outer section of West Pier. The area of permanent marine habitat loss comprises primarily infralittoral muddy sands. The EIAR notes that the loss of habitat would result in small numbers of foraging birds and common benthic species being permanently displaced. It is considered that the loss of habitat is a permanent, not significant, negative impact.</p> <p><u>Coastal Processes:</u> Potential impact on the tidal currents just off Claremont beach, which could slightly increase the tendency for sand to accumulate in this area and promote embryo dunes formation.</p> <p><u>Birds:</u> The loss of c. 4.8ha of coastal habitat constitutes the loss of potential feeding areas for birds. The proposed project would result in the direct loss of currently nesting sites on West Pier.</p>

	<p>Artificial lighting can affect the quality of breeding habitat along with breeding timing, prey availability, foraging patterns and by increasing exposure to predators. The main risk to breeding Black Guillemots is from predatory mammals.</p> <p>Indirectly impact on foraging activity through elevated suspended solid concentrations in the water, which could lead to reduced visibility or the avoidance of turbid waters by these species.</p>
<i>Cumulative Effect</i>	<p>The proposed project in combination with the impacts of other projects or developments is not expected to have a significant cumulative impact on ecological receptors.</p>

Mitigation Measures

- 8.7.11. A comprehensive and extensive range of mitigation and monitoring measures are set out in Section 5.8 of the EIAR relating to habitats, marine physical and chemical aspects, water quality, marine mammals, birds, and control of invasive species. These measures include a detailed CEMP, the engagement of a suitably qualified project ecologist for the duration of the works, screening and closing off of habitats, turbidity monitoring, preparation of a Water Quality Management Programme (WQMP) and monitoring requirements of the Industrial Emissions Licence or a Waste Licences from the EPA, a dedicated Marine Mammal Observer, minimum lighting luminosity, exclusion zones, nesting boxes and bio-security measures.

Residual Impact

- 8.7.12. The residual impacts comprise the to the loss of c. 4.8ha of muddy sand habitat during the operational phase and the removal of contaminated sediment from the harbour. I am satisfied that these residual effects would not be significant.
- 8.7.13. Significant effects, namely disturbance / displacement of marine mammals, fish and birds, are not envisaged during either the construction or operational phase and the harbour operations are not expected to significantly intensify. Any potentially significant impacts have been identified. These will be mitigated such that residual significant impacts are not expected.

Assessment

- 8.7.14. I have examined, analysed and evaluated the information provided in Chapter 5 and all the associated documents and submissions on file in respect of Biodiversity. I have inspected the site and the surrounding area. I also had regard to relevant policy and objectives of the Fingal County Development Plan. I am satisfied that the information submitted in the EIAR adequately demonstrates an understanding of the potential impacts and provides suitably comprehensive range of mitigation and monitoring measures in Section 5.8 to reduce any potential impacts.
- 8.7.15. Loss of Habitat: The habitat surveys identified 13 no. terrestrial habitat types within Howth Harbour. The vast majority of these comprise built structures, hardstanding and amenity grassland and parkland habitats. In general, these habitats have low species diversity and are of low to no intrinsic ecological value. The study area also includes 3 no. shoreline habitats which support a diverse flora. These are Exposed Rock Shores (LR1), Shingle and Gravel Shores (LS1) and Sand Shores (LS2). The littoral shore (the zone between high tide and low tide points) comprises fine mud. The littoral fine mud habitats within the inner harbour currently contain contaminated sediments.
- 8.7.16. The loss of c. 4.8ha of coastal habitat is a direct result of the reclamation along the outer section of West Pier. The area of permanent marine habitat loss comprises primarily infralittoral muddy sands. The implications of this habitat loss on the North West Irish Sea c.SPA is addressed in Section 9 below. The loss of habitat would result in displacement of a small numbers of foraging birds including some QI's of the c. SPA and common benthic species.
- 8.7.17. The proposed development would not have a significant direct or indirect impact on any Annex I habitat based on the habitat characterisation undertaken. The Muddy Sands (SS2) habitat which would be lost, is common and given the relatively small footprint of the reclamation area, in comparison to the availability of similar habitat types within the wider environs, I do not consider the loss of 4.8ha of coastal habitat to be a significant impact. As the terrestrial habitats within Howth harbour are common, I am satisfied that once mitigation measures are adhered to the impact from the proposed development would not be significant.

- 8.7.18. With regard to the potential impact of the loss of habitat on bird species, I am satisfied that the habitats that occur within the development site do not have a more significant natural value than any of the habitats that surround the site and are readily available for bird species. The wider surrounding area primarily consists of nearby estuarine and inter-tidal habitats, open water, grassland and urban areas with artificial surfaces and buildings. I am satisfied that these offer ample foraging and nesting habitat. It is also noted that birds in Howth Harbour have habituated to moderate levels of disturbance associated with the daily activity of the busy harbour.
- 8.7.19. Two groups of benthic (seabed) marine life were identified in the surveys carried as part of the EIAR. The samples indicate that the area within the harbour is species poor with a low number of species and individuals. The area outside the harbour had a higher diversity. All species found were common. Individual species occurring within the c. 4.8ha reclamation area would likely be lost. I am satisfied that due to the nature of the benthic species present that re-colonisation of the sediment by subtidal fauna would occur rapidly (one to two seasons) once dredging works are completed. It is noted that none of the flora or fauna recorded within the site are rare or protected.
- 8.7.20. The construction of the reclaimed area would also result in the short-term loss of rocky shore benthic species. However, I am satisfied that the increased size of the shoreline would result in a net gain of hard benthos shoreline in the area. Having regard to the information submitted I am satisfied that the benthic communities would re-establish themselves on the new shoreline and that the shelter provided by the reclamation area would also allow for the colonisation of more species resulting in increased biodiversity of the area.
- 8.7.21. Habitat Alteration: During both construction and operational phases, the fine mud habitats would still contain contaminated sediment from both redeposited sediments during dredging and from residual sediments not dredged. I concur with the EIAR that the impact on the littoral fine mud habitat in the inner harbour would be neutral.
- 8.7.22. Deposition of suspended solids in intertidal habitats in which wading birds rely on, is a natural occurrence which occurs over a number of tidal cycles and any minor increase as a result of the proposed project would not result in a change to the existing

species in these habitats. I am satisfied that the impact of deposition of suspended solids on intertidal habitats would not have a significant effect on foraging birds.

8.7.23. The reclaimed area would provide additional hard substrata for species to attach to, resulting in an increase in biodiversity such as seaweed, epifauna and encrusting organisms. I concur with the EIAR that this would be a positive effect.

8.7.24. Coastal Processes: Concerns are raised in the observation that the impact of the infill on the erosion and sedimentation processes on Claremont and Burrow Beaches has not been adequately addressed.

8.7.25. The Hydrodynamic and Sediment Regime Assessment (Appendix 4) found that there would be an increase in suspended solids in the area around the dredging works, with the dispersion of sediments to sensitive receptors to areas outside the harbour. The main impact is anticipated to be an annual deposition at Claremont Beach in the order of 0.4mm. This disposition would be removed from the beach on a daily basis through tidal and wave action and dispersed (dilution factor) within the surrounding waters. From the information submitted I am satisfied that wave activation at Claremont beach will still be sufficient to move sand material and there would be minimal change in deposition and erosion patterns due to the proposed development. The modelling indicates that there would be no impact on Burrow Beach.

8.7.26. During the operational phase the modelling indicates that there would be little impact on the tidal currents except to a slight degree in an area just off Claremont beach to the west of the proposed works, where the currents appear to be reduced slightly. Embryo dunes are removed by wave action and the minor reduction in wave action could slightly increase the tendency for sand to accumulate in this area and promote embryo dunes. However, they are not expected to develop into larger dunes due to the frequency of wave action and the infrastructural constraints in the area. The EIAR considers that the impact of the sediment change during the operational phase on coastal habitats would be a permanent, not significant positive change.

8.7.27. The concerns of the observer are noted. However, I am satisfied that the impact of the reclamation works on the erosion and sedimentation processes on Claremont and Burrow Beaches has been adequately and comprehensively addressed.

- 8.7.28. Marine Mammals: The Marine Mammal Risk Assessment (Appendix 5) concluded that the proposed construction phase could lead to very local disturbance to marine mammals from noise. The information submitted indicates that the noise generated from the works is unlikely to be capable of causing permanent or temporary injury to marine mammals. It also noted that while small numbers of grey seals frequently and regularly occur inside Howth Harbour they are accustomed to human activity and are unlikely to be affected by the proposed works. Once mitigation measures are in place, including the presence of a trained and experienced Marine Observer (MMO) during the dredging and the use of 'ramp up' procedures for noise and vibration emitting operations the impact I am satisfied that the impact would not be significant.
- 8.7.29. Fish: While there may be an increase in turbidity during the construction phase I am satisfied that it is unlikely to have significant impacts on fish. In addition, the dilution factor provided for in the marine environment is substantial and there is no evidence that a limited volume of suspended sediments would affect small shoaling fish.
- 8.7.30. Terrestrial Fauna: As the appeal site is largely marine in nature there is a lack of terrestrial species. A single Irish Stoat was observed on West Pier during the survey period. No signs of other terrestrial mammals including otter or amphibians were observed. The EIAR considers that the impact would be an imperceptible short-term effect. Given the nature and characteristics of the appeal site I am satisfied that the impact on terrestrial mammals and amphibians would not be significant.
- 8.7.31. Bats: The bat surveys indicate that bat activity in the study area was low, with no bats recorded foraging or commuting. No bat roosts were found on West Pier and the existing buildings and structures within and in the immediate vicinity of Howth Harbour are deemed to be of low bat roost potential. It is noted that the majority of the survey area is urban and well-lit by streetlights at night time, particularly along the promenade of West Pier. The EIAR considers that the impact of the development would be a permanent imperceptible negative effect on foraging, commuting, roosting bats. I am satisfied that the proposal would not result in a net loss of foraging habitat for bats and no mitigation measures are required.
- 8.7.32. Birds: Details of the bird surveys can be found in Appendix 7. A total of 3 no. bird species were confirmed as breeding with Howth Harbour, including 3/4 pairs of Black

Guillemot breeding within the harbour walls and 1/2 pairs in building facing onto the proposed reclamation area. The Black Guillemot is Amber Listed in the Birds of Conservation Concerns in Ireland (BoCCI): 2020-2026. The other species were pied wagtail (1 pair) and rock pipit (1 pair). Both of these species are common and widespread in Ireland. Mitigation measures to reduce the impact on the Black Guillemot include the installation of nest boxes in the pier walls prior to commencement of development to ensure the species has an alternative nesting site. The existing nests on West Pier would be removed to prevent them from being used and then abandoned through disturbance. The EIAR considers that once mitigation measures are adhered to the proposed development would have a short term, not significant effect on Black Guillemots.

- 8.7.33. The bird surveys indicate that several seabird species were observed breeding in the environs of Howth Harbour, largely confined to Irelands Eye (SPA) and Howth Cliffs. Numerous species are recorded foraging and roosting within Howth Harbour and / or in close proximity to the harbour and proposed reclamation area during high and low tides. Ringed Plover was the most numerous species of wader recorded within the harbour. This is an amber list species in the Birds of Conservation Concerns in Ireland (BoCCI): 2020-2026 and is a qualifying interest (wintering wader) of Baldoyle Bay SPA, South Dublin Bay and River Tolka Estuary SPA and Rogerstown Estuary SPA.
- 8.7.34. The construction phase would result in the short-term loss of a winter roost location at the end of West Pier for the duration of the construction period (24 months). Mitigation measures, including the provision of exclusion zones and screening / fencing off areas are proposed to reduce disturbance during the construction period. A project ecologist would oversee all mitigation measures. Once mitigation measures are adhered to, I am satisfied that the impact would not be significant.
- 8.7.35. Artificial light emitted can have a positive effect on many waterbird species, by improving nocturnal visibility.
- 8.7.36. Bird species are generally expected to continue utilising habitats within the development area once construction is completed. Any bird species that are displaced will use alternative habitats readily available to these species in the wider area. Once operational a permanent winter roost area will be established on the newly constructed

revetment pier. This would provide a continuation of the existing winter roost area on West Pier. The roost would be fenced off or screened off to reduce disturbance as agreed with the project ecologist.

8.7.37. The submission from the DAU dated 23rd August 2021 notes the presence of breeding Black Guillemots within the development area and recommends that additional numbers of nesting boxes should be installed in Howth Harbour, both before and on completion of the reclamation works, to give the birds to be displaced as many potential nesting sites as possible. The submission also recommends that a condition be attached to any grant of permission that a Howth Harbour Bird Conservation Plan be submitted to the planning authority prior to commencement of development. It is noted that condition 3 of the grant of permission required the submission of a Howth Harbour Bird Conservation Plan prior to commencement of the proposed dredging and reclamation works proposed. To conserve bird species frequenting Howth Harbour, it is my recommendation that if permission is being contemplated that a similar condition be attached.

8.7.38. Overall, both breeding and wintering birds in Howth harbour have habituated to moderate levels of disturbance. I am satisfied that this habituation and proposed mitigation and monitoring measures would ensure significant negative effects on key ecological bird species would not occur.

Conclusion

8.7.39. Having regard to the examination of environmental information in respect of Biodiversity, in particular the EIAR and supplementary information provided by the applicant, the report of the planning authority and the third-party submissions in the course of the application. I am satisfied that the information submitted in the EIAR adequately demonstrates an understanding of the species potentially impacted by the proposed project and provides suitably comprehensive range of mitigation and monitoring measures in Section 5.8 to reduce any potential impacts to non-significant levels. It is considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated as follows:

- Habitat loss: Permanent loss of c. 4.8ha of infralittoral muddy sands. This impact cannot be mitigated against as it forms an integral part of the project. However, having regard to the relatively small footprint of the reclamation area, in comparison to the availability of similar habitat types within the wider environs I am satisfied that the loss would not have a significant negative impact.
- Habitat loss would result in displacement of a small numbers of foraging birds. This impact cannot be mitigated against as it forms an integral part of the project. However, I am satisfied that the habitats that occur within the development site do not have a more significant natural value than any of the habitats that surround the site and are readily available for bird species. consist of nearby estuarine and inter-tidal habitats, open water, grassland and urban areas with artificial surfaces and buildings. I am satisfied that these offer ample foraging and nesting habitat. Therefore, the loss of habitat is not considered to be significant.
- Habitat loss would result in displacement of a small numbers of common benthic species. This impact cannot be mitigated against as it forms an integral part of the project. I am satisfied that due to the nature of the benthic species present that re-colonisation of the sediment by subtidal fauna would occur rapidly (one to two seasons) once dredging works are completed.
- Birds: Disturbance to nesting, foraging and roosting birds during the construction phase would be mitigated against by the provision of exclusion zones and screening / fencing off areas are proposed to reduce disturbance during the construction period, provision of nesting boxes and the engagement of a project ecologist to oversee all mitigation measures.

8.7.40. I am satisfied that, subject to the implementation of the proposed mitigation measures and the monitoring programme, the proposed development will not have a significant negative impact on any species. I also draw the Boards attention to the AA section of my report (Section 9) where the potential impact of the proposed development on European sites in the area is discussed in greater detail.

8.8. ***Land and Soils***

- 8.8.1. Chapter 6 addresses the impact on Land and Soils and considers any direct or indirect effects on these resources arising from the proposed dredging and reclamation works. The chapter outlines the methodology used and the assessment criteria.
- 8.8.2. The proposed development is on an active marine site with on-going industrial, commercial and leisure activity.
- 8.8.3. The assessment in the EIAR was informed by a desktop study and site investigations. A 2019 survey found the soil in the reclamation area comprise fine to medium brown sand with underlying fine to coarse grey, silty gravelly sand. Underneath this strata is grey, slightly gravelly clay with some cobble and shell content. Bedrock is predominantly strong grey limestone. The samples indicate that the area to be dredged comprises of very soft to soft black, slightly sandy slightly gravelly silt. The black silt had an organic odour.
- 8.8.4. Samples taken from sediments within the harbour were sent for laboratory testing. The results are presented in Appendix 2.2 – Geotechnical Lab Test Report and summarised in Table 6.1 of the EIAR. The results indicate that the sediment was not suitable for dumping at sea due to the classification of the sediments as concentrations of potentially polluting parameters. The contaminants of concerns were Dibutyltin (DBT), Tributyltin (TBT), copper and lead.

Potential Effects

Do nothing	Continued deposition of sediment in the harbour would further increase the bed level and decrease the available water depth for navigation in and out of the harbour. The harbour would lose its functionality over time. The contaminated sediment in the harbour would remain.
Construction Phase	Loss of contaminated dredge sediment outside of the dredged area that would deposit over a wide area.

	<p>Potential accidental spillage and leakage from construction machinery.</p> <p>The removal of contaminated sediment from the seabed.</p>
Operational Phase	Potential for imported soils placed on top of the reclamation area to be contaminated from leaching from the treated sediment.
Cumulative Impact	The proposed project in combination with the impacts of other projects or developments is not expected to have a significant cumulative impact on the land and soil environment.

Mitigation Measures

- 8.8.6. Section 6.4 of the EIAR and associated CEMP set out a range of mitigation measures and pollution prevention measures. The measures include both mitigation by design and other mitigation measures and monitoring. Mitigation measures include the use of an environmental bucket and silt curtains would reduce the loss of sediment and reduce the impact on the surrounding seabed. The minimum quantity of materials required will be stored on site and will be managed to minimise waste. All materials will be stored within the on-site construction compound.
- 8.8.7. Within the reclaimed area mitigation has been incorporated into the design. The contaminated sediment would be treated through stabilisation and solidification in order to contain the contaminants. Once treated the sediments would be a solid material of low permeability that would contain the contaminated. The treatment would prevent any potential contamination of the underlying seabed at the reclamation area. The removal of the contaminated sediments from the harbour, which currently have the potential to go mobile would have a positive effect on the seabed.
- 8.8.8. Monitoring of the project during both the construction and operational phases would take place. The monitoring would be in accordance with an EPA issued licence to undertake the proposed works. The monitoring would include sampling and testing of the treated material to show compliance with the licence. The licence would not be surrendered until the EPA are satisfied.

Residual Impacts

8.8.9. Significant effects are not envisaged during either the construction or operational phase. Any potentially significant impacts have been identified, namely the potential for suspended solids, pollutants, oils, cement, chemicals etc. to be released into marine environment during the dredging phase. These impacts would be mitigated, and residual significant impacts are not expected. I am satisfied that residual effects would not be significant.

Assessment

8.8.10. I have examined, analysed and evaluated the information provided in Chapter 6 and all the associated documents and submissions on file in respect of Land and Soils. I am satisfied that the information submitted in the EIAR adequately demonstrates an understanding of the potential impacts and provides suitably comprehensive range of mitigation and monitoring measures in Section 6.4 to reduce any potential impacts.

8.8.11. *Importation of Materials:* The construction of the perimeter embankment at the land reclamation area would require the importation of 53,000m³ of imported granular sone fill which will be used to fill the core of the bund. The outer rock armour revetment would require the additional importation of 25,000m³ of large rock material of ruse as outer-layer primary rock armour and small rock material for use as under-layer below the primary rock armour. Relevant materials imported for the surface finish following reclamation of land would comprise of stone fill, concrete, paving setts and / or bituminous flexible pavement for the construction of pedestrian walkways, roads and parking paving and a slipway.

