



An  
Bord  
Pleanála

## Inspector's Report

### ABP-320556-24

<b>Development</b>	Compulsory Purchase Order 2024 (No. 2), Tramore Pier, Newtown, Tramore, Co. Waterford.
<b>Location</b>	Tramore Pier, Newtown, Tramore, Co. Waterford.
<b>Planning Authority</b>	Waterford City and County Council.
<b>Applicant(s)</b>	Waterford City and County Council.
<b>Type of Application</b>	Compulsory Purchase Order.
<b>Objectors</b>	Martin Doyle.
<b>Date of Site Inspection</b>	19 <sup>th</sup> March 2025.
<b>Inspector</b>	Jennifer McQuaid.

## **1.0 Introduction**

### **1.1. Overview**

- 1.1.1. This is an application by Waterford City and County Council for confirmation by the Board of a Compulsory Purchase Order (CPO), entitled “Tramore Pier”.
- 1.1.2. The CPO relates to the compulsory acquisition of rights over 1.0267 hectares at Tramore Pier, Newtown, Tramore, Co. Waterford.

### **1.2. Purpose of CPO**

- 1.2.1. On amalgamation of Waterford City Council and Waterford County Council it was discovered that the title to Tramore Pier (Lady Elizabeth’s Cove) was not in the name of Waterford County Council.
- 1.2.2. The Property Management Department have endeavoured to rectify this for the last 10 years, but to no avail and it is now proposed to CPO said lands to regularise this title issue. Under the Harbours Act 1996 and the Harbour Bye Laws 2003 the Council have always had responsibility for the harbour and have invested significant funding in its development and improvement in recent years.
- 1.2.3. The CPO is important to secure the Council’s ownership and control of the harbour lands and environs for the future.

### **1.3. Accompanying documents**

- 1.3.1. The application was accompanied by the following:
  - Compulsory Purchase Order and Schedule thereto, dated 9<sup>th</sup> August 2024
  - Compulsory Purchase Order Map for Tramore Pier dated 15<sup>th</sup> August 2024
  - Waterford City & County Council CPO Planning Report dated 30<sup>th</sup> July 2024.
  - Cover Letter.
  - Waterford City & County Council Chief Executive Order dated 9<sup>th</sup> August 2024.
  - Newspaper notice, published in The Munster Express dated 13<sup>th</sup> August 2024.
  - Copy of site notices erected and details of specific locations.

- Copy of Certificate dated 2<sup>nd</sup> August 2024 that the acquisition of the lands the subject of the Order is in conformity with the planning and development objectives for the area.
- Copy of Certificate dated 2<sup>nd</sup> August 2024, that the lands the subject of the Order are suitable for the purpose for which they are being acquired and that their acquisition is necessary for that purpose.
- Copy of notice sent to person claiming Sporting and Fishing Rights.

#### **1.4. Format of CPO and Schedule.**

- 1.4.1. The CPO states that the lands are required for the purposes of securing the Council's ownership and control of the harbour lands and environs going forward at Tramore Pier, Newtown, Co. Waterford.
- The lands described in Part 1 of the Schedule 1 is land being permanently acquired.
  - Lands described in the Schedule 1 is land other than land consisting of a house or houses unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense.
  - The land is subject to any necessary adaptations, the provisions of:
    - a) The Land Clauses Acts (except sections 127 to 132 of the Lands Clauses Consolidation Act, 1845, and article 20 of the Second Schedule to the Housing of the Working Classes Act, 1890), and
    - b) The Acquisition of Land (Assessment of Compensation) Act, 1919, as amended by the Acquisition of Land (Reference Committee) Act, 1925, the Property Values (Arbitrations and Appeals) Act, 1960, and the Local Government (Planning and Development) Act, 1963 (as applied by section 265(3) of the Planning and Development Act, 2000), as modified by the Third Schedule to the Housing Act, 1966, are hereby incorporated in this order and the provisions of those Acts shall apply accordingly.
  - This order may be cited as the Waterford City & County Council, Tramore Pier, Co. Waterford, Waterford Compulsory Purchase Order 2024 No. 2.

- Schedule 2 assigns an identification number to the plot of land and describes the quantity, type, townland, owner or reputed owner, lessees or reputed lessees and occupier of the plot, as relevant.

## **2.0 Site Location and Description**

- 2.1. The site is located to the southeast of Tramore town, Co. Waterford and along the coast. Tramore Pier (subject site) is accessed via The Cove local road off Cliff Road. Tramore Pier is currently in use by a number of boats and small boathouses exist along the pier. Tramore Sea Rescue are located adjacent to the pier.

## **3.0 Proposed Development**

- 3.1. Waterford City and County Council wish to CPO Tramore Pier (Lady Elizabeth's Cove) as it was discovered the title was not in the name of Waterford County Council following the amalgamation of Waterford City Council and Waterford County Council. It is now proposed to regularise this title issue. Under the Harbours Act 1997 and the Harbour Bye-Laws 2003 the Council have always had responsibility for the harbour and have invested significant funding in its development and improvement in recent years. The total area extends to 1.0267 hectares.

## **4.0 Planning History**

No planning history.

### **Adjacent site:**

**94224:** Permission granted for a boathouse, workshop & crew facilities for RNLI.

## **5.0 Policy Context**

### **5.1. Waterford County Development Plan 2022-2028**

- 5.2. Chapter 5 Transport & Mobility, section 5.7 relates to Airport, Ports, Harbours and Piers. It is recognised that our harbours and piers play a vital role in commercial fishing, fish processing, aquaculture and related activities in the County. In recognition of the socio-economic contribution of Dunmore East, Heilbhic and the

other harbours, piers and slips throughout the County, the Council, in conjunction with the relevant Government Departments, supports and encourages the future maintenance, dredging and improvement of harbours and piers and potential operation and maintenance role these piers and harbours could play in supporting off-shore wind developments. Such works must take place in the context of the Council's commitment to the protection of wildlife and sensitive habitats and avoid adverse impacts on land/seascapes.

Trans 31 objective states:

We will continue to improve access to, and support the sustainable development of, all piers and harbours within the County, for both commercial and recreational purposes. We will develop a strategy for the future of our inland and coastal ports and piers during the lifetime of this plan.

Chapter 4 Economy, Tourism, Education and Retail, section 4.7 relates to Rural and Marine Economy.

It is recognised that Marine and river-based fisheries support and sustain a coastal and rural communities across the County, and active fishery harbours in Waterford are