8.8.12. The dredge material stabilisation and solidification treatment would require the importation of 36,000m³ tonnes of Portland Cement and Ground Granulated Blast Furnace Slag, which will be combined with the dredged material to form a homogenous mix for use as infill in the reclamation area.

8.8.13. I am satisfied that the geological resources used during construction are typical construction products and would not constitute a significant geological impact.

- 8.8.14. Dredging: I consider that the greatest potential for significant impacts on the land and soil environment arises from the potential for suspended solids, pollutants, oils, cement, chemicals etc. to be released into marine environment during the dredging phase.
- 8.8.15. The project works includes the excavation of c. 240,000m³ of dredge spoil from a 14 ha area within Howth harbour. A multi-beam bathymetric survey would be undertaken to confirm the correct dredge depths are achieved. It is estimated that c. 28,370m³ (c. 10%) of dredge material would be bedrock. The project, therefore, requires some rock-breaking to be carried out. This would not be extensive, and no blasting is proposed. The broken rock would be excavated from the seabed by a long reach excavator with a bucket attachment. The design dredge depths range from -5.5 to -6.5m ODM. The details for individual sections of the harbour are provided in Table 6.2 of the EIAR. The loss of sediment and rock in the harbour would be offset by the placement of this material in the reclaimed land. There would be no net loss of soils from the area.
- 8.8.16. The Generic Quantitative Risk Assessment (Appendix 10) indicates that the level of contamination from the dredge sediments represent a low risk to water quality and marine life. From the information submitted I am satisfied that the potential impact from the sediments would have a negligible effect on the soils.
- 8.8.17. The presence of contaminants in the material to be dredged is acknowledged and that there is potential for some loss of contaminated dredge sediment to deposit onto the seabed over a wide area. As the material disperses it reduces the risk of contamination and its effect on the environment is reduced. Having regard to the information available I am satisfied the proposed development would not result in a significant increase in the risk of contaminants being released in quantities or concentrations that would impact on the land or soil environment. I am satisfied that the effect on soil and the geological environment as a result of the dredging process is not significant.
- 8.8.18. Reclaimed Land: The perimeter embankment and rock armour revetment would have a geosynthetic clay liner on the inside to ensure that any potential contaminants are not released through the perimeter embankment beyond the proposed reclamation area. The area reclaimed would be suitably covered by hardstanding material and landscaped areas would be grassed. There is potential for leaching of contaminants,

from the treated sediment to impact on the imported soils placed on top of the reclamation area. The treated dredge samples were tested and exhibited very low permeability characteristics. Details are provided in Appendix 2.2 Geotech Lab Report. I am satisfied that the impact of the treatment of the sediments and their use in land reclamation area would not be significant on land and soils.

8.8.19. Construction Machinery: The proposed works require the use of long reach excavators, barges and other vessels and machinery. The presence of such machinery increased the risk of fuels/oils being released due to accidental spillage. A preliminary Construction and Environmental Management Plan (Appendix 8) outlined how fuels / oils and other substances would be stored and managed during the construction phase to minimise the risk of spread of contaminants. I am satisfied that subject to adherence with mitigation measure and best practice standards that the use of construction machinery would not result in a significant impact on lands and soil.

Conclusion

8.8.20. Having regard to the examination of environmental information in respect of Land and Soils, in particular the EIAR and supplementary information provided by the applicant and the report of the planning authority in the course of the application. I am satisfied that the information submitted in the EIAR adequately demonstrates an understanding of the potential impacts of the proposed project on Land and Soil and provides suitably comprehensive range of mitigation and monitoring measures in Section 5.8 to reduce any potential impacts. It is considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated as follows:

- Mobilisation of contaminated material outside of the dredge area. This would be mitigated against by the use of an environmental bucket and silt curtains would reduce the loss of sediment and reduce the impact on the surrounding seabed and best practice standards outlined in the CEMP.
- Potential accidental spillage and leakage from construction machinery. This would be mitigated against by adherence to and best practice standards outlined in the CEMP.

- Potential for imported soils placed on top of the reclamation area to be contaminated from leaching from the treated sediment. Mitigation has been incorporated into the design. The contaminated sediment would be treated through stabilisation and solidification in order to contain the contaminants. Once treated the sediments would be a solid material of low permeability that would contain the contaminants. The monitoring would be in accordance with an EPA issued licence.

8.8.21. I am satisfied that the proposed development would not have any unacceptable direct or indirect effects on the environment.

8.9. **Water**

- 8.9.1. Chapter 7 of the EIAR describes and assesses the potential impacts of the proposed development on hydrology and hydrogeology. The chapter describes the methodology for the assessment, the relevant guidelines and legislative context. A Hydrodynamic and Sediment Regime Assessment (Appendix 4), a Flood Risk Assessment (FRA) (Appendix 9) and a Generic Quantitative Risk Assessment (Appendix 10) were submitted with the EIAR.
- 8.9.2. The main hydrological feature of Howth Harbour is the Irish Sea. There is an ebb and flow of sea water in and out of the tidal basins, formed by the 3 no. piers. The water quality is given a good status and not at risk in the Water Framework Directive. There are 3 no. storm water overflow that flow into the harbour, one of which is the Gray's Brook (or Boggeen Stream). This stream originates c. 1.3km south of the appeal site and its water quality is unassigned.
- 8.9.3. The existing drainage on site comprises roadside stormwater drains on both West Pier and Middle Pier which lead to the storm outflow locations (indicated on figure 7.2 of the EIAR).
- 8.9.4. The geology of the site is generally sedimentary in nature, dominated by limestone and shale. Due to the sites location over the site, the bedrock underlying the site has not been classified as an aquifer. Groundwater at the site is expected to be brackish / saline and is unsuitable for portable supply.

Potential Effects

Do nothing	<p>Continued deposition of sediment in the harbour would further increase the bed level and decrease the available water depth for navigation in and out of the harbour. The harbour would lose its functionality over time.</p> <p>The sediments would continue to go into suspension during storms and tidal currents and be carried out into the wider environment.</p>
Construction Phase	<p>Surface water could potentially become polluted during the construction phase by contaminants in the marine sediment, which is mobilised during dredging works, by accidental spillages or run off from stockpiles of dredged material.</p> <p>Potential for sediment to become suspended solids and mobilise.</p>
Operational Phase	<p>Potential for the leaching of contaminants from the established material in the reclamation area into the underlying groundwater.</p>
Cumulative Impact	<p>The proposed project in combination with the impacts of other projects or developments is not expected to have a significant cumulative impact on water quality.</p>

Mitigation Measures

- 8.9.6. Comprehensive mitigation and monitoring measures are proposed in Section 7.4 and a Construction and Environmental Management Plan is attached as Appendix 8. The mitigation measures include controlling the loss of suspended sediments by fitting environmental buckets to the dredge excavator and silt curtains placed around the dredge as it is working. Mitigation measures are also proposed to prevent accidental spillage and leaks during the construction phase.
- 8.9.7. Monitoring of the dredging works are also recommended, this would be carried out by a fixed station in the water to monitor turbidity, a monthly boat based manual

monitoring, daily visual water quality monitoring and laboratory water quality testing to be agreed with the relevant authorities.

- 8.9.8. Monitoring of water quality during both the construction and operational phases would be carried out in accordance with an EPA issued licence, which is required to undertake the proposed works. The monitoring would include sampling and testing waters to show compliance with the requirements of the EPA licence. The licence would not be surrendered until the EPA are satisfied that there is no environmental liability with the proposed project.

Residual Impacts

- 8.9.9. Significant effects are not envisaged during either the construction or operational phase. Any potentially significant impacts have been identified, namely the potential for suspended solids, pollutants, oils, cement, chemicals etc. to be released into marine environment during the dredging phase and / or the leaching of contaminated sediment from the reclaimed area. These impacts would be mitigated against and monitored. I am satisfied that significant impacts are not expected. The removal of the contaminated sediment and containing them within the reclaimed area would also have a positive effect on water quality.

Assessment

- 8.9.10. I have examined, analysed and evaluated the information provided in Chapter 7 and all the associated documents and submissions on file in respect of Water. I am satisfied that the information submitted in the EIAR adequately demonstrates an understanding of the potential impacts and provides suitably comprehensive range of mitigation and monitoring measures in Section 7.4 to reduce any potential impacts.

Hydrology

- 8.9.11. As noted above a Hydrodynamic and Sediment Regime Assessment (Appendix 4) was carried out to assess the movement of the sediments during the dredging phase. The assessment indicates that coarse material has a relatively high fall velocity, and if stirred up into the water column would quickly fall to the seabed. Therefore, such coarse material would fall close to the dredging point. The impact of sediments outside of the harbour area therefore relates to fine sand / silt / clay fraction. This fine material

can stay in suspension for longer than the coarser material and can be transported by tidal currents outside of the harbour area. The modelling indicates that this material would settle out over a very large area, which limits the effect.

- 8.9.12. The Hydrodynamic and Sediment Regime Assessment calculated that the highest concentrations of suspended solids at a sensitive receptor to be at the eastern end of Claremont beach. The Generic Quantitative Risk Assessment (Appendix 10) estimates that without mitigation there would be an exceedance of the environmental quality standards (EQS) for 2 no. parameters, in this regard Tributyltin (TBT) and Benzo (g, h, i)-perylene. These exceedances would only happen when the high contaminated areas are dredged in combination with a high tide at Claremont beach. The EIAR states that unmitigated the impact on water quality would be a short-term significant effect. Mitigation measures are outlined in section 7.4 to reduce the impact on water quality.
- 8.9.13. As noted above, the hydrodynamic assessment also indicates that there is a potential for a 0.4mm deposition rate over 1 year at the eastern end of Claremont beach. This deposition rate did not take account of wave, current or tidal action. On a daily basis wave and current action would remove and deposited sediment and dissipate it over a wider area, therefore, significantly reducing its impact.
- 8.9.14. Having regard to the nature of the marine environment and the dilution factor, I am satisfied that subject to mitigation measures and monitoring to control the release of potentially contaminated sediment from the dredge area that the proposed development would not have a significant impact on water quality.
- 8.9.15. The proposed works would result in the removal of contaminated sediments from Howth harbour. Therefore, reducing the potential for these existing sediments to mobilise and negatively impact on water quality. It is my opinion that the removal of suspended solids and contaminated sediments would positively impact on water quality in the harbour.
- 8.9.16. The stockpiles of coarse dredge material will be of the same nature as the sediments already within the harbour. This material would be stored in a compound on Middle Pier until transported to the infilling area.
- 8.9.17. During the operational phase the reclaimed land would contain low permeability solidified and stabilised sediments. The EIAR notes that this common and accepted

method for re-use of contaminated and uncontaminated dredged sediments and that previous assessments of contaminated dredge material in Ireland have shown that mixing the sediments with cements, clays and other materials successfully contains the potentially polluting parameters and prevents them leaching back into the environment. From the information available I am satisfied that the risk to water quality from leaching from the reclaimed area is not significant.

- 8.9.18. Once operational surface water run off would be collected through a series of gullies feeding into a storm water network. The stormwater drainage network is designed to direct the flow into the sea. The system would incorporate a triple interceptor trap before the water is discharged. Having regard to the information provided within the EIAR I am satisfied that proposed surface water drainage network would not negatively impact on water quality within the Irish Sea.

Hydrogeology

- 8.9.19. As noted above during the operational phase there is potential for the leaching of contaminants from the stabilised material into the underlying groundwater. As part of the construction of the revetment wall a Geosynthetic Clay liner barrier would be put in the perimeter of the infilling area to prevent groundwater movement. Leaching of contaminants from the stabilised material is not expected as the contaminants are bound. Having regard to the information submitted I am satisfied that the effect on groundwater from the contaminants in the stabilised material is not significant.

Flood Risk

- 8.9.20. The FRA notes that overtopping does occur on East Pier, which is a risk to people walking on the Pier during certain wind and water conditions. The water flows directly back to the sea. The EIAR notes that this issue is being addressed by a separate project to widen East Pier and eliminate the danger. East Pier is outside of the red line boundary, and I am satisfied that the proposed project is not reliant on these works.
- 8.9.21. There are no records of flood events in the site area. The land reclamation area is designed to ensure that water entering the site during storm conditions would flow back to the sea. General ground levels of the reclamation area take into account future

(200 year) estimated water levels. Having regard to the information submitted I am satisfied that the proposed development would not increase the risk of flooding within the site or elsewhere.

Conclusion

8.9.22. I have had regard to the examination of environmental information in respect of Water, in particular the EIAR and supplementary information provided by the applicant and the report of the planning authority in the course of the application. I am satisfied that the information submitted in the EIAR adequately demonstrates an understanding of the potential impacts of the proposed project on Water and provides suitably comprehensive range of mitigation and monitoring measures in Section 7.4. It is considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated as follows:

- Surface water pollution during dredging works, by accidental spillages or run off from stockpiles of dredged material, which would be mitigated against by implementation of best practice construction standards outlined in the CEMP.
- Potential for sediment to become suspended solids and mobilise which would be mitigated against by implementation of best practice construction standards outlined in the CEMP.
- Potential for the leaching of contaminants from the established material in the reclamation area into the underlying groundwater which would be mitigated against by monitoring of water quality.

8.9.23. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect effects on the environment.

8.10. *Air and Climate*

8.10.1. Chapter 8 of the EIAR assesses the likely impacts of the proposed development on air quality and climate. Appendix 4 Dust Impact Assessment and Appendix 5: Carbon Assessment of the Proposed Development submitted in RFI issued by the planning authority also relevant.

8.10.2. The Air Quality Index for Health (AQIH) currently ranks the air quality at Howth Harbour and its surrounding environs (Dublin) as 'good'. Existing sources of air pollution are local vehicular traffic and shipping traffic and emissions from surrounding industrial facilities and the urban centre of Howth and Dublin city. There are no licenced emission points within the proposed development site. The closest facility is at Baldoyle Industrial Estate, c. 5km west of the appeal site.

8.10.3. The NRA Guidelines for the treatment of Air Quality during the Planning and Construction of National Road Schemes sets out a list of distances which dust can be expected to result in a nuisance from construction sites. In accordance with these guidelines the construction phase of the proposed development is characterised as being a minor / moderate sized construction site.

Potential Effects

Do nothing	The harbour would lose its functionality over time.
Construction Phase	The movement of machinery, construction vehicles and use of generators would generate fumes containing predominantly carbon dioxide (CO ₂), sulphur dioxide (SO ₂), nitrogen oxides (NO _x), carbon monoxide (CO) and particulate matter (PM ₁₀).
Operational Phase	None
Cumulative Impact	<p>The EIAR notes that the boat yard works on West Pier has the potential to produce fugitive emissions that could have a cumulative impact on air quality. However, there are controls in place at the boat yard to reduce fugitive dust. It is predicted that due to the temporary nature of these projects and with the implementation of mitigation measures the impact on air quality from the construction phase would be short term and not significant.</p> <p>No cumulative impacts are predicted to arise from the operational phase.</p>

Mitigation Measures

8.10.7. Section 8.4 sets out mitigation measures. It is recommended that best practice construction standards be adhered to minimise dust emissions. All appropriate controls and measures are outlined in the CEMP. Due to the nature of the project no mitigation measures are required during the operational phase.

Residual Impact

8.10.8. Once operational there would be a neutral impact on air quality.

8.10.9. The project CO₂ emission is 0.0112% of the national annual emissions, which is considered an insignificant percentage of the national annual emissions.

Assessment

8.10.10. I have examined, analysed and evaluated the information provided in Chapter 8 and all the associated documents and submissions on file in respect of Air Quality and Climate. I am satisfied that the information submitted in the EIAR adequately demonstrates an understanding of the potential impacts and provides suitably comprehensive range of mitigation and monitoring measures in Section 8.4 and the CEMP to reduce any potential impacts.

Air Quality

8.10.11. The nearest sensitive receptors (residential units) to the development are located along the R105, c. 50m south of the development site. Having regard to the separation distance from sensitive receptors, the characteristics of the proposed development site, the wet nature of the dredge material, the scale of plant and machinery, the relatively short (24 months) construction period, the high levels of dispersion and the mitigation measures outlined in Section 8.4. I am satisfied that dust and emissions generated by the proposed development would not have a significant impact on ambient air quality. Once operational there would be no direct impact from emissions into the atmosphere from the proposed development.

Emissions

8.10.12. A Carbon Assessment was submitted in response to the request for further information. It notes that ocean sediments are a long-term sink for carbon. Within the 240,000m³ tonnes of dredge material there is c. 4,000 tonnes of organic carbon. While

the majority of the carbon would be locked in the sediment, some of the organic carbon would biodegrade and could be released into atmosphere as CO₂. The proposed stabilisation of sediments would permanently remove the carbon from the seabed, with limited potential for carbon release.

8.10.13. However, the main carbon off-set is the design of the proposed project. As sending the dredge material to landfill would increase the potential impact of the organic carbon on the climate by producing CO₂ and Methane within a landfill due to the biodegradation of the organic material. It is also estimated that landfilling would generate c. 1,000 tonnes of CO₂ from transport emissions.

8.10.14. I concur with the EIAR that due to the nature of the proposed development it would not have a significant effect on climate change or CO₂ emissions.

Conclusion

8.10.15. Having regard to the examination of environmental information in respect of Air Quality and Climate, in particular the EIAR and supplementary information provided by the applicant and the report of the planning authority in the course of the application I am satisfied that no significant direct or indirect effects would arise due to the nature and scale of the proposed project, the duration (24 months) of the works, the separation distance to sensitive receptors and to the comprehensive range of mitigation and monitoring measures in Section 8.4.

8.11. Landscape / Seascape and Visual Assessment

8.11.1. Chapter 9 of the EIAR is a Landscape / Seascape Visual Impact Assessment (L/SVIA). Appendix 3 of the RFI issued by the planning authority also provides a Landscape and Visual Impact Assessment Review.

8.11.2. Chapter 9 describes the landscape and seascape context of the proposed dredging and reclamation works and assesses the likely impacts of the scheme on the receiving environment. Volume 4 of the EIAR includes 14 no. photomontages comprising 10 no. viewpoints providing a comparison of the existing site and the proposed development and 4 no. aerial viewpoints of the proposed scheme. Appendix 8 of the RFI issued by the planning authority also provides an additional aerial viewpoint of the revised design of the proposed scheme. I am satisfied that the applicants submitted photomontages

provide a reasonable representation of how the proposed development would appear to allow for a full assessment of the potential impact.

- 8.11.3. The majority of the Howth peninsula is covered by the 1999 Special Amenity Area Order (SAAO) and has a Coastal Character Type. The Coastal Character Type is categorised as having an exceptional landscape value. This value is arrived at due to the combination of visual, ecological, recreational and historical attributes. The area has magnificent views out to sea, to the islands and to the Mourne and Wicklow mountains and contains numerous beaches and harbours. The area's importance is highlighted by the High Amenity zoning covering substantial parts of the area. The area is rich in archaeological, architectural and natural heritage and is of high ecological value.
- 8.11.4. The proposed reclamation works would affect c. 400m of coastline and the seabed and would be c. 110m in width. I agree with the EIAR that as the proposed development would be difficult to discern beyond c.2km and that a c. 2km radius study area is appropriate to allow for a comprehensive appraisal.
- 8.11.5. The L/SVIA provides an assessment of the visual impact of the development from the 10 no. viewpoints. Section 9.1.5 of the EIAR provides full details of the assessment criteria. In general, there are 5 no. categories used to classify the 'sensitivity' of the landscape and the magnitude of likely impact, these are Very High, High, Medium, Low and Negligible. The significance of the impact is based on a balance between the sensitivity of the landscape / seascape and the magnitude of the impact. There are 5 categories of significance of an impact ranging from profound to imperceptible.
- 8.11.6. The coastal setting of Howth peninsula consists of a series of cliffs, deep inlets, stony coves and rocky caves and outcrops. The shoreline generally rises in high and steep cliffs and coastal spurs. The north-eastern coastline of the peninsula is defined by 4 no. sandy beaches (Burrow, Claremont, Quarry and Hole in the Wall) that run for c. 2.5km between West Pier and Sutton. Howth is designated a Special Amenity Area Order (SAAO) in the development plan and the peninsula, and the surrounding waters contain Special Areas of Conservation (SAC), Special Protection Areas (SPA) and a proposed Natural Heritage Area (pNHA). The landscape sensitivity of Howth is considered to be High-Medium.

8.11.7. Sensitive visual receptors include people visiting or working along West Pier, people visiting Claremont Beach and Quarry Beach and sailors / boat crew, ferry passengers and persons engaged in recreational amenity within the waters of Howth Harbour. Visual receptors would also include residences within 500m of the site and passengers on the DART.

Submissions / Observations

8.11.8. Concerns are raised in the appeal that the proposed developmetn would interfere with protected views and prospects across open water.

Potential Effects

Do nothing	Not examined in the EIAR. However, there are no foreseeable significant visual changes to Howth Harbour
Construction Phase	During the dredging phase of the proposed works the site and immediate environs would be disturbed by construction activities and haulage, with indirect effects on the setting of the existing area.
Operational Phase	Intensification of the built environment Impact on the coastal setting of Howth Harbour Impact on protected views
Cumulative Impact	The proposed development would not contribute significant cumulative impacts on the landscape / seascape.

Mitigation Measures

8.11.11. Due to the nature of the project specific landscape and visual mitigation measures are not considered necessary as the siting and design of the proposed reclamation works were a fundamental consideration of the project.

Residual Impacts

- 8.11.12. Given the nature of the proposed dredging works no assessment of potential residual impacts are required as no visual impact would occur. This is considered reasonable and acceptable.
- 8.11.13. The proposed reclamation area represents a large and visible physical change to the harbour context and an intensification of the built environment. The landscape / seascape has a relatively high degree of uniqueness and sensitivity. However, the environs of the site are considered to be robust. The residual impact is compatible with the existing environment and would not be significant.

Assessment

- 8.11.14. During the dredging phase of the proposed works the site and immediate environs would be disturbed by construction activities and haulage, with indirect effects on the setting of the existing area. Such temporary (24 months) negative visual impacts are unavoidable and not unusual in the urban context where change is continuous, however, due to the nature of the dredging works there would be no residual visual impact. Therefore, any potential visual impact relates to the reclamation area only.
- 8.11.15. To address the impact of the proposed development on the coastal setting and on protected views the applicant provided an assessment of the significance of the impact of the proposed development from 10 no. viewpoints. In my view Viewpoints VP6, VP7 and VP 9 are short distance views, VP2, VP5 and VP8 are medium distance and VP 1, VP3, VP4 and VP 10 are longer distance view. Table 9.5 provides an assessment of the visual impact of the development from the 10 no. viewpoints.

Short Distance Views

- 8.11.16. The significance of the visual impact from short distance views is generally range from moderate-slight to imperceptible. VP6 is taken from the end of East Pier which is categorised as having a medium sensitivity. There are preserved views from the entire length of East Pier, as identified on development plan zoning maps. These panoramic views are mostly concentrated to the north, towards Ireland's Eye, Lambay Island, the north Leinster coast and the Irish Sea. There are also scenic views back towards the harbour and the wider peninsula. Given the close proximity views of West Pier are

also available. Concerns are raised by third parties that the proposed development could restrict protected views or prospects.

- 8.11.17. The proposed development would be highly visible and relatively close from VP6 (East Pier). The most visible element would be the armourstone wall and the open space. It is acknowledged that the reclaimed area would be highly visible, however, I am satisfied that due to the nature of the proposed reclaimed area and its context within an existing busy harbour facility that it would not be visually obtrusive and would be visually consistent with the harbour.
- 8.11.18. With regard to specific concerns raised by third parties regarding a negative impact on existing protected views and prospects it is noted that the proposed development would obscure views of the open water and sands of Claremont Beach and Quarry Beach, however, due to low lying nature of the proposed reclaimed area it would not impede views of land / built environment. The protected views to the north (towards Ireland's Eye, Lambay Island, the north Leinster coast and the Irish Sea) would not be impacted. I agree with the L/SVIA that the significance of the visual impact would be Moderate to Slight.
- 8.11.19. VP7 is taken from the north-eastern end of West Pier This location is categorised as having a medium sensitivity. West Pier is characterised by commercial and industrial buildings and uses, including some protected structures. West Pier is also the location of the Irelands Eye passenger ferry and is a busy fishing pier. There are preserved views from the end of West Pier, as identified on development plan zoning maps. The views are generally seaward out through the harbour mouth as the buildings and walls along the West Pier impede views westwards. Views westwards are available by climbing the large steps at the end of the pier.
- 8.11.20. The proposed development would provide a new visual and physical access to the reclaimed area through West Pier. West Pier itself would be physically detached from the reclaimed area with a channel of water retained between. A new bridge is proposed over the water channel. I am satisfied that the proposed works would not have a significant impact on the existing character of the uses along West Pier and would not impede any protected views. It is noted that the location of the reclaimed area would allow for great views of the open water from the reclaimed area then area currently

available. I agree with the findings of the L/SVIA that the significance of the visual impact would be slight.

- 8.11.21. VP9 is taken from Middle Pier at Howth Yacht Club which is categorised as having a medium-low sensitivity. Due to the location of existing buildings on West Pier, the proposed reclaimed area is not visible from this location. Therefore, I agree with the L/SVIA that the significance of the visual impact would be imperceptible.

Medium Distance Views

- 8.11.22. The significance of the visual impact from medium distance views is generally considered to be moderate to imperceptible.

- 8.11.23. The L/SVIA considers that the visual impact from the long-distance views range from negligible to moderate - slight. VP2 is taken from Claremont Beach which is categorised as having a medium sensitivity. From the photomontages submitted the expansion of West Pier would marginally reduce the visibility of the sea horizon and partially redefine the skyline at the end of West Pier. However, I agree with the assessment of the L/SVIA that the visual change would have little bearing on the visual amenity of the setting and would not be visually obtrusive or incongruous. The proposed development also allows for the harbour to open out to the sea and Claremont beach, as West Pier is currently focused towards the harbour area, with a high wall along its western boundary. I agree with the L/SVIA that the significance of the visual impact is Moderate – Slight. VP5 is taken from Martello Tower, which is an elevation position to the south of the site with extensive views. This location is categorised as having a High – Medium sensitivity. The reclaimed area would be marginally visible from this location. It is acknowledged that the reclaimed area would be marginally visible, however I agree with the L/SVIA that the significance of the visual impact would be Slight – Imperceptible. VP8 is taken from the R105, adjacent to West Pier. This area is categorised as having a medium - low sensitivity. Due to the existing buildings and structures on West Pier the proposed reclaimed area would not be visible. Therefore, I agree with the L/SVIA that the significance of the visual impact would be imperceptible.

8.11.24. It is acknowledged that the reclaimed area would be visible from viewpoint V2 and partially visible from VP5 due to the context within the existing harbour and the urban area I am satisfied that the impact would not be significant.

Long Distance Views

8.11.25. The significance of the visual impact from long distance views is generally considered to be slight to imperceptible. VP 1 is taken from Quarry Beach, which is categorised as having a medium sensitivity. From the photomontages submitted the proposed development would result in the appearance of the sea wall of West Pier moving marginally closer to V1. However, I agree with the assessment of the L/SVIA that the introduction of the reclaimed land is not incongruous and would have a limited impact on the visual amenity currently available from this location. The significance of the visual impact is considered to be Slight - Imperceptible. VP3 is taken from Muck Rock which is an elevated rock face with panoramic views. This location is within the Howth SAAO and is categorised as having a High – Medium sensitivity. It is acknowledged that the reclaimed area would be marginally visible, however I agree with the L/SVIA that the significance of the visual impact would be Slight. VP4 is taken from Howth Cliff Walk, which is categorised as having a High – Medium sensitivity. Given the relatively limited views of the reclaimed area I agree with the L/SVIA that the significance of the impact is imperceptible. VP 10 is taken from the north of the appeal site in the open water, from Irelands Eye Ferry. This location is categorised as having a medium sensitivity. From this location the reclamation area would be highly visible. However, the photomontages indicate that the proposed armourstone would visually assimilate the proposed reclaimed land with the existing West Pier. I am satisfied that the proposed reclaimed land would not appear visually obtrusive or incongruous in the landscape / seascape and I agree with the L/SVIA that the significance of the visual impact would be slight.

8.11.26. It is acknowledged that the reclaimed area would be visible or partially visible from long distance views, however, due to the context within the existing harbour and the urban area I am satisfied that the visual impact would not be significant.

8.11.27. Overall, I agree with the conclusion of the EIAR that in the wider northern coastline of Howth peninsula this would be a modest physical change. The proposed reclamation

of 4.8ha would impact on c. 400m of coastline and the seabed. It would be permanent and irreversible and would intensify the built environment in Howth harbour. The reclaimed area would reflect the alignment of West Pier and due to natural weathering within c. 5 years it is considered that the proposed new area and the existing West Pier would appear as a single feature. I am satisfied that the proposed projection represents a compatible and consistent extension of an established, contemporary, manmade, harbour facility that has evolved over time and that the proposed project would strengthen the function and future of the harbour. Therefore, the magnitude of the change is considered to be low and, therefore, acceptable.

Conclusion

8.11.28. I have had regard to the examination of environmental information in respect of Landscape and Seascape, in particular the EIAR and supplementary information provided by the applicant, the report of the planning authority and submissions and observations made in the course of the application. I am satisfied that the information submitted in the EIAR adequately demonstrates an understanding of the potential impacts of the proposed project on the landscape / seascape. Of the 10 no. viewpoints assessed the significant of visual impact was slight or less for 8 no. viewpoints. The highest significance of visual impact (Moderate – Slight) was at VP2 Claremont Beach and VP6 end of East Pier which are both less than 300m from the reclamation area and views are not obscured by existing buildings on West Pier. While it is acknowledged that the proposed reclamation area would be visible from some locations I am satisfied that it in the context of the existing harbour facility and busy urban area and having regard to the design and siting of the reclaimed land the proposed development would have no significant direct or indirect effect on the landscape / seascape or on any protected view.

8.12. *Cultural Heritage (Archaeology)*

8.12.1. Chapter 10 of the EIAR is a Cultural Impact Assessment. It identifies archaeological and industrial heritage features that could potentially be impacted by the proposed development. A separate Architectural Heritage Impact Assessment is attached as Appendix 11 and my planning assessment of the impact on architectural / built heritage

is outlined above in Section 7. To avoid repetition this section addresses the potential impacts on archaeology only.

- 8.12.2. A desktop study was carried out. The EIAR notes that due to closures during the Covid pandemic it was not possible to access the National Museum of Ireland Finds Dataset. This is noted and I am satisfied that it does not have a material bearing on the assessment. Site investigations were conducted in December 2019. The site investigation work is presented in Appendix 2. A marine geophysical survey was completed in 2020 and is included in Appendix 3.1 and site walkover inspections and underwater inspections were carried out in 2020.
- 8.12.3. The harbour was constructed in c. 1840 with 2 Piers (East Pier and West Pier). It is considered that East Pier was built upon a pre-existing 18th Century structure. A lighthouse was positioned at the end of East Pier. Previous archaeological investigations within Howth indicate that prior to the harbour being constructed the area appears to have been a beach or foreshore. The harbour was dried out in 1979 and excavated in the early 1980's with the construction of Middle Pier and the East Pier breakwater. The Harbour is not an archaeological monument. Table 10.1 of the EIAR lists 12 no. archaeological monuments to the south of Howth Harbour. None of which are located within the development site or immediate adjacent to it.

Submission / Observations

- 8.12.4. The appeal notes the planning authority's Conservation Officers report and raises concerns that the potential impact of the proposed development on the West Pier (RPS 0595b) has not been fully considered in the documentation submitted. This issue is addressed above in my planning assessment. No concerns were raised regarding a potential impact on archaeological heritage.
- 8.12.5. The submission from the DAU states that the Department has reviewed the EIAR and is broadly in agreement with the findings in relation to Archaeology and Cultural Heritage section. The submission recommends that standard conditions be attached to any grant of permission.

Potential Effects

Do nothing	The current situation would prevail
Construction Phase	The dredging of the harbour would have a direct and permanent impact on harbour silts which could contain archaeological material.
Operational Phase	No impacts are anticipated during the operational phase.
Cumulative Impacts	There are no identified significant cumulative impacts

Mitigation Measures

8.12.6. Section 10.4 outlines comprehensive archaeological management mitigation measures including the preparation of a pre-construction survey of the sloping rock along the west of West Pier and archaeological monitoring of all terrestrial, inter-tidal / foreshore and seabed disturbances. The level of monitoring of the dredging operation within the harbour should be limited to those depths and areas that were not dredged in the 1980's.

Residual Impacts

8.12.7. Residual impacts on archaeological assets are not anticipated.

Assessment

8.12.8. I have examined, analysed and evaluated the information provided in Chapter 10 and all the associated documents and submissions on file in respect of Cultural Heritage (archaeology). I am satisfied that the information submitted in the EIAR adequately demonstrates an understanding of the potential impacts and provides suitably comprehensive range of mitigation and monitoring measures in Section 10.4 to reduce any potential impacts.

8.12.9. Dredging of the harbour occurred in the 1980's after the harbour was dewatered in 1979. It is unlikely that archaeological material would occur in the areas previously dredged. It is possible that archaeological material remains in-situ in areas and depths that have not been dredged. I agree with the recommendation of the EIAR that the in

areas and depths that were not previously dredged should be subject to archaeological monitoring.

- 8.12.10. It is noted that the reclamation works would permanently bury the existing exposed length of sloping rock on the west side of West Pier. I agree with the recommendation of the EIAR that a suitable archeologically record of the rock face should be made prior to construction. This is also necessary to ensure that there is a suitable barrier to separate the in situ remains from the proposed deposits above.

Conclusion

- 8.12.11. I have had regard to the examination of environmental information in respect of Cultural Heritage (Archaeology), in particular the EIAR and supplementary information provided by the applicant, the report of the planning authority and submissions and observations made in the course of the application. I am satisfied that the information submitted in the EIAR adequately demonstrates an understanding of the potential impacts of the proposed project on the Cultural Heritage (archaeology). I am satisfied subject to the recommended mitigation measures being adhered to the proposed development would have no significant direct or indirect effect on the cultural heritage (archaeology) of the harbour.

8.13. *Material Assets*

- 8.13.1. Chapter 11 provides an assessment of the likely impacts of the proposed development on material assets. Material assets are defined as resources that are valued and that are intrinsic to specific places. They may be either human or of natural origin and the value may arise for either economic or cultural reasons.

- 8.13.2. The material assets considered in this EIAR are electricity; water supply, wastewater and gas infrastructure; and resource use and waste management.

Potential Effects

Do nothing	This scenario is not addressed in the EIAR however it is assumed that the current situation would prevail.
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Construction Phase	<p>Interruptions to existing services</p> <p>Increased demand on existing services</p>
Operational Phase	No impacts are envisioned.
Cumulative Impacts	There are no identified significant cumulative impacts

Mitigation Measures

8.13.3. Mitigation measures are provided in Section 11.4 and those outlined in the CEMP. The contractor would be obliged to ensure that there are no interruptions to existing services unless agreed with the relevant supplier in advance.

8.13.4. The waste treatment activity and placement of the treated material would be undertaken in accordance with the conditions of the EPA licence.

Residual Impact

8.13.5. The impact on resource use is a permanent positive effect. The impact on other material assets is considered to be not significant.

Assessment

8.13.6. I have examined, analysed and evaluated the information provided in Chapter 11 and all the associated documents and submissions on file in respect of Material Assets. I am satisfied that the information submitted in the EIAR adequately demonstrates an understanding of the potential impacts and provides suitably comprehensive range of mitigation and monitoring measures in Section 11.4 to reduce any potential impacts.

Electricity

8.13.7. A new electrical network would be created for the land reclamation area. The proposal does not require any modification to the overall local ESB infrastructure. Electrical ducting would be installed to facilitate low level lighting. I am satisfied that there would be no impact on electricity from the proposed works.

Water Supply

8.13.8. There is a requirement for water supply for the treatment process of dredged material, welfare facilities and cleaning. It is anticipated that c. 500m³ /day of water would be required for mixing during the dredge spoil process. The majority of this water would be sea water, however, there would be a need for c. 10% of the supply to be freshwater to create a homogeneous and pumpable slurry. Up to 100m³ /day from the main water supply may be required. During the operational phase outdoor showers and taps would be provided, which require a connection to the mains water. I am satisfied that the proposed development would not have a significant effect on the public water supply.

Wastewater

- 8.13.9. During the construction phase wastewater from welfare facilities would be collected and disposed of at a suitably licenced facility.
- 8.13.10. Excess water during the works process would be re-circulated by pump back into the treatment plan for re-use in mixing the dredge material and binder. Disposal or discharge of excess water that is not required would be treated on site and discharged to the sewer / stormwater system as a treated trade effluent. The discharge of treated water or effluent would be carried out in accordance with the consents from the relevant authority, Fingal County Council, Uisce Eireann and / or EPA.
- 8.13.11. The existing wastewater network would have an increased load due to trade effluent. I am satisfied that this impact would not be significant and can be accommodated within the existing network.
- 8.13.12. There would be no wastewater generated during the operational phase.

Resource Use and Waste Management

- 8.13.13. Waste generated by the project would be minimal and would be strictly controlled. It is envisioned that c. 500m³ of dredge spoil would be dredged, treated and deposited per day. This dredged material would be placed into floating dump barges before eventually being treated into a wet mix for the reclamation area. All excavated dredge material would be re-used. The treatment and reuse would be undertaken in

accordance with appropriate licence issued by the EPA. I agree with the EIAR that the avoidance of waste production is a significant permanent positive effect on resource use and waste management.

Conclusion

8.13.14. I have had regard to the examination of environmental information in respect of Material Assets, in particular the EIAR and supplementary information provided by the applicant and the report of the planning authority. I am satisfied that the information submitted in the EIAR adequately demonstrates an understanding of the potential impacts of the proposed project on Material Assets. I am satisfied subject to the recommended mitigation measures being adhered to the proposed development would have no significant direct or indirect effects.

8.14. *Noise and Vibration*

8.14.1. Chapter 12 of the EIAR describes the potential noise and vibration impacts from the proposed development on the receiving environment. Appendix 6 of the response to the request for further information issued by the planning authority is a Noise and Vibration Review.

8.14.2. It is noted that assessment was carried out during the covid pandemic when travel restrictions were in place, schools, third level institutions and childcare facilities were not operating and businesses were encouraging employees to work from home. As the baseline noise levels were not truly representative, primarily because traffic volumes were significantly reduced, the applicant utilised a baseline noise survey carried out in 2015. Due to Covid related restrictions this is considered a reasonable approach. Details of the noise monitoring locations 2 and a summary of the findings are provided in Section 12. In general, it found that the primary source of noise is from traffic on the Howth Road.

8.14.3. The existing noise environment in the study area includes a constant flow of people to the piers, restaurants, cafes and retail units, the passenger ferry, a function shipyard, the Dart, Howth Yacht Club has a 250 berth marina. Many of the vessels have noise generating inboard and outboard motors.

Potential Effects

Do nothing	This scenario is not addressed in the EIAR however it is assumed that the current situation would prevail.
Construction Phase	Noise and vibration from plant and machinery during the dredging, construction and finishing works.
Operational Phase	No significant noise sources are proposed during the operational phase.
Cumulative Impacts	There are no identified significant cumulative impacts

Mitigation Measures

8.14.4. Mitigation measures are provided in Section 12.4 of the EIAR and are proposed to address predicted exceedances of evening time noise limits on West Pier. They include on site noise monitoring to assess the level of noise impacting West Pier to define a working area between the hours of 7pm – 9pm, communication with local businesses and solid hoarding to reduce noise impact. All works would be carried out in accordance with best practice guidelines.

Residual Impact

8.14.5. Once operational there would be no residual impact.

Assessment

8.14.6. I have examined, analysed and evaluated the information provided in Chapter 12 and all the associated documents and submissions on file in respect of Noise and Vibration. I am satisfied that the information submitted in the EIAR adequately demonstrates an understanding of the potential impacts and provides suitably range of mitigation and monitoring measures in Section 12.4 to reduce any potential impacts.

Noise

8.14.7. The noise thresholds applied during construction are based on best practice-standards for construction sites. The site is classified as a Category A area for daytime

and evening time. There noise limits 65dB for daytime and 55dB for evening time. The proposed working hours for dredging and treatment activities are 7am to 9pm Monday to Friday and 7am to 5pm on Saturday. All other construction related activities would be carried out between 7am and 7pm including underwater rock breaking. There would be no night time works.

8.14.8. The assessment considered 2 no. noise sensitive receptors (NSR), in this regard the high amenity areas of the piers and surrounding residential units. The locations of the closest residential units are indicated on Figure 12-3. These units are located along the R205 Howth Road. Residential NSR are likely to be more sensitive to noise generated by the proposed works. The modelling summarised in table 12-9 predicts that daytime noise limit would range from 48dB – 52dB at the nearest residential NRS and would not exceed the criteria limit for daytime noise (65dB). The modelling summarised in table 12-10 predicts that evening time noise would range from 39dB to 49dB and would also be within the criteria limit for evening noise (55dB). From the information submitted I am satisfied that daytime and evening noise is unlikely to be indistinguishable at the nearest residential units, over existing ambient noise levels, from traffic and harbour activities and, therefore, would not have a significant negative effect on residential NSR.

8.14.9. The piers are considered to be a NSR. The modelling summarised in table 12-9 predicts that daytime noise at the piers would be 59dB and would not exceed the criteria limit for daytime noise (65dB). The modelling summarised in table 12-10 predicts that evening time noise would be 61dB and would, therefore, exceed the criteria limit for evening noise (55dB). It is noted that the modelling located the dredge barge between Middle and West Pier to ascertain the worst-case scenario and when the barge is located further from the shoreline the noise emissions would be lower. The area where this exceedance would be experienced is illustrated in figure 12-5 and generally relates to Middle Pier, West Pier and the harbour area.

8.14.10. The potential impact relates to business on West Pier and visitors to both Middle and West Pier between 7pm and 9pm, when the exceedance emissions are predicted. The success of the businesses on West Pier is largely dependent on the functional harbour and I agree with the EIAR that due to the requirement of the project to allow for the

functionality of the harbour to continue there is likely to be a tolerance to the works and associated noise emissions. The noise exceedance would also impact visitors walking along the piers, however, once they have walked past the construction area there would be no effect.

- 8.14.11. It is acknowledged that the proposed works would generate noise emissions of 61dB which is in excess of the limit of 55dB for evening time at West Pier when ambient noise sources are reduced. However, as the model is the worst-case scenario and due to limited evening hours (7pm – 9pm), to the temporary nature of the works (24 months) and visitors (receptors) on the pier only being exposed for short periods of time.
- 8.14.12. It is noted that the planning authority attached a condition to limit noise emissions in this regard ensuring that during the construction phase no heavy construction equipment/machinery shall be operated on or adjacent to the construction site before 08.00 or after 19.00, Monday to Friday, and before 8.00 and after 13.00 on Saturdays and that no activity that would reasonably be expected to cause annoyance to residents in the vicinity, shall take place on site between the hours of 19.00 and 08.00am and that no deliveries of materials, plant or machinery shall take place before 08.00 or after 19.00 unless agreed with the planning authority. I am satisfied that subject to mitigation measures outlined in section 12.4 that noise emissions are unlikely to have a significant negative impact on the harbour area and therefore, this condition is unwarranted, particularly having regard to short term nature and duration of anticipated noise emissions, the separation distance to the nearest SNR and the ambient noise levels within the harbour area. Regard is also had to the requirement of the works to ensure the continued functionality of the harbour. The noise emissions are considered acceptable.
- 8.14.13. The proposed works also include finishing works to the reclaimed area. The modelling for this phase was carried out assuming all plant and machinery would be operating simultaneously, which is unlikely. The modelling summarised in Table 12-11 predicts that noise emissions would be within the threshold and would likely be indistinguishable from existing noise levels. Therefore, I am satisfied that there would be no significant effects on the receiving environment during this phase.

8.14.14. It is noted that this section of the EIAR does not address the impact of noise on mammal or bird species. However, I am satisfied that this has been adequately addressed in the biodiversity section.

8.14.15. Operational noise emissions from the water sports area would be characteristic of the existing maritime activities in the harbour and would not be significant.

Vibration

8.14.16. The NRA's Good Practice for the Treatment of Noise during planning of National Road Schemes outlines two considerations for vibration during construction, in this regard human comfort and cosmetic or structural damage to a building. Primary sources of vibration are construction related.

8.14.17. Appendix 6 of the response to the request for further information requested by the planning authority provides additional detail vibration. It is noted that rock breaking, using a mounted hydraulic rock breaker in construction is not considered a significant source of vibration and that vibration associated with rock breaking would be restricted to within the immediate breaking areas. It is possible that ground borne vibration would be noticeable to visitors on West Pier within 20m from where rock breaking is undertaken. However, the vibration generated by the proposed works would be within the recommended range. I am satisfied that the vibration generated by the proposed works would not have a significant effect on the receiving environment.

Conclusion

8.14.18. I have had regard to the examination of environmental information in respect of Material Assets, in particular the EIAR and supplementary information provided by the applicant and the report of the planning authority. I am satisfied that the information submitted in the EIAR adequately demonstrates an understanding of the potential impacts of the proposed project on Material Assets. I am satisfied subject to the recommended mitigation measures being adhered to the proposed development would have no significant direct or indirect effects.

8.15. ***Traffic and Transportation***

- 8.15.1. Chapter 13 of the EIAR comprises a Traffic Impact Assessment (TIA). It assesses the impact of construction and operational traffic generated by the proposed development on the receiving environment. The applicant's response to additional information requested by the planning authority is also noted with particular regard to the planning authority's concerns of an overreliance on documents not forming part of the EIAR, including a Construction Traffic Management Plan.
- 8.15.2. The subject site is located on the northern side of Howth Peninsula and is accessed via the Howth Road / Harbour Road (R105). Howth harbour is well served by public transport, Howth Railway Station is located c. 250m from the site with Dart and Commuter trains. There are east and west bound bus stops on the R105. These stops are served by routes 31, 31a, 31b, which provides a link between Howth and the city centre.
- 8.15.3. Howth Harbour and the surrounding area is also well served by pedestrian infrastructure with footpaths and walkways. There is also an east and westbound cycle track provided along the R105.
- 8.15.4. The existing West Pier is a single carriageway local road, with a typical width of c. 7m - 10m and a speed limited of 30 km/hr. There is a footpath along the western side of the carriageway, adjacent to the commercial / retail units. West Pier also accommodates 106 no. car parking spaces. Access to a passenger ferry pontoon is located at the end of the pier. West Pier forms a priority T-Junction with the R105, with a right and left filter lane. There is an uncontrolled pedestrian crossing on Harbour Road at this junction.
- 8.15.5. West Pier is connected to Middle Pier by a local access road, which is outside of the red line boundary. This local road provides access to a public car park, Howth Yacht Club, the Marina and the RNLI Howth Lifeboat Station. Middle Pier accommodates a local access road, 90 no. car parking spaces and a working dock. East Pier which is also outside of the red line boundary accommodates an upper and lower walkway towards Howth Lighthouse.

Submissions / Observations

- 8.15.6. Concerns are raised in the appeal that the harbour area is congested, especially at weekends and bank holidays. It is stated that it is difficult and dangerous to egress the harbour area and it is recommended that traffic lights be installed to manage vehicular and pedestrian traffic. This specific concern appears to relate to the junction of West Pier and the R105 (Howth Road / Harbour Road), which is outside of the remit of the application and the ownership of the applicant.
- 8.15.7. Specific concerns are also raised by the appellant regarding the proximity of a pedestrian crossing to this junction.
- 8.15.8. The observer also raised concerns that the proposed one-way road has the potential to increase vehicular traffic on the West Pier which it is considered is not consistent with proper planning and development and would significantly damage the existing amenity of the West Pier as well as damaging the potential for amenity on the infill area.
- 8.15.9. Concerns were raised in both the appeal and the observation regarding the requirement for additional car parking.

Potential Effects

<i>Do nothing</i>	There would be no impact on traffic flows
<i>Construction Phase</i>	<p>Construction staff would generate c. 53 no. additional trips on the local road network and required car parking.</p> <p>Loss of 90 no. car parking spaces to accommodate the site compound.</p> <p>The importation of construction materials would generate up to 55 no. heavy goods vehicles on the local road network per day, with a peak occurring in months 4-9 of the construction period.</p> <p>Heavy goods vehicles could potentially damage public roads</p>
<i>Operational Phase</i>	No significant change anticipated during the operational phase.

<i>Cumulative Impact</i>	No significant cumulative effects are anticipated.
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Mitigation Measures

- 8.15.10. Comprehensive mitigation and monitoring measures are proposed in Section 13.4. It is proposed that the Main Contractor would prepare and implement a construction management plan for the duration of the works. No mitigation or monitoring measures are required during the operational phase.

Residual Impacts

- 8.15.11. The EIAR notes that the operational phase would have slight to moderate long-term negative effect. In my view the provision of an additional 45 no. car parking spaces and a bus / coach set down area on the new reclaimed land, in a busy tourist area that experiences parking and traffic congestion during peak periods would have a long-term positive effect as it would reduce the time and volume of vehicles circling the piers looking for a car parking space.

Assessment

- 8.15.12. I have examined, analysed and evaluated the information provided in Chapter 7 and all the associated documents and submissions on file in respect of Traffic and Transportation. I am satisfied that the information submitted in the EIAR adequately demonstrates an understanding of the potential impacts and provides a suitable range of mitigation and monitoring measures in Section 13.4 to reduce any potential impacts.
- 8.15.13. The Traffic Impact Assessment indicates that the operational phase of the development would have a negligible impact on the capacity of the surrounding road network. A car parking occupancy survey was not submitted with the application. However, having regard to the tourist, retail and commercial uses within Howth Harbour and particularly on West Pier and having carried out a site visit on the 24th July 2023 it is my opinion that there is a high demand for car parking within the harbour area and that vehicular congestion does occur. However, I am satisfied that the traffic congestion experienced is within the norms of a busy urban and tourist destination

and that the proposed development is not reliant on the upgrade of the junction of West Pier and the R105 (Howth Road / Harbour Road).

- 8.15.14. Specific concerns are also raised by the appellant regarding the proximity of a pedestrian crossing to this junction. Again, I would note that this is outside of the remit of this application and that proposed development is not reliant on any upgrades or changes to Harbour Road (R105).
- 8.15.15. The observer also raised concerns that the proposed one-way road has the potential to increase vehicular traffic on the West Pier. The layout submitted by way of further information includes a one-way (north bound) access road within the reclaimed area. Vehicular access to the new road is via the existing 2-way local access road at the site's southern boundary on West Pier. This existing road currently provides access to Howth Shipyard and the Irish Coast Guard Building. Egress from the proposed one-way road is at the northern end of West Pier at an area currently used for surface car parking. West Pier itself, would remain open for 2-way traffic.
- 8.15.16. It is acknowledged that the harbour area experiences parking congestion at peak times. However, the traffic impact assessment submitted within Chapter 13 of the EIAR indicates that the increased vehicular traffic generated by the proposed development would be negligible. In the response to the appeal the applicant acknowledged that due to the fact that West Pier is a cul-de-sac and due to the competing tourist and commercial demand that it can become congested. It is considered that the introduction of a one-way system on the West Pier would alleviate traffic issues that currently exist.
- 8.15.17. It is my opinion that during times of peak demand for car parking the proposed one-way system would alleviate the congestion currently experienced on West Pier as it eliminates the cul-de-sac nature of the pier and would allow for a free flow of vehicular traffic around the pier. It is my opinion that the proposed layout would improve traffic safety and it is noted that no concerns are raised by the planning authority in this regard. The proposed development would also provide a significant amenity area for pedestrians and cyclists with extensive views of Dublin Bay. Therefore, it is assumed that the majority of pedestrians would utilise this new amenity area and, therefore, reduce the number of pedestrians and cyclists on West Pier.

- 8.15.18. Concerns are also raised in the appeal that the proposed crossing is in a dangerous location, on a corner. The revised layout submitted by way of further information does not indicate that a new pedestrian crossing would be provided within the appeal area. The Proposed Road and Junction Layout drawing submitted by way of further information indicates that buff coloured tactile paving would be provided where the proposed new on-way access road ties into West Pier. At the southern end of the new access road the proposed footpath would tie into the existing footpath outside the Irish Coast Guard Building and on the northern end of the pier the proposed footpath would tie into an area currently used as surface car parking which connects to pedestrian areas on West Pier and the existing continuous footpath along the western side of the pier, adjacent to the commercial units. I am satisfied that the proposed layout has been well considered by the applicant and that the proposed development would not endanger pedestrians by reason of a traffic hazard.
- 8.15.19. It is envisioned that the construction phase would last c. 24 months. Site compounds are proposed on West Pier and Middle Pier and are indicated on Figure 13.4 of the EIAR. It is assumed that a significant number of the estimated deliveries would arrive to the site via the M1/ M50 and would proceed along the R104 /R105 due to the weight restrictions on the N32 / R139. Tables 13.8 and 13.9 of the EIAR provides an estimated breakdown of the number of construction related vehicles generated by the proposed development, with a peak of up to 55 no. vehicles per day (to and from the site). A Construction Traffic Management Plan (TMP) would be put in place during the construction phase to manage traffic on the surrounding road network. I note the planning authority's concern regarding an over reliance on documents not forming part of the EIAR, however I agree with the applicant's response to the request for further information requested by the planning authority, that a traffic management plan is a standard construction site plan that is part of a standard construction site methodology and is not generally considered a mitigation measure within the EIAR. I am satisfied that the impact of construction traffic has been well considered by the applicant and that the proposed development would not result in a traffic hazard.
- 8.15.20. West Pier currently accommodates 106 no. car parking spaces. It is proposed that c. 20 no. car parking spaces on West Pier and 70 no. space on Middle Pier would be temporarily removed for c. 18 months during the construction phase. The EIAR states

that an additional 45 no. car parking spaces and a bus set down area would be provided within the new reclaimed area. This area is outlined on the drawings submitted by way of further information. Therefore, following completion of the works there would be c. 151 no. car parking spaces on West Pier and an additional bus set down area. Both of the third parties recommended that existing car parking within the harbour area should be managed appropriately rather than increase the number of car parking spaces. I agree that car parking management has the potential to reduce the likelihood of long-term parking within the harbour area. However, it is also acknowledged that Howth harbour experiences parking congestion during peak periods, I am satisfied that the proposed works would not result in a significant intensification of uses within Howth Harbour and that the proposed level of car parking is appropriate to serve the proposed development. In my opinion and alterations to the management of the existing car parking areas would be an issue for the agreement of Fingal County Council and the Department of Agriculture, Food and Marine (the applicant) and is outside of the remit of this application.

Conclusion

8.15.21. I have had regard to the examination of environmental information in respect of Traffic and Transportation, in particular the EIAR and supplementary information provided by the applicant, the report of the planning authority and third-party submissions in the course of the application. I am satisfied that the information submitted in the EIAR adequately demonstrates an understanding of the potential impacts of the proposed project on traffic and transportation and provides suitable monitoring measures and that no significant direct or indirect effects would arise due to the nature and scale of the proposed project, the duration (24 months) of the works and to the comprehensive range of mitigation and monitoring measures in Section 13.4.

8.16. Interaction of Effects

- 8.16.1. Chapter 14 addresses Interactions and highlights those interactions which are considered to potentially be of a significant nature and Table 14.1 provides a matrix of interactions.
- 8.16.2. I have considered the interrelationships between factors and whether these might as a whole affect the environment, even though the effects may be acceptable on an

individual basis. Having considered the mitigation measures in place, I am satisfied that no residual risk of significant negative interaction between any of the disciplines was identified and no further mitigation measures are required.

8.16.3. *Mitigation Measures*

8.16.4. Chapter 15 of the EIAR and Appendix 7 of the RFI requested by the planning authority provide a schedule of environmental mitigation measures.

8.17. *Cumulative Impacts*

8.17.1. The proposed development could occur in tandem with the development of other sites that are zoned in the area. Such development would be unlikely to differ from that envisaged under the county development and local area plans which have been subject to Strategic Environment Assessment. I am satisfied that the proposed development is in accordance with national, regional and local policy and is unlikely to give rise to environmental effects. It is, therefore, concluded that the cumulation of effects from the planned and permitted development and the proposed development would not be likely to give rise to significant effects on the environment other than those that have been described in the EIAR and considered in this EIA.

8.18. *Reasoned Conclusion on the Significant Effects*

8.18.1. Having regard to the examination of environmental information set out above, to the EIAR and other information provided by the developer, and to the submissions from the planning authority, prescribed bodies and third parties in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- ***Population and Human Health:*** Neutral impact to the local economy during the construction phase due to the increase in local construction workers and associated benefits and the temporary loss of car parking spaces. Potential significant health and safety impacts during construction that would be mitigated through the implementation of the measures set out in the EIAR, including the Construction Environmental Management Plan and best practice construction methods.

- **Biodiversity:** Should the Board be minded to grant permission it should be noted that the loss of commonly occurring habitat (Muddy Sand) within the North-West Irish Sea cSPA, while considered acceptable, cannot be avoided. Potential significant effects on habitats, birds, marine mammals and aquatic ecology during the construction and operational phases would be mitigated by the implementation of the mitigation measures contained in the Environmental Impact Assessment Report, including the Construction Environmental Management Plan, good practice construction measures, timing of vegetation removal, water pollution prevention measures, provision of bird boxes, use of buffer zones, biosecurity measures and the appointment of an Ecologist. Further pre-commencement biodiversity surveys are also proposed. The proposed works are also subject to EPA licencing requirements.
- **Land, Soils, Water, Air and Climate:** Potential positive significant effects on hydrology, hydrogeology and soils by the removal of contaminated sediments from the harbour any potential negative impacts hydrology, hydrogeology and land and soils during the construction and operational phase would be mitigated by a series of best practice construction management and pollution prevention measures and other specific measures outlined in the EIAR, including the Construction Environmental Management Plan, surface water management plan, use of buffer zones and pollution prevention measures. The project would also be subject to EPA licencing. Construction noise will be mitigated by the measures outlined in the CEMP, however, it should be noted that evening time construction noise at West Pier would likely exceed the recommended limits for short periods of time throughout the construction phase (24 months).
- **Material Assets, Cultural Heritage and the Landscape:** Traffic impacts would be short-term and temporary and will be mitigated during construction by the measures set out in the EIAR, including the CEMP, Traffic Management Plan. Traffic and transportation impacts during the operational stage would be positive due to the provision of additional car parking spaces. Potential impacts on unknown cultural heritage would be mitigated by archaeological monitoring with provision made for resolution of any archaeological features/deposits that may be identified. Landscape and visual impacts are likely, however, given the

context and characteristics of the existing harbour environment they are considered acceptable and compatible with the existing uses.

- 8.18.2. 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. The assessments provided in many of the individual EIAR chapters are satisfactory to enable the likely significant environmental effects arising as a consequence of the proposed development to be satisfactorily identified, described and assessed. The environmental impacts identified are not significant and would not justify refusing permission for the proposed development or require substantial amendments.

9.0 Appropriate Assessment

9.1. *Compliance with Article 6(3) of the Habitats Directive*

- 9.1.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.

9.2. *Background on the Application*

- 9.2.1. The applicant has submitted a Screening Report for Appropriate Assessment. This report is attached as Appendix 2 of the Natura Impact Statement (NIS). A revised NIS was submitted by way of further information and in the interest of clarity my assessment is based on the revised NIS submitted by way of further information on the 2nd June 2022. All of these reports were prepared by Malachy Walsh and Partners and were prepared in line with current best practice guidance. The Screening Report provides a description of the proposed development, identifies and provides a brief description of European Sites within a possible zone of influence of the development and an assessment of the potential impacts arising from the development.
- 9.2.2. The AA screening report concludes that it has been objectively concluded that the proposal to undertake works at Howth Harbour could have significant effects, or significant effects cannot be ruled out on 10 no. Natura sites within 15km of the proposal. Therefore, further assessment is required to determine whether the project

is likely to adversely affect the integrity of these Natura 2000 sites. Hence, the recommendation of the screening process is to proceed to Stage 2; Statement for Appropriate Assessment for these Natura 2000 sites, namely: -

- Baldoyle Bay SAC (000199)
- Irelands Eye SPA (004117)
- Rockabill to Dalkey Island SAC (003000)
- North Bull Island SPA (004006)
- Baldoyle Bay SPA (004016)
- Lambay Island SPA (004069)
- Malahide Estuary SPA (004025)
- South Dublin Bay and River Tolka Estuary SPA (004024)
- Lambay Island SAC (000204)
- Rogerstown Estuary SPA (004015)

9.2.3. The applicants AA Screening Report and NIS do not include an assessment of the potential impacts arising from the development on the North-West Irish Sea cSPA. This is because the cSPA site was designated subsequently to the lodging of the application and the appeal. To allow for a full assessment of the potential impact of the proposed works on the North-West Irish Sea cSPA further information was requested from the applicant on the 30th August 2023 requiring the applicant *to address any potential impacts that the proposed development could have on the North-West Irish Sea cSPA. It should be noted that this may require additional bird surveys. Any resultant changes to the EIAR or NIS analyses and conclusions shall be clearly set out in the response to this request, and this information may be re-advertised if considered to be significant.*

9.2.4. A response to the Request for Further Information was received on the 8th February 2024, which stated that the information submitted was not significant and, therefore, there was no requirement to re-advertise.

9.2.5. Having reviewed all the documents submitted I am satisfied that the information provided allows for a complete examination and identification of any potential

significant effects of the development, alone, or in combination with other plans and projects on all European sites.

9.3. *Stage 1 AA Screening*

- 9.3.1. The vast majority of the area to be reclaimed is located within the North-West Irish Sea cSPA. The inner harbour area to be dredged is not located within the cSPA.
- 9.3.2. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

9.4. *Submissions and Observations.*

- 9.4.1. The third-party appeal and the observation on file raised no objection in principle to the dredging works, however, concerns were raised regarding the impact of the reclamation works. Particular concerns are raised in the observation that the impact of the infill on the erosion and sedimentation processes on Claremont and Burrow Beaches has not been adequately addressed.
- 9.4.2. The submission from the DAU dated 23rd August 2021 noted the information provided in the NIS and considered that the proposed development works are unlikely to pose a significant likely risk to the Qualifying Interests associated with the Natura 2000 sites in the vicinity subject to mitigation measures referred to in Section 8 of the NIS being fully implemented.
- 9.4.3. The submission from the DAU dated 15th April 2024 draws the Boards attention to Drogheda Port Company's infilling of the Stagrennan polder, mudflats in the Boyne Coast and Estuary SAC/SPA in 2000 (as part of the Port Company's capital dredging works) and in particular the European Commission's involvement with the Irish State in relation to that activity.

9.5. *Identification of likely effects*

- 9.5.1. The AA Screening Report identified 18 no. designated sites within a possible zone of influence, as noted above this excludes the North West Irish Sea c.SPA.

9.5.2. I concur with Section 4.7 of the AA Screening Report that the likelihood of significant effects on the Natura 2000 sites considered to be within the zone of influence of the project include habitat loss, habitat alteration, habitat or species fragmentation, water quality and disturbance and / or displacement of species. This is summarised in Table 1: AA Screening Summary Matrix below.

9.5.3. Having regard to the above, it is my opinion that further assessment is required for the 11 no. designated sites. In this regard: -

- North-West Irish Sea cSPA (004236)
- Baldoyle Bay SAC (000199)
- Rockabill to Dalkey Island SAC (003000)
- Lambay Island SAC (000204)
- Rogerstown Estuary SPA (004015)
- Lambay Island SPA (004069)
- Malahide Estuary SPA (004025)
- North Bull Island SPA (004006)
- Baldoyle Bay SPA (004016)
- Irelands Eye SPA (004117)
- South Dublin Bay and River Tolka Estuary SPA (004024)

9.5.4. Pollution control measures during both construction and operational phases are standard practices and would be required for any development in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed, I remain satisfied that the potential for likely significant effects on the following sites can be excluded due to the separation distances and the nature and characteristics of the Qualifying Interests.

- Howth Head SAC (000202)
- Howth Head Coast SPA (004113)
- Irelands Eye SAC (002193)
- North Dublin Bay SAC (000206)

- Malahide Estuary SAC (000205)
- South Dublin Bay SAC (000210)
- Rogerstown Estuary SAC (000208)
- Dalkey Islands SPA (004172)

9.5.5. Therefore, these 7 no. designated sites can be screened out from further assessment due to the nature of the qualifying interests of the designated sites and the intervening distances which are considered sufficient to negate any potential for significant disturbance / displacement impacts.

9.6. **Screening Determination**

9.6.1. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in-combination with other plans or projects could have a significant effect on European Sites (North-West Irish Sea c.SPA (004236), Baldoyle Bay SAC (000199), Rockabill to Dalkey Island SAC (003000) Lambay Island SAC (000204), Rogerstown Estuary SPA (004015), Lambay Island SPA (004069), Malahide Estuary SPA (004025), North Bull Island SPA (004006), Baldoyle Bay SPA (004016), Irelands Eye SPA (004117), South Dublin Bay and River Tolka Estuary SPA (004024)) in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is therefore required. A summary screening matrix is provided in Table 1 below.

Table 1: AA Screening Summary Matrix			
European Site	Distance to proposed development/ Source, pathway receptor	Possible effect alone	Screening conclusions:
<i>North-West Irish Sea cSPA (004236)</i>	The vast majority of the appeal site is located within the cSPA This site is within the zone of influence. Evidence that qualifying interests of the SPA utilise the site.	Loss of habitat. Habitat alteration. Impact on water quality. Disturbance / displacement of species.	Possible significant effects cannot be ruled out without further analysis and assessment.
<i>Irelands Eye SPA (004117)</i>	c. 500m south-east This site is within the zone of influence. Evidence that qualifying interests of the SPA utilise the site.	Loss of ex-situ habitat. Ex-situ habitat alteration. Impact on water quality. Disturbance / displacement of species.	Possible significant effects cannot be ruled out without further analysis and assessment.
<i>Howth Head Coast SPA (004113)</i>	c. 500m east This site is outside of any zone of influence of the development. No evidence that the qualifying interest of the SPA utilises the site.	No effect	Screened out for need for AA
<i>North Bull Island SPA (004006)</i>	c. 1.9km south- west This site is outside of any zone of influence of the development due to the specific characteristics of the habitat types for which the site is designated.	Loss of ex-situ habitat. Ex-situ habitat alteration. Impact on water quality.	Possible significant effects cannot be ruled out without further analysis and assessment.

		Disturbance / displacement of species.	
Baldoyle Bay SPA (004016)	c. 2.2km This site is within the zone of influence. Evidence that qualifying interests of the SPA utilise the site. km west	Loss of ex-situ habitat. Ex-situ habitat alteration. Impact on water quality. Disturbance / displacement of species.	Possible significant effects cannot be ruled out without further analysis and assessment.
Malahide Estuary SPA (004025)	c. 6.4km north-west This site is within the zone of influence. Evidence that qualifying interests of the SPA utilise the site.	Loss of ex-situ habitat. Ex-situ habitat alteration. Impact on water quality. Disturbance / displacement of species.	Possible significant effects cannot be ruled out without further analysis and assessment.
South Dublin Bay and River Tolka Estuary SPA (004024)	c. 7.3km south-west This site is within the zone of influence. Evidence that qualifying interests of the SPA utilise the site.	Loss of ex-situ habitat. Ex-situ Habitat alteration. Impact on water quality. Disturbance / displacement of species.	Possible significant effects cannot be ruled out without further analysis and assessment.
Lambay Island SPA (004069)	c. 10km north east This site is within the zone of influence. Evidence that qualifying interests of the SPA utilise the site.	Loss of ex-situ habitat. Ex-situ habitat alteration. Impact on water quality.	Possible significant effects cannot be ruled out without further analysis and assessment.

		Disturbance / displacement of species.	
Rogerstown Estuary SPA (004015)	c. 10.7km north-west This site is within the zone of influence. Evidence that qualifying interests of the SPA utilise the site.	Loss of ex-situ habitat. Ex-situ habitat alteration. Impact on water quality. Disturbance / displacement of species.	Possible significant effects cannot be ruled out without further analysis and assessment.
Dalkey Islands SPA (004172)	c. 12.2km south This site is outside of any zone of influence of the development due to the specific characteristics of the habitat types for which the site is designated.	No Effect	Screened out for need for AA
Baldoyle Bay SAC (000199)	Immediately adjacent This site is within the zone of influence due to the ecological connections to the specific habitat types for which the site is designated.	Ex-situ habitat alteration. Impact on water quality.	Possible significant effects cannot be ruled out without further analysis and assessment.
Howth Head Coast SAC (000202)	c. 300m south-east This site is outside of any zone of influence of the development due to the specific characteristics of the habitat types for which the site is designated.	No effect	Screened out for need for AA
Rockabill to Dalkey Island SAC (003000)	c. 500m east	Impact on water quality. Ex-situ habitat alteration.	Possible significant effects cannot be ruled out without further analysis and assessment.

	This site is within the zone of influence. Evidence that a qualifying interest of the SAC utilises the site.	Disturbance / displacement of species.	
<i>Irelands Eye SAC (002193)</i>	c. 800m north-east This site is outside of any zone of influence of the development due to the specific characteristics of the habitat types for which the site is designated.	No effect	Screened out for need for AA
<i>North Dublin Bay SAC (000206)</i>	c. 1.9km south- west This site is outside of any zone of influence of the development due to the specific characteristics of the habitat types for which the site is designated.	No effect	Screened out for need for AA
<i>Malahide Estuary SAC (000205)</i>	5.8km north-west This site is outside of any zone of influence of the development due to the specific characteristics of the habitat types for which the site is designated.	No effect	Screened out for need for AA
<i>South Dublin Bay SAC (000210)</i>	c. 8.3km south-west This site is outside of any zone of influence of the development due to the specific characteristics of the habitat types for which the site is designated.	No effect	Screened out for need for AA

<i>Lambay Island SAC (000204)</i>	c.10.3km north-east This site is within the zone of influence. Evidence that qualifying interests of the SAC utilise the site.	Impact on water quality. Disturbance / displacement of species.	Possible significant effects cannot be ruled out without further analysis and assessment.
<i>Rogerstown Estuary SAC (000208)</i>	c. 11.3km north-west This site is outside of any zone of influence of the development due to the specific characteristics of the habitat types for which the site is designated.	No effect	Screened out for need for AA

9.7. ***Stage 2 - The Natura Impact Statement***

9.7.1. The NIS which was submitted by way of further information examines and assesses the potential adverse effects of the proposed development on Baldoyle Bay SAC (000199), Rockabill to Dalkey Island SAC (003000), Lambay Island SAC (000204), Rogerstown Estuary SPA (004015), Lambay Island SPA (004069), Malahide Estuary SPA (004025), North Bull Island SPA (004006), Baldoyle Bay SPA (004016), Irelands Eye SPA (004117) and South Dublin Bay and River Tolka Estuary SPA (004024). It was prepared in line with current best practice guidance and provides an assessment of the potential impacts to the designated sites and an evaluation of the mitigation measures proposed.

9.7.2. As noted above, applicants AA Screening Report and NIS did not include an assessment of the potential impacts arising from the development on the North-West Irish Sea cSPA. This is because the cSPA site was designated subsequently to the lodging of the application and the appeal. This was addressed by way of further information.

9.7.3. Having reviewed the documents, submissions and consultations I am satisfied that the information allows for a complete assessment of any adverse effects of the development, on the conservation objectives of the designated sites alone, or in combination with other plans and projects.

9.8. ***Appropriate Assessment of implications of the proposed development***

9.8.1. The following is an assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field as outlined in the NIS. 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.

9.8.2. The submission from the DAU, dated 15th April 2024 referred to the Drogheda Port Company's infilling of the Stagrennan polder, mudflats in the Boyne Coast and Estuary SAC/SPA in 2000, as part of the Port Company's capital dredging works, and in particular the European Commission's involvement with the Irish State in relation to

that activity. This development relates to maintenance dredging of the commercial estuary of the River Boyne and seaward approaches at Drogheda Port with the partial reuse of dredged materials and remaining dredged materials to be dumped at sea under an EPA licence (foreshore licence FS007028). The EPA issued Drogheda Port Company a waste licence (Reg. No. WL 52) in 1999 for the temporary storage of dredged sand and gravel on a mudflat in the Boyne Estuary SPA. In summary the inspectors report notes that the temporary loss of the Stagrennan Polder (mudflat) was subject to compensatory measures being implemented. The European Commission issued a Reasoned Opinion in 2002 alleging that sufficient compensatory measures were not provided. The European Commission also wrote to Ireland claiming that the Habitats Directive and the Waste Directive were not being respected in relation to the works at Stagrennan Polder. Having regard to the nature of the proposed project, I am satisfied that that this case is not relevant in this instance.

9.9. *European Sites*

9.9.1. The following sites are included in the Appropriate Assessment of the proposed development:

- North-West Irish Sea cSPA (004236)
- Baldoyle Bay SAC (000199)
- Irelands Eye SPA (004117)
- North Bull Island SPA (004006)
- Rockabill to Dalkey Island SAC (003000)
- Baldoyle Bay SPA (004016)
- Malahide Estuary SPA (004025)
- South Dublin Bay and River Tolka Estuary SPA (004024)
- Lambay Island SPA (004069)
- Lambay Island SAC (000204)
- Rogerstown Estuary SPA (004015)

9.9.2. A description of the sites and their Conservation and Qualifying Interests (QI's) / Special Conservation Interests (SCI's), including any relevant attributes and targets

for these sites, are set out in the Section 6 of the NIS and are also available on the NPWS website (www.npws.ie).

- 9.9.3. The main aspects of the proposed development that could adversely affect the conservation objectives of European sites have been identified above as habitat loss, habitat alteration, habitat or species fragmentation, and disturbance and / or displacement of species and water quality.

North West Irish Sea c. SPA

- 9.9.4. The only European Site impacted directly by the proposed project is the North-West Irish Sea candidate SPA. The overall conservation objective for each species is to either maintain (M) or restore (R) the favourable condition of the species. The site-specific conservation Attributes and Targets for SCI's of the North West Irish Sea c.SPA are outlined in Table 2 below.

Table 2: AA Summary Table for North West Irish Sea cSPA

North West Irish Sea c.SPA - the reclamation area is located within the c.SPA Conservation Objectives: To maintain or restore the favourable conservation status of habitats and species of community (M/R) Detailed Conservation Objectives available: https://www.npws.ie		
Qualifying Interests: A001 Red-throated Diver <i>Gavia stellata</i> (M), A003 Great Northern Diver <i>Gavia immer</i> (M), A009 Fulmar <i>Fulmarus glacialis</i> (R), A013 Manx Shearwater <i>Puffinus puffinus</i> (M), A017 Cormorant <i>Phalacrocorax carbo</i> (R), A018 Shag <i>Phalacrocorax aristotelis</i> (R), A065 Common Scoter <i>Melanitta nigra</i> (M), A179 Black-headed Gull <i>Chroicocephalus ridibundus</i> (M), A182 Common Gull <i>Larus canus</i> (M), A183 Lesser Black-backed Gull <i>Larus fuscus</i> (M), A184 Herring Gull <i>Larus argentatus</i> (R), A187 Great Black-backed Gull <i>Larus marinus</i> (M), A188 Kittiwake <i>Rissa tridactyla</i> (R), A192 Roseate Tern <i>Sterna dougallii</i> (M), A193 Common Tern <i>Sterna hirundo</i> (M), A194 Arctic Tern <i>Sterna paradisaea</i> (M), A195 Little Tern <i>Sterna albifrons</i> (M), A199 Guillemot <i>Uria aalge</i> (M), A200 Razorbill <i>Alca torda</i> (M), A204 Puffin <i>Fratercula arctica</i> (R), A862 Little Gull <i>Hydrocoloeus minutus</i> (M)		
Summary of Appropriate Assessment		
Conservation Objectives Targets and Attributes (Summary)	Potential Adverse Effects	Mitigation Measures
No significant decline in population Sufficient number of locations, area, and availability (in terms	Habitat Loss: The loss 4.8ha of potential foraging habitat for waterbirds will occur as a result of the	See Section 8 of the NIS. Mitigation Measures include:

<p>of timing and intensity of use) of suitable habitat to support the population</p> <p>Sufficient number of locations, area of suitable habitat and available forage biomass to support the population target</p> <p>The intensity, frequency, timing and duration of disturbance occurs at levels that do not significantly impact the achievement of targets for population size and spatial distribution</p> <p>The number, location, shape and area of barriers do not significantly impact the site population's access to the SPA or other ecologically important sites outside the SPA</p>	<p>reclamation of the outer section of the western pier. This equates to c. 0.002% of c. SPA area.</p> <p>The recorded use of this area by species of divers, grebes and auks was periodic and by a small number of birds.</p> <p>The habitats to be removed may form part of the feeding range of a number of species, however, they are not reconsidered critical feeding resource for these species, based on similar or higher valued habitats.</p> <hr/> <p>Habitat Alteration:</p> <p>Dredging will deepen the harbour. The numbers of gulls utilising intertidal mud within the harbour were low. Any alteration in habitat during the operational phase will not have an impact beyond the displacement of a very small number of birds.</p> <hr/> <p>Disturbance / displacement of species:</p> <p>Herring Gull, Cormorant and Shag were recorded roosting within the development site.</p> <p>Excessive noise levels above ambient levels are not predicted given the nature and scale of the works.</p>	<p>An Environmental Management Plan will be in place for the duration of the project</p> <p>Works will be monitored by a project ecologist / ornithologist.</p> <p>Lighting provided with limited luminosity.</p> <p>Dark zones for roosting intertidal bird species where necessary.</p> <p>Screening will be erected around the winter roost at the end of East Pier.</p> <p>Exclusion zones will be established during wintering bird period, focused around Claremont Beach.</p> <p>A pre-construction survey to ensure nest locations on the West Pier are not in use.</p> <p>No nighttime dredging will be permitted</p> <p>Habitat degradation will be prevented by controlling the movement of construction vehicles and machinery.</p> <p>Good construction management to minimise risk of pollution of soil, storm water run-off, seawater or groundwater.</p> <p>Run off will be directed to the surface water drainage</p>
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	<p>Water Quality:</p> <p>Dredging of the seabed would result in an increase in suspended sediment concentration in the harbour which has the potential to alter the ecology of surrounding habitats and impact on species.</p> <p>During the construction phase of the reclamation there is potential for silt deposition and hydrocarbon contamination.</p> <p>Water quality impacts associated with the day to day utilisation of the reclamation area as a result of trawler vessel operations</p>	<p>network for treatment prior to entering marine waters.</p> <p>Strict controls to prevent dumping of construction vessel waste during dredging phase.</p> <p>Recovery plan in event of accidental spillage of oil / diesel.</p> <p>The loss of suspended sediments would be prevented by environmental buckets fitted to the dredge digger, silt curtains around the dredge area and monitoring of waters.</p> <p>A water Quality Management Programme (WQMP) will be prepared and implemented.</p> <p>The dredging and reclamation works will be subject to conditions and monitoring or wither an Industrial Emissions Licence or a waste licence from the EPA.</p> <p>Water samples will be collected at regular intervals to test for suspended solids.</p> <p>Treatment of dredge material will enclosed and controlled.</p> <p>The dredger will transport material in an appropriate safe manner to a pre-assigned location.</p> <p>Dredging activities will be carried out in accordance with a CEMP and a Dredging Method Statement.</p>
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		<p>Appropriate stabilisation of dredge spoil will be undertaken following best practice guidance.</p> <p>The dredge spoil will be pumped from the water borne barge into the mixer and treated material will be pumped onwards to the reclamation area.</p> <p>When the external face of the embankment is in place the internal face will be lined with a Geosynthetic liner to act as a barrier to movement of water, dredge slurry and contaminants in and out of the area to be reclaimed.</p> <p>Concrete will be poured in-situ and supervised by the Construction Manager.</p> <p>The formwork for the concrete will be sealed off prior to concrete pour and there will be no potential for concrete to enter the adjoining water.</p> <p>Weather and tidal conditions will be monitored.</p> <p>If dewatering if required all contaminated water will be treated.</p> <p>Washout of concrete trucks will not take place on site.</p> <p>Surface water during the operational phase will be collected at a number of hydrocarbon / silt interceptors before out falling to the sea.</p>
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		<p>Non return valves will be constructed in the outfall headwalls to prevent any return of water during high tide.</p> <p>The contractor will prepare an emergency response plan with procedures for events likely to cause pollution.</p>
<p>Overall Conclusion: Integrity Test</p> <p>The proposed development would result in the permanent loss of c. 4.8ha of habitat, which equates to c. 0.002% of the area of the cSPA. The majority of the area to be reclaimed / lost within the cSPA is sub-tidal, except for an intertidal strip along the west face of West Pier. The intertidal habitat immediately adjacent to West Pier generally comprises fine sand to slightly muddy gravelly sand. It is not considered to be of high ecological value. The sub-tidal habitat comprises Muddy Sands (SS2). This is a common habitat and given the relatively small footprint of the reclamation area, in comparison to the availability of similar habitat types within the wider environs, I do not consider the loss of 4.8ha of habitat to impact on the conservation objectives of the cSPA.</p> <p>Based on the information provided, I am satisfied that adverse effects can be excluded for this c.SPA site and that no effects of any significance would occur to SCI bird species utilising habitats within the development site. No uncertainty remains.</p> <p>Significant disturbance has been excluded.</p> <p>Adverse effects from contamination can be effectively prevented by mitigation measures.</p> <p>The proposed development would not delay or prevent the attainment of the Conservation objectives of any of this c.SPA.</p>		

Breeding / Non-breeding / Population Size

- 9.9.5. The North-West Irish Sea cSPA extends offshore along the coasts of counties Louth, Meath and Dublin, and is approximately 2,333km² in area. The NPWS site synopsis states that the North-west Irish Sea cSPA constitutes an important resource for marine birds. This cSPA is ecologically connected to several existing SPAs in this area, providing protection of nearshore and offshore waters for breeding seabirds and wintering birds.

Spatial Distribution:

- 9.9.6. The report issued in response to the request for further information notes that the proposed development results in the loss of c. 4.8 ha of benthic habitat in the SPA. The appeal site equates to c. 0.002% of the area of the cSPA. The majority of the area to be reclaimed / lost within the cSPA is sub-tidal, except for an intertidal strip along the west face of West Pier. The sub-tidal habitat generally comprises muddy sand and is considered to be of high ecological value. The intertidal habitat immediately adjacent to West Pier generally comprises fine sand to slightly muddy gravelly sand and is not considered to be of high ecological value. As noted in the table above there is no conservation objective for wetland habitats in the c. SPA.
- 9.9.7. The bird surveys subdivided the study area into 4 no. sections, which include Howth Harbour and the wider environs, these are identified in Figure 8 of the NIS. Numerous species were recorded breeding in the environs of Howth Harbour. The species which are qualifying interest of the North West Irish Sea include the following (breeding) seabirds Fulmar, Cormorant, Shag, Herring Gull, Lesser Black-backed Gull, Great black-backed Gull, Kittiwake, Razorbill and Puffin. The surveys confirm that these species breeding locations are largely confined to Irelands Eye SPA and Howth Head Cliffs with foraging in the wider area.
- 9.9.8. Winter Bird Usage surveys are summarised in Table 4 (Low Tide) and Table 5 (High Tide) of the NIS. They identify Howth Harbour (sub-section 1) as being utilised, primarily as roost sites by a number of species. Species listed as SCI for the North West Irish Sea c.SPA sites utilising Howth Harbour at low tide and high tide include Black-headed Gull, Cormorant, Common Gull, Great Black-backed Gull, Shag and Re-throated Diver.
- 9.9.9. Having regard to the information submitted the habitats that occur within the reclamation area do not have a more significant natural value than any of the habitats that surround the site, consisting of nearby estuarine and inter-tidal habitats, open water, grassland and urban areas with artificial surfaces and buildings. I am satisfied that there are a sufficient number of locations, area and availability of suitable habitat to support the populations.

Forage spatial distribution extent, abundance and availability:

- 9.9.10. Having regard to the information submitted, I am satisfied that there is sufficient number of locations, area of suitable habitat and available forage biomass to support the population target.

Disturbance across the site:

- 9.9.11. The impact of any significant disturbance (direct or indirect) to the population would ultimately affect the achievement of targets for population size and/or spatial distribution. Section 8 of the NIS set out mitigation and monitoring measures to reduce the potential for disturbance. These are summarised in Section 9.x below.
- 9.9.12. The construction phase includes the dredging of the seabed within the harbour (c. 240,000sqm). This would result in an increase in suspended sediment concentration in the harbour. Therefore, dredging works have the potential to alter the ecology of surrounding habitats and species. The Winter 2019/2020 survey indicates that there are a number of qualifying interests of the designated site foraging and roosting in smaller numbers within the vicinity of the development site. The locations of the roosts are indicated on figure 23 of the NIS. While there will be increased turbidity arising from the dredging works it is noted that this would be temporary and is a naturally occurring feature of marine environments, with no potential to give rise to negative ecological effects.
- 9.9.13. Disturbance / displacement due to noise generated by the works are not expected to be excessive given the nature of the works.
- 9.9.14. Artificial lighting has the potential to affect birds, however, Howth Harbour is well lit by streetlights at nighttime, particularly along the promenade of West Pier and as such any birds utilising the site will be accustomed to some level of artificial illumination.
- 9.9.15. It is my view that any disturbance and / or displacement due to water quality impacts during the construction phase would not have any impact beyond the displacement of a very small number of birds and is not considered to be significant. I am satisfied that the intensity, frequency, timing and duration of disturbance that is likely to occur as a result of the proposed development occurs at levels that do not significantly impact the achievement of targets for population size and spatial distribution.

Barriers to connectivity and site use

- 9.9.16. Given the nature of the project I am satisfied that it would not limit access to this c.SPA or ecologically important sites outside of the c.SPA.

Conclusion

- 9.9.17. Following the implementation of mitigation measures, which are provided in Section 8 of the NIS and summarised below I am satisfied that the construction and operation of the proposed development would not adversely affect the integrity of this European site and no reasonable doubt remains as to the absence of such effects.

Baldoyle Bay SPA (004016), Malahide Estuary SPA (004025), South Dublin Bay and River Tolka Estuary SPA (004024), Irelands Eye SPA (004117), North Bull Island SPA (004006), Lambay Island SPA (004069), Rogerstown Estuary SPA (004015).

- 9.9.18. The proposed development is not located within Irelands Eye SPA (004117), North Bull Island SPA (004006), Baldoyle Bay SPA (004016), Malahide Estuary SPA (004025), South Dublin Bay and River Tolka Estuary SPA (004024), Lambay Island SPA (004069) or Rogerstown Estuary SPA (004015).

- 9.9.19. Given the number of qualifying interests and the cross over of species between the SPA's within a potential zone of influence and to the fact that the proposed development would have no impact on the QI of the North West Irish Sea c.SPA, in which the appeal site is located, the assessment below relates only to QI's where there is a credible or tangible source-pathway-receptor to the appeal site. It is also noted that birds recorded within the study area cannot be traced to a particular SPA.

- 9.9.20. The site-specific conservation Attributes and Targets for relevant SCI's of Baldoyle Bay SPA (004016), Malahide Estuary SPA (004025), South Dublin Bay and River Tolka Estuary SPA (004024), Irelands Eye SPA (004117), North Bull Island SPA (004006), Lambay Island SPA (004069), Rogerstown Estuary SPA (004015) are outlined in Table 3 below.

Table 3: AA Summary Table for Irelands Eye SPA (004117), North Bull Island SPA (004006), Baldoyle Bay SPA (004016), Malahide Estuary SPA (004025), South Dublin Bay and River Tolka Estuary SPA (004024), Lambay Island SPA (004069), Rogerstown Estuary SPA (004015)

Irelands Eye SPA (004117), North Bull Island SPA (004006), Baldoyle Bay SPA (004016), Malahide Estuary SPA (004025), South Dublin Bay and River Tolka Estuary SPA (004024), Lambay Island SPA (004069), Rogerstown Estuary SPA (004015)

Conservation Objectives: To maintain or restore the favourable conservation status of habitats and species of community (M/R)

Detailed Conservation Objectives available: <https://www.npws.ie>

Irelands Eye SPA (004117): located c. 500m from the appeal site.

Relevant Qualifying Interests: A017 Cormorant *Phalacrocorax carbo*, A184 Herring Gull *Larus argentatus*, A188 Kittiwake *Rissa tridactyla*, A200 Razorbill *Alca torda*

Conservation Objectives Targets and Attributes (Summary)	Potential Adverse Effects	Mitigation Measures
<p>Long Term Population Trend stable or increasing</p> <p>No significant decrease in the range, timing and intensity of use of areas by species other than that occurring from the natural patterns of variation</p>	<p>Loss of ex-situ habitat:</p> <p>No spatial overlap</p> <p>The recorded use of the development site by species of divers, grebes and auks was periodic and by a small number of birds.</p> <p>The habitats to be removed may form part of the feeding range of a number of species, however, they are not considered critical feeding resource for these species, based on similar or higher valued habitats.</p> <hr/> <p>Habitat Alteration:</p> <p>Dredging will deepen the harbour. The numbers of gulls utilising intertidal mud within the harbour were low. Any alteration in habitat during the operational phase will not have</p>	<p>See Section 8 of the NIS. Mitigation Measures include:</p> <p>An Environmental Management Plan will be in place for the duration of the project.</p> <p>Works will be monitored by a project ecologist / ornithologist.</p> <p>Lighting provided with limited luminosity.</p> <p>Dark zones for roosting intertidal bird species where necessary.</p> <p>Screening will be erected around the winter roost at the end of East Pier.</p> <p>Exclusion zones will be established during wintering bird period, focused around Claremont Beach.</p>

	<p>an impact beyond the displacement of a very small number of birds.</p> <hr/> <p>Disturbance / Displacement:</p> <p>Herring Gull and Cormorant were recorded roosting within the development site.</p> <p>Any impact on foraging and or roosting birds within the SPA would not be significant due to the intervening distance.</p> <hr/> <p>Water Quality:</p> <p>Water quality impacts are not envisioned due to the intervening distance and dilution factor.</p>	<p>A pre-construction survey to ensure nest locations on the West Pier are not in use.</p> <p>No nighttime dredging will be permitted.</p> <p>Good construction management to minimise risk of pollution of soil, storm water run-off, seawater or groundwater. Run off will be directed to the surface water drainage network for treatment prior to entering marine waters.</p> <p>The loss of suspended sediments would be prevented by environmental buckets fitted to the dredge digger, silt curtains around the dredge area and monitoring of waters.</p> <p>A water Quality Management Programme (WQMP) will be prepared and implemented.</p> <p>The dredging and reclamation works will be subject to conditions and monitoring or wither an Industrial Emissions Licence or a waste licence from the EPA.</p> <p>Dredging activities will be carried out in accordance with a CEMP and a Dredging Method Statement.</p> <p>Surface water during the operational phase will be collected at a number of hydrocarbon / silt</p>
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		<p>interceptors before outfalling to the sea. Non return valves will be constructed in the outfall headwalls to prevent any return of water during high tide.</p> <p>The contractor will prepare an emergency response plan with procedures for events likely to cause pollution.</p>
<p>North Bull Island SPA (004006): located c. 1.9km from the appeal site.</p> <p>Relevant Qualifying Interests: A046 Light-bellied Brent Goose <i>Branta bernicla hrota</i> (M), A130 Oystercatcher <i>Haematopus ostralegus</i> (M), A144 Sanderling <i>Calidris alba</i> (M), A149 Dunlin <i>Calidris alpina alpina</i> (M), A160 Curlew <i>Numenius arquata</i> (M), A162 Redshank <i>Tringa totanus</i> (M), A169 Turnstone <i>Arenaria interpres</i> (M), A179 Black-headed Gull <i>Chroicocephalus ridibundus</i> (M)</p>		
Summary of Appropriate Assessment		
Conservation Objectives Targets and Attributes (Summary)	Potential Adverse Effects	Mitigation Measures
<p>Long Term Population Trend stable or increasing</p> <p>No significant decrease in the range, timing and intensity of use of areas by species other than that occurring from the natural patterns of variation</p>	<p>Loss of ex-situ habitat:</p> <p>No spatial overlap</p> <p>The recorded use of the development site by species of divers, grebes and auks was periodic and by a small number of birds.</p> <p>The habitats to be removed may form part of the feeding range of a number of species, however, they are not considered critical feeding resource for these species, based on similar or higher valued habitats.</p>	As Above

	<p>Habitat Alteration:</p> <p>Dredging will deepen the harbour. The numbers of gulls, brent geese, redshanks, turnstones and Oystercatchers utilising intertidal mud within the harbour were low. Any alteration in habitat during the operational phase will not have an impact beyond the displacement of a very small number of birds.</p> <hr/> <p>Disturbance / displacement of species:</p> <p>Turnstone, Oystercatcher, Herring Gull, Redshank, Dunlin, Cormorant, and Shag were recorded roosting within the development site.</p> <p>Excessive noise levels above ambient levels are not predicted given the nature and scale of the works.</p> <hr/> <p>Water Quality:</p> <p>Dredging of the seabed would result in an increase in suspended sediment concentration in the harbour which has the potential to alter the ecology of surrounding habitats and impact on species.</p> <p>During the construction phase of the reclamation there is potential for silt deposition and hydrocarbon contamination.</p>	
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	Water quality impacts associated with the day to day utilisation of the reclamation area as a result of trawler vessel operations.	
Baldoyle Bay SPA (004016): located c. 2.2km from the appeal site		
Relevant Qualifying Interests: A046 Brent Goose <i>Branta bernicla hrota</i> (M), Ringed Plover (<i>Charadrius hiaticula</i>) [A137] (M), A157 Bar-tailed Godwit <i>Limosa lapponica</i> (M)		
Summary of Appropriate Assessment		
Conservation Objectives Targets and Attributes (Summary)	Potential Adverse Effects	Mitigation Measures
<p>Long Term Population Trend stable or increasing</p> <p>No significant decrease in the range, timing and intensity of use of areas by species other than that occurring from the natural patterns of variation</p>	<p>Loss of ex-situ habitat: No spatial overlap</p> <p>Ringed Plover was recorded roosting in nationally important numbers within Howth Harbour and proposed development site.</p> <p>Extremely low numbers of Bar tailed Godwit recorded in 2012, roosting within Howth Harbour. The development site is not deemed an established or critical roosting resource for this species.</p> <p>The habitats to be removed may form part of the feeding range of a number of species, however, they are not reconsidered critical feeding resource for these species, based on similar or higher valued habitats.</p> <hr/> <p>Ex-Situ Habitat Alteration:</p> <p>Dredging will deepen the harbour. The numbers of brent geese utilising intertidal mud within the harbour were low. Any alteration</p>	As above

	<p>in habitat during the operational phase will not have an impact beyond the displacement of a very small number of birds.</p> <hr/> <p>Disturbance / Displacement:</p> <p>Any impact on foraging and or roosting birds within the SPA would not be significant due to the intervening distance.</p> <hr/> <p>Water Quality:</p> <p>Water quality impacts are not envisioned due to the intervening distance and dilution factor.</p>	
<p><i>Malahide Estuary SPA (004025): located c. 6.4km from the appeal site</i></p> <p><i>Relevant Qualifying Interests:</i> A005 Great Crested Grebe Podiceps cristatus (M), A046 Brent Goose Branta bernicla hrota (M), A069 Red-breasted Merganser Mergus serrator (M) A130 Oystercatcher Haematopus ostralegus (M), A149 Dunlin Calidris alpina alpina (M) A157 Bar-tailed Godwit Limosa lapponica (M), A162 Redshank Tringa totanus (M)</p>		
Summary of Appropriate Assessment		
Conservation Objectives Targets and Attributes (Summary)	Potential Adverse Effects	Mitigation Measures
<p>Long Term Population Trend stable or increasing</p> <p>No significant decrease in the range, timing and intensity of use of areas by species other than that occurring from the natural patterns of variation</p>	<p>Loss of ex-situ habitat:</p> <p>No spatial overlap</p> <p>The recorded use of the development site by species of divers, grebes and auks was periodic and by a small number of birds.</p> <p>Very low number of Light Bellied Brent Geese foraging within Howth Harbour. This species is habituated to disturbance.</p>	As Above.

	<p>Extremely low numbers of Bar tailed Godwit recorded in 2012, roosting within Howth Harbour. The development site is not deemed an established or critical roosting resource for this species.</p> <p>The habitats to be removed may form part of the feeding range of a number of species, however, they are not reconsidered critical feeding resource for these species, based on similar or higher valued habitats.</p> <hr/> <p>Habitat Alteration:</p> <p>Dredging will deepen the harbour. The numbers of gulls, brent geese, redshanks and Oystercatchers utilising intertidal mud within the harbour were low. Any alteration in habitat during the operational phase will not have an impact beyond the displacement of a very small number of birds.</p> <p>Dunlin were recorded roosting within the development site</p> <hr/> <p>Disturbance / Displacement:</p> <p>Any impact on foraging and or roosting birds within the SPA would not be significant due to the intervening distance.</p> <hr/> <p>Water Quality:</p>	
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	Water quality impacts are not envisioned due to the intervening distance and dilution factor.	
<p>South Dublin Bay and River Tolka Estuary SPA (004024): c. 7.3km from the appeal site</p> <p>Relevant Qualifying Interests Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] (M), Oystercatcher (<i>Haematopus ostralegus</i>) [A130] (M), Ringed Plover (<i>Charadrius hiaticula</i>) [A137] (M), Sanderling (<i>Calidris alba</i>) [A144] (M), Dunlin (<i>Calidris alpina</i>) [A149] (M), Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] (M), Redshank (<i>Tringa totanus</i>) [A162] (M), Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] (M)</p>		
Summary of Appropriate Assessment		
Conservation Objectives Targets and Attributes (Summary)	Potential Adverse Effects	Mitigation Measures
<p>Long Term Population Trend stable or increasing</p> <p>No significant decrease in the range, timing and intensity of use of areas by species other than that occurring from the natural patterns of variation</p>	<p>Loss of ex-situ habitat:</p> <p>No spatial overlap</p> <p>The recorded use of the development site by species of divers, grebes and auks was periodic and by a small number of birds.</p> <p>Very low number of Light Bellied Brent Geese foraging within Howth Harbour. This species is habituated to disturbance.</p> <p>Extremely low numbers of Bar tailed Godwit recorded in 2012, roosting within Howth Harbour. The development site is not deemed an established or critical roosting resource for this species.</p> <p>The habitats to be removed may form part of the feeding range of a number of species, however, they are not considered critical feeding resource for these species, based</p>	As above.

	<p>on similar or higher valued habitats.</p> <hr/> <p>Habitat Alteration:</p> <p>Dredging will deepen the harbour. The numbers of gulls, brent geese, redshanks and Oystercatchers utilising intertidal mud within the harbour were low. Any alteration in habitat during the operational phase will not have an impact beyond the displacement of a very small number of birds.</p> <p>Dunlin were recorded roosting within the development site.</p> <hr/> <p>Disturbance / Displacement:</p> <p>Any impact on foraging and or roosting birds within the SPA would not be significant due to the intervening distance.</p> <hr/> <p>Water Quality:</p> <p>Water quality impacts are not envisioned due to the intervening distance and dilution factor.</p>	
<p>Lambay Island SPA (004069): c. 10km from the appeal site</p> <p>Relevant Qualifying Interests: Fulmar (<i>Fulmarus glacialis</i>) [A009], Cormorant (<i>Phalacrocorax carbo</i>) [A017], Shag (<i>Phalacrocorax aristotelis</i>) [A018], Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183], Herring Gull (<i>Larus argentatus</i>) [A184], Kittiwake (<i>Rissa tridactyla</i>) [A188], Razorbill (<i>Alca torda</i>) [A200], Puffin (<i>Fratercula arctica</i>) [A204]</p>		
Summary of Appropriate Assessment		
Long Term Population Trend stable or increasing	Loss of ex-situ habitat: No spatial overlap	As above.

<p>No significant decrease in the range, timing and intensity of use of areas by species other than that occurring from the natural patterns of variation</p>	<p>The recorded use of the development site by species of divers, grebes and auks was periodic and by a small number of birds.</p> <p>The habitats to be removed may form part of the feeding range of a number of species, however, they are not considered critical feeding resource for these species, based on similar or higher valued habitats.</p> <hr/> <p>Habitat Alteration:</p> <p>Dredging will deepen the harbour. The numbers of gulls utilising intertidal mud within the harbour were low. Any alteration in habitat during the operational phase will not have an impact beyond the displacement of a very small number of birds.</p> <hr/> <p>Disturbance / Displacement:</p> <p>Herring Gull, Shag and Cormorant were recorded roosting within the development site.</p> <p>Any impact on foraging and or roosting birds within the SPA would not be significant due to the intervening distance.</p> <hr/> <p>Water Quality:</p> <p>Water quality impacts are not envisioned due to the intervening distance and dilution factor.</p>	
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Rogerstown Estuary SPA (004015): located c. 10.7km from the appeal site.

Relevant Qualifying Interests: A046 Brent Goose *Branta bernicla hrota* (M) , A056 Shoveler *Anas clypeata* (M), A130 Oystercatcher *Haematopus ostralegus* (M), A137 Ringed Plover *Charadrius hiaticula* (M), A149 Dunlin *Calidris alpina alpina* (M), A156 Black-tailed Godwit *Limosa limosa* (M), A162 Redshank *Tringa totanus* (M).

Summary of Appropriate Assessment

Conservation Objectives Targets and Attributes (Summary)	Potential Adverse Effects	Mitigation Measures
<p>Long Term Population Trend stable or increasing</p> <p>No significant decrease in the range, timing and intensity of use of areas by species other than that occurring from the natural patterns of variation</p>	<p>Loss of ex-situ habitat: No spatial overlap</p> <p>The recorded use of the development site by species of divers, grebes and auks was periodic and by a small number of birds.</p> <p>Ringed Plover was recorded roosting in nationally important numbers within Howth Harbour and proposed development site.</p> <p>Very low number of Light Bellied Brent Geese foraging within Howth Harbour. This species is habituated to disturbance.</p> <p>The habitats to be removed may form part of the feeding range of a number of species, however, they are not reconsidered critical feeding resource for these species, based on similar or higher valued habitats.</p> <hr/> <p>Habitat Alteration:</p> <p>Dredging will deepen the harbour. The numbers of gulls, brent geese, redshanks and Oystercatchers utilising intertidal mud within the</p>	<p>As above.</p>

	<p>harbour were low. Any alteration in habitat during the operational phase will not have an impact beyond the displacement of a very small number of birds.</p> <hr/> <p>Disturbance / Displacement:</p> <p>Dunlin were recorded roosting within the development site</p> <p>Any impact on foraging and or roosting birds within the SPA would not be significant due to the intervening distance.</p> <hr/> <p>Water Quality:</p> <p>Water quality impacts are not envisioned due to the intervening distance and dilution factor</p>	
<p>Overall conclusion: Integrity Test</p> <p>The applicant determined that following detailed assessment of potential impacts and the implementation of mitigation, the construction and operation of this proposed development alone or in combination with other plans and projects will not adversely affect the integrity of these European sites in view of the conservation objectives of those sites.</p> <p>Based on the information provided, I am satisfied that adverse effects can be excluded for these SPA sites that are remote from the proposed development site and that no effects of any significance will occur to SCI bird species from these SPAs utilising habitats near the development site. The proposed development site has been shown not to be of any significance as an ex-situ site at any time of year or conditions as assessed and evaluated through survey and analysis. No uncertainty remains.</p> <p>Significant disturbance has been excluded.</p> <p>Adverse effects from contamination can be effectively prevented by mitigation measures.</p> <p>The proposed development would not delay or prevent the attainment of the Conservation objectives of any of these SPA sites.</p>		

9.9.29. The impact of any significant disturbance (direct or indirect) to the population would ultimately affect the achievement of targets for population size and/or spatial

distribution. Section 8 of the NIS set out mitigation and monitoring measures to reduce the potential for disturbance. The mitigation measures are summarised below.

Population Trend

- 9.9.30. There is no spatial overlap between the appeal site and any of the SPA's outlined above. However, the reclamation works would result in the loss of ex-situ habitat for QI of the SPA's outlined above. Wintering bird usage and breeding bird surveys were carried out in 2019 and 2020. Details of the surveys are provided in Appendix 7 of the EIAR submitted with the application. Only species recorded on the bird surveys are listed above.
- 9.9.31. The surveys, which are also summarised in the NIS, recorded numerous species breeding in the environs of Howth Harbour. The Ringed Plover was the only species recorded roosting in nationally important numbers. The Ringed Plover is a QI of Baldoyle Bay SPA (004016) located c. 2.2km from the appeal site, the South Dublin Bay and River Tolka Estuary SPA (004024) located c. 7.3km from the appeal site and Rogerstown Estuary SPA (004015) located c. 10.7km from the appeal site.
- 9.9.32. The Ringed Plover was recorded (2019 / 2020) roosting near the northern tip of the West Pier, with Dunlin and Turnstone occasionally recorded in the flock. This roost is not currently accessible to walkers and will not be accessible following the proposed development. The construction phase would result in short term disturbance to this roost site. However, the surveys indicate that this roost utilised by the Ringed Plover is interchangeable with another roost on the East Peir. The Ringed Plover was also recorded roosting in the area between the development site and Irelands Eye (referred to as sub-section 3 in the bird surveys). The NIS also noted that the Ringed Plover was recorded during an NPWS survey programme in 2011/2012 at other roosting sites within Howth Harbour outside of the proposed development site.
- 9.9.33. The coastal habitat that would be lost as part of the development may also form part of the feeding range of a number of bird species recorded in the surveys, however, the appeal site is not reconsidered a critical feeding resource for any species, based on similar or higher valued habitats (Baldoyle Bay SPA and coastal waters around Ireland Eye SPA) in the surrounding area. It is also envisioned that overtime the proposed rock armouring would provide similar intertidal foraging habitats.

9.9.34. Having regard to the information submitted, I am satisfied that the habitats that occur within the reclamation area do not have a more significant natural value than any of the habitats that surround the site, consisting of nearby estuarine and inter-tidal habitats, open water, grassland and urban areas with artificial surfaces and buildings. I am satisfied that there are a sufficient number of locations, area and availability of suitable habitat to support the populations of all QI's of the SPA's.

Distribution

9.9.35. Given the nature of the project I am satisfied that it would impact on the range of any bird species.

9.9.36. The construction phase would result in the short term loss of a winter roost location at the end of West Pier for the duration of the construction period (24 months). Mitigation measures, including the provision of exclusion zones and screening / fencing off areas are proposed to reduce disturbance during the construction period. A project ecologist would oversee all mitigation measures. Once mitigation measures are adhered, I am satisfied that the impact would not be significant.

9.9.37. Given the nature of the dredging works in the marine zone, there is some limited potential for indirect alteration of habitats through adverse impacts to water quality, including increased turbidity in the water; the dispersal and settlement of sediment; and unintentional release of contaminants into the marine environment. I am satisfied that significant indirect impacts to habitats are not likely to occur and conservation objectives would not be affected. The proposed project would also remove existing contaminants within the inner harbour, which would have a positive effect on existing habitats.

9.9.38. Disturbance / displacement due to noise generated by the works are not expected to be excessive given the nature of the works.

9.9.39. Dredging will deepen the harbour, therefore, there will be less exposed substrate at low tide. This has the potential to displace any birds that forage in this type of intertidal habitat within the harbour. The bird surveys indicate that the numbers of Gulls, Brent Geese, Redshanks, Turnstones and Oystercatchers utilising intertidal mud within the harbour were low I am satisfied that any alteration in habitat during the operational

phase would not have any impact beyond the displacement of a very small number of birds.

9.9.40. Birds regularly occurring within the vicinity of the harbour can be expected to be accustomed to a moderate degree of vessel and human activity. Any disturbance to QI's potentially occurring is likely to be temporary in nature and associated with the general day to day activities taking place within the harbour, such activities are not considered to have the potential to result in significant species impacts. It is also noted that the proposed development is not predicted to result in any considerable increase or intensification of activity within the harbour, over and above that which already occurs.

9.9.41. It is my view that any disturbance and / or displacement of QI's would not have any impact beyond the displacement of a very small number of birds and that there would be no significant decrease in the range, timing and intensity of use of areas by species other than that occurring from the natural patterns of variation.

Conclusion

9.9.42. Overall, I am satisfied that subject to mitigation measures outline in Section 8 of the NIS the intensity, frequency, timing and duration of disturbance that is likely to occur as a result of the proposed development occurs at levels that do not significantly impact the achievement of targets for population size and spatial distribution. Therefore, the construction and operation of this proposed development would not adversely affect the integrity of Baldoyle Bay SPA (004016), Malahide Estuary SPA (004025), South Dublin Bay and River Tolka Estuary SPA (004024), Irelands Eye SPA (004117), North Bull Island SPA (004006), Lambay Island SPA (004069), Rogerstown Estuary SPA (004015).

Baldoyle Bay SAC (000199)

9.9.43. Baldoyle Bay SAC is a tidal estuarine bay protected from the open sea by a large sand-dune system. The appeal site is located immediately adjacent to the SAC. The site-specific conservation Attributes and Targets for SCI's of Baldoyle SAC are outlined in Table 4 below.

Table 4: AA Summary Table for Baldoye Bay SAC (000199)

<p>Conservation Objectives: To maintain or restore the favourable conservation status of habitats and species of community (M/R)</p> <p>Detailed Conservation Objectives available: https://www.npws.ie</p>		
<p>Relevant Qualifying Interests:</p> <p>1140 Mudflats and sandflats not covered by seawater at low tide (M), 1310 Salicornia and other annuals colonizing mud and sand (M), 1330 Atlantic salt meadows (Glauco-Puccinellietalia maritima) (M), 1410 Mediterranean salt meadows (Juncetalia maritimi) (M)</p>		
Summary of Appropriate Assessment		
Conservation Objectives Targets and Attributes (Summary)	Potential Adverse Effects	Mitigation Measures
<p>The permanent habitat area is stable or increasing, subject to natural processes.</p> <p>No decline, or change in habitat distribution, subject to natural processes.</p> <p>No decline, or change in habitat distribution, subject to natural processes.</p> <p>Maintain natural circulation of sediments and organic matter, without any physical obstruction</p> <p>Maintain creek and pan structure, subject to natural processes, including erosion and succession</p> <p>Maintain natural tidal regime Maintain the range of coastal habitats including transitional zones, subject to natural processes including erosion and succession</p> <p>Maintain Structural variation within sward</p> <p>Maintain more than 90% of area outside creeks vegetated</p>	<p>Potential for alteration of the inter-tidal habitats and associated species within the SAC in the immediate vicinity to the reclamation area due to disposition of re-suspended sediments, hydrocarbon contamination and impacts on hydrodynamic regime</p>	<p>See Section 8 of the NIS.</p> <p>Mitigation Measures include:</p> <p>An Environmental Management Plan will be in place for the duration of the project.</p> <p>Good construction management to minimise risk of pollution of soil, storm water run-off, seawater or groundwater. Run off will be directed to the surface water drainage network for treatment prior to entering marine waters.</p> <p>The loss of suspended sediments would be prevented by environmental buckets fitted to the dredge digger, silt curtains around the dredge area and monitoring of waters.</p> <p>A water Quality Management Programme (WQMP) will be prepared and implemented.</p>

<p>Maintain the presence of species-poor communities with typical species listed in the Saltmarsh Monitoring Project</p> <p>No significant expansion of common cordgrass (<i>Spartina anglica</i>), with an annual spread of less than 1%</p>		<p>The dredging and reclamation works will be subject to conditions and monitoring or wither an Industrial Emissions Licence or a waste licence from the EPA.</p> <p>Dredging activities will be carried out in accordance with a CEMP and a Dredging Method Statement.</p> <p>Surface water during the operational phase will be collected at a number of hydrocarbon / silt interceptors before out falling to the sea. Non return valves will be constructed in the outfall headwalls to prevent any return of water during high tide.</p> <p>The contractor will prepare an emergency response plan with procedures for events likely to cause pollution.</p>
<p>Overall conclusion: Integrity Test</p> <p>The applicant determined that following the implementation of mitigation measures the construction and operation of this proposed development alone or in combination with other plans and projects will not adversely affect the integrity of this European site.</p> <p>Based on the information provided, I am satisfied that adverse effects can be excluded for South Dublin Bay SAC sites in view of conservation objectives of the site.</p>		

Habitat

- 9.9.44. The proposed area to be reclaimed is located immediately adjacent to the SAC. However, as it is located outside of the SAC it would not result in the loss of any habitat area and there would be no decline or change in habitat distribution as a result of the proposed development.

Vegetation Structure / Physical Structure

- 9.9.45. Claremont Beach and Burrow Beach located to the north-west of the appeal site are located within the SAC. The Hydrodynamic and Sediment Regime Assessment

(Appendix 4) submitted with the EIAR found that during the construction phase there would be an increase in suspended solids in the area around the dredging works, with the dispersion of sediments to sensitive receptors to areas outside the harbour. The main impact is anticipated to be an annual deposition at Claremont Beach in the order of 0.4mm. This disposition would be removed from the beach on a daily basis through tidal and wave action and dispersed (dilution factor) within the surrounding waters. From the information submitted I am satisfied that wave activation at Claremont beach will still be sufficient to move sand material and there would be minimal change in deposition and erosion patterns during the construction phase. The modelling indicates that there would be no impact on Burrow Beach.

9.9.46. During the operational phase the modelling indicates that there would be little impact on the tidal currents except to a slight degree in an area just off Claremont Beach to the west of the proposed works, where the currents appear to be reduced slightly. Embryo dunes are removed by wave action and the minor reduction in wave action could slightly increase the tendency for sand to accumulate in this area and promote embryo dunes. However, they are not expected to develop into larger dunes due to the frequency of wave action and the infrastructural constraints in the area. Having regard to the site's conservation objectives, I am satisfied that the impact of the sediment change during the operational phase on coastal habitats would not be significant.

9.9.47. Concerns are raised in the observation that the impact of the infill on the erosion and sedimentation processes on Claremont and Burrow Beaches has not been adequately addressed. This concern is noted. However, I am satisfied that the impact of the reclamation works on the erosion and sedimentation processes on Claremont and Burrow Beaches has been adequately and comprehensively addressed.

Rockabill to Dalkey Island SAC (003000)

9.9.48. Rockabill to Dalkey Island SAC includes a range of dynamic inshore and coastal waters in the western Irish Sea. These include sandy and muddy seabed, reefs, sandbanks and islands. The appeal site is located c. 500m from the SAC. The site-specific conservation Attributes and Targets for SCI's of Rockabill to Dalkey SAC are outlined in Table 5 below.

Table 5: AA Summary Table for Rockabill to Dalkey Island SAC (003000)

<p>Conservation Objectives: To maintain or restore the favourable conservation status of habitats and species of community (M/R)</p> <p>Detailed Conservation Objectives available: https://www.npws.ie</p>		
<p>Relevant Qualifying Interests: 1170 Reefs (M) 1351 Harbour porpoise, Phocoena phocoena</p>		
Summary of Appropriate Assessment		
Conservation Objectives Targets and Attributes (Summary)	Potential Adverse Effects	Mitigation Measures
<p>The permanent area is stable or increasing, subject to natural processes.</p> <p>Distribution is stable or increasing, subject to natural processes.</p> <p>Conserve the following community types in a natural condition: Intertidal reef community complex; and Subtidal reef community complex</p> <p>Species range within the site should not be restricted by artificial barriers to site use. Human activities should occur at levels that do not adversely affect the harbour porpoise community at the site</p>	<p>Reefs:</p> <p>No spatial overlap No significant water quality impacts predicated.</p> <p>Harbour Porpoise:</p> <p>Mobile species with high concentrations around Howth Head.</p> <p>Potential disturbance / displacement of foraging / commuting animals during the construction phase.</p> <p>Rely on sound for navigation, communication and sensory cues. However, excessive noise levels above ambient levels are not predicted given the nature and scale of the works.</p>	<p>See Section 8 of the NIS. Mitigation Measures include:</p> <p>An Environmental Management Plan will be in place for the duration of the project</p> <p>Engagement of a Marine Mammal Observer (MMO).</p> <p>MMO to conduct 15 minute watch for marine mammals within 200m of dredger prior to start up.</p> <p>All marine mammal monitoring will be carried out in accordance with relevant guidance.</p> <p>Compliance with best practice guidelines.</p> <p>All equipment will be in good condition to avoid spillage or discharge of oil, smoke and excessive noise.</p> <p>Refuelling will be carried out away from environmentally sensitive areas and sea going craft to be moored securely.</p>

		Regular checks for any fuel / oil spills
<p>Overall conclusion: Integrity Test</p> <p>The applicant determined that following the implementation of mitigation measures the construction and operation of this proposed development alone or in combination with other plans and projects will not adversely affect the integrity of this European site.</p> <p>Based on the information provided, I am satisfied that adverse effects can be excluded in view of conservation objectives of the site.</p>		

Reefs

9.9.49. There is no spatial overlap between the appeal site and the SAC. The Hydrodynamic and Sediment Regime Assessment (Appendix 4) submitted with the EIAR found that the potential for the spread of contaminants during the dredging phase would be minimal and limited to the immediate area of the harbour. Therefore, there would be no significant effects on Reefs.

Harbour Porpoise

9.9.50. *Habitat:* There is no spatial overlap between the appeal site and the SAC. The harbour porpoise is a highly mobile species and is widely recorded in Irish Waters. The proposed project would not restrict the species range of the species.

9.9.51. *Disturbance:* Disturbance or displacement impacts could potentially arise as a result of the construction phase of the proposed development due to impacts on water quality (turbidity) and noise.

9.9.52. Increased turbidity within the harbour would not result in a significant impact on this species due to the volume of higher value foraging habitat outside of the harbour.

9.9.53. The Marine Mammal Risk Assessment attached as Appendix 5 of the EIAR, concluded that the proposed construction phase could lead to very local disturbance to marine mammals from noise. The information submitted indicates that the noise generated from the works is unlikely to be capable of causing permanent or temporary injury to marine mammals. Once mitigation measures are in place, including the presence of a trained and experienced Marine Observer (MMO) during the dredging and the use of

‘ramp up’ procedures for noise and vibration emitting operations the impact I am satisfied that the impact would not be significant.

9.9.54. The construction phase could potentially increase the risk of injury from accidental collision due to increased vessel movements associated with the construction phase. Again, once mitigation measures are in place, including the presence of a trained and experienced Marine Observer (MMO), I am satisfied that the impact would not be significant.

Lambay Island SAC (000204)

9.9.55. Lambay Island is a large (250 ha) inhabited island c. 10km from the appeal site. The site-specific conservation Attributes and Targets for SCI's of Lambay Island SAC are outlined in Table x below.

Table 6: AA Summary for Lambay Island SAC (000204)

Conservation Objectives: To maintain or restore the favourable conservation status of habitats and species of community (M/R) Detailed Conservation Objectives available: https://www.npws.ie		
Relevant Qualifying Interests: 1170 Reefs (M), 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts (M), 1364 Grey seal <i>Halichoerus grypus</i> (M), 1365 Harbour seal <i>Phoca vitulina</i> (M)		
Summary of Appropriate Assessment		
Conservation Objectives Targets and Attributes (Summary)	Potential Adverse Effects	Mitigation Measures
Reefs (M) Vegetated sea cliffs: No decline, subject to natural processes	No spatial overlap No significant water quality impacts predicated.	No protective measures are required to prevent the proposed development from having an adverse effect on the SAC.
Grey seal, Harbour seal Species range within the site should not be restricted by artificial barriers to site use. The breeding sites, moult haul-out sites, resting haul-out sites	Mobile species. NBDC and site surveys recorded Grey Seal within Howth Harbour. NBDC surveys recorded Harbour seal within Howth Harbour.	See Section 8 of the NIS. Mitigation Measures include: An Environmental Management Plan will be in place for the duration of the project.

<p>should be maintained in a natural condition.</p> <p>Human activities should occur at levels that do not adversely affect the grey seal population at the site</p>	<p>Potential disturbance / displacement to resting, foraging or commuting animals during the construction phase.</p>	<p>Engagement of a Marine Mammal Observer (MMO).</p> <p>MMO to conduct 15 minute watch for marine mammals within 200m of dredger prior to start up.</p> <p>All marine mammal monitoring will be carried out in accordance with relevant guidance.</p> <p>Compliance with best practice guidelines.</p> <p>All equipment will be in good condition to avoid spillage or discharge of oil, smoke and excessive noise.</p> <p>Refuelling will be carried out away from environmentally sensitive areas and sea going craft to be moored securely. Regular checks for any fuel / oil spills.</p>
<p>Overall conclusion: Integrity Test</p> <p>The applicant determined that following the implementation of mitigation measures the construction and operation of this proposed development alone or in combination with other plans and projects will not adversely affect the integrity of this European site.</p> <p>Based on the information provided, I am satisfied that adverse effects can be excluded in view of conservation objectives of the site.</p>		

Reefs and Vegetated sea cliffs of the Atlantic and Baltic coasts

9.9.59. There is no spatial overlap between the appeal site and the SAC. The Hydrodynamic and Sediment Regime Assessment (Appendix 4) submitted with the EIAR found that the potential for the spread of contaminants during the dredging phase would be minimal and limited to the immediate area of the harbour. Therefore, there would be no significant effects on Reefs or Vegetated Sea cliffs of the Atlantic and Baltic coasts.

Grey seal and Harbour seal

- 9.9.60. *Habitat*: There is no spatial overlap between the appeal site and the SAC. The seal is a highly mobile species and is widely recorded in Irish Waters. The proposed project would not restrict the species range of the species.
- 9.9.61. *Breeding / Moulting / Resting behaviour*: Lambay supports the principal breeding colony of Grey Seal on the east coast of Ireland and regionally significant numbers of the Harbour Sea. The Grey Seal and Harbour Seal commonly breed along the coast inhabiting in shore and off shore waters. Grey Seals and Common Seals occur year-round and the island's intertidal shorelines, coves and caves are used by resting and moulting seals.
- 9.9.62. Lambay Island is located c. 10km from the appeal site. There are no recorded breeding, moulting or resting sites recorded within c. 10km of the appeal site. Given the separation distance between the sites I am satisfied that the proposed development would have no impact on the breeding, moulting or resting behaviour of either species.
- 9.9.63. *Disturbance*: Disturbance or displacement impacts could potentially arise as a result of the construction phase of the proposed development due to impacts on water quality (turbidity) and noise.
- 9.9.64. Increased turbidity within the harbour would not result in a significant impact on this species due to the volume of higher value foraging habitat outside of the harbour.
- 9.9.65. The Marine Mammal Risk Assessment attached as Appendix 5 of the EIAR concluded that the proposed construction phase could lead to very local disturbance to marine mammals from noise. The information submitted indicates that the noise generated from the works is unlikely to be capable of causing permanent or temporary injury to marine mammals. It also noted that while small numbers of grey seals frequently and regularly occur inside Howth Harbour they are accustomed to human activity and are unlikely to be affected by the proposed works. Once mitigation measures are in place, including the presence of a trained and experienced Marine Observer (MMO) during the dredging and the use of 'ramp up' procedures for noise and vibration emitting operations the impact I am satisfied that the impact would not be significant.

9.10. *In combination effects*

- 9.10.1. In combination effects are examined within section 7.5 of the NIS. The proposed project was considered in combination with the normal day to day operations within Howth Harbour, in addition to sources arising from existing activities in the area. these include commercial fishing, sailing, recreation and urban generated activities in Howth and to recent grants of permission within the vicinity of the site. The recent grants of permission are detailed in Table 16 of the NIS.
- 9.10.2. The in-combination assessment of the NIS concluded that there is no potential for adverse effects on the integrity of any European sites within the Zone of Influence to arise as a consequence of the proposed project in combination with any other plans or projects. I have also considered the North West Irish Sea cSPA in my consideration of in combination effects.
- 9.10.3. Mitigation measures detailed in Section 8 of the NIS and summarised below will ensure that no adverse effects on a European site's integrity will arise from the implementation of the proposed project. The implementation of, and adherence to, the proposed mitigation measure would ensure the protection of European sites across all identified potential impact pathways and would include the requirement for any future project to undergo screening for appropriate assessment and/or appropriate assessment, as appropriate.
- 9.10.4. As the proposed project would not affect the integrity of any European site within the zone of influence, I am satisfied that there will be no adverse effects on the integrity of any European sites to arise as a consequence of the proposed project acting in-combination with any other plans or projects.
- 9.10.5. Overall, I am satisfied that the NIS and supplementary information provided as part of the application has examined the potential for all impact mechanisms in terms of the conservation objectives of the North-West Irish Sea cSPA (004236), Baldoyle Bay SAC (000199), Irelands Eye SPA (004117), Rockabill to Dalkey Island SAC (003000), North Bull Island SPA (004006), Baldoyle Bay SPA (004016), Malahide Estuary SPA (004025), South Dublin Bay and River Tolka Estuary SPA (004024), Lambay Island SPA (004069), Lambay Island SAC (000204) and Rogerstown Estuary SPA (004015).

9.11. ***Mitigation Measures and Monitoring***

9.11.1. The proposed project would be subject to EPA licencing. Section 8 of the NIS set out mitigation measures. The mitigation measures include the following:

- An Environmental Management Plan will be in place for the duration of the project.
- Lighting provided with limited luminosity.
- Dark zones for roosting intertidal bird species where necessary.
- Screening will be erected around the winter roost at the end of East Pier.
- Exclusion zones will be established during wintering bird period, focused around Claremont Beach.
- A pre-construction survey to ensure nest locations on the West Pier are not in use.
- No nighttime dredging will be permitted.
- Habitat degradation will be prevented by controlling the movement of construction vehicles and machinery.
- Good construction management to minimise risk of pollution of soil, storm water run-off, seawater or groundwater.
- Run off will be directed to the surface water drainage network for treatment prior to entering marine waters.
- Strict controls to prevent dumping of construction vessel waste during dredging phase.
- Recovery plan in event of accidental spillage of oil / diesel.
- The loss of suspended sediments would be prevented by environmental buckets fitted to the dredge digger, silt curtains around the dredge area and monitoring of waters.
- A water Quality Management Programme (WQMP) will be prepared and implemented.
- The dredging and reclamation works will be subject to conditions and monitoring or wither an Industrial Emissions Licence or a waste licence from the EPA.
- Waer samples will be collected at regular intervals to test for suspended solids.

- Treatment of dredge material will be enclosed and controlled.
- The dredger will transport material in an appropriate safe manner to a pre-assigned location.
- Dredging activities will be carried out in accordance with a CEMP and a Dredging Method Statement.
- Appropriate stabilisation of dredge spoil will be undertaken following best practice guidance.
- The dredge spoil will be pumped from the water borne barge into the mixer and treated material will be pumped onwards to the reclamation area.
- When the external face of the embankment is in place the internal face will be lined with a Geosynthetic liner to act as a barrier to movement of water, dredge slurry and contaminants in and out of the area to be reclaimed.
- Concrete will be poured in-situ and supervised by the Construction Manager.
- The formwork for the concrete will be sealed off prior to concrete pour and there will be no potential for concrete to enter the adjoining water.
- Weather and tidal conditions will be monitored.
- If dewatering is required all contaminated water will be treated.
- Washout of concrete trucks will not take place on site.
- Surface water during the operational phase will be collected at a number of hydrocarbon / silt interceptors before outfalling to the sea.
- Non return valves will be constructed in the outfall headwalls to prevent any return of water during high tide.
- The contractor will prepare an emergency response plan with procedures for events likely to cause pollution.

9.11.2. I consider that all measures proposed are implementable and will be effective in their stated aims. Furthermore, an Ecologist / Ornithologist would be employed to ensure that measures are implemented as prescribed.

9.12. ***Appropriate Assessment Conclusion***

9.12.1. The proposed development has been considered in light of the assessment requirements of Section 177 of the Planning and Development Act, 2000 (as amended).

9.12.2. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on the following designated sites: -

- North-West Irish Sea cSPA (004236)
- Baldoyle Bay SAC (000199)
- Irelands Eye SPA (004117)
- Rockabill to Dalkey Island SAC (003000)
- North Bull Island SPA (004006)
- Baldoyle Bay SPA (004016)
- Lambay Island SPA (004069)
- Malahide Estuary SPA (004025)
- South Dublin Bay and River Tolka Estuary SPA (004024)
- Lambay Island SAC (000204)
- Rogerstown Estuary SPA (004015)

9.12.3. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.

9.12.4. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of any European site, in view of the Conservation Objectives of those sites.

9.12.5. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and ecological monitoring in relation to the North-West Irish Sea cSPA (004236), Baldoyle Bay SAC (000199), Irelands Eye SPA (004117), Rockabill to Dalkey Island SAC (003000), North Bull Island SPA (004006), Baldoyle Bay SPA (004016), Lambay Island SPA (004069), Malahide Estuary SPA (004025), South Dublin Bay and River Tolka Estuary SPA (004024), Lambay Island SAC (000204) and Rogerstown Estuary SPA (004015).

- Detailed assessment of in-combination effects with other plans and projects including current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the North-West Irish Sea c.SPA (004236), Baldoyle Bay SAC (000199), Irelands Eye SPA (004117), Rockabill to Dalkey Island SAC (003000), North Bull Island SPA (004006), Baldoyle Bay SPA (004016), Lambay Island SPA (004069), Malahide Estuary SPA (004025), South Dublin Bay and River Tolka Estuary SPA (004024), Lambay Island SAC (000204) and Rogerstown Estuary SPA (004015).

9.12.6. It is also noted that the planning authority concluded that the proposed development, subject to mitigation measures outlined in the NIS, would not adversely affect, either directly or indirectly, the integrity of any European Site, either alone or in combination with other plans or projects.

10.0 Recommendation

It is recommended that permission be granted subject to conditions.

11.0 Reasons and Considerations

Having regard to the provisions of the Fishery's Harbour Centres (FHC) Act, the National Marine Planning Framework, the National Planning Framework and the Fingal County Development Plan 2023 – 2029, the nature and scale of the proposed development, the sites location with the existing functioning harbour, it is considered that the proposed development, subject to the conditions set out hereunder would not be seriously injurious to the residential and visual amenities of the area or property in the vicinity of the site, would be acceptable in terms of pedestrian and traffic safety and built heritage. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 6th July 2021 as amended by the

further plans and particulars submitted on the 2nd June 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment, the Natura Impact Statement and the Construction Environmental Management Plan shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health.

3. Prior to commencement of development the applicant shall submitted a 'Howth Harbour Bird Conservation Plan' for the written agreement of the planning authority. This plan shall include:
 - (a) details of the locations, fencing and screening of the roosting sites for waders and other water birds it is proposed to establish at the south west and northern ends of the area to be reclaimed at the rear of the West Pier, Howth, as part of the proposed works;
 - (b) details of the locations, design and methodology and timing of installation six Black Guillemot nesting boxes / tunnels to be installed in or on the existing pier structures at Howth Harbour before the commencement of the proposed works, and similar details relating to the installation of at least 6 no. additional boxes / tunnels in the reclaimed area to the rear of the West Pier on completion of these works.
 - (c) details of the timings and methodologies of the bird surveys to be carried out during the proposed works, and for at least three winters and three summers subsequent to these works' completion, to monitor the bird populations utilising the Howth Harbour area.

Reason: In the interest of protecting bird species.

4. Prior to commencement of development the applicant shall submitted for the written agreement of the planning authority the design, operation and function of the water channel between West Pier and the reclamation area, including details of any fencing or security measures to prevent public access to the water channel.

Reason: In the interest of clarity.

5. Prior to commencement of development the applicant shall submit final detailed design proposals of the proposed reclamation area for the written agreement of the planning authority. The information submitted shall include:
 - a. A landscape plan prepared by a professional landscape designer including a 5 year landscape maintenance schedule.
 - b. details of boundary treatments
 - c. details of street furniture and safety measures, including lifebouys
 - d. details and images (or samples) of the proposed finish and the capping for the parapet wall to the new area
 - e. Details of the break being formed in the wall on the West Pier to provide a connection to the reclamation area and any proposed alterations to the layout of the area on the West Pier.

Reason: In the interest of visual amenity and to protect the architectural heritage of West Pier.

6. Prior to commencement of development the applicant shall agree in writing with the Planning Authority the requirement for a piece of public art within the reclamation area. All works shall be at the applicant's expense.

Reason: In the interest of place making and visual amenity

7. Site development and building works shall be carried out only between the hours of 0700 to 2100 Mondays to Fridays inclusive, between 0700 to 1700 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these

times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity

8. A minimum of 10% of all new car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points/stations at a later date unless otherwise agreed with the planning authority.

Reason: To facilitate the use of electric vehicles

9. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Report, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

10. All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

11. The developer shall enter into water connection agreement with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

12. Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and surface water management

13. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of public safety and residential amenity.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Elaine Power

Senior Planning Inspector

27th May 2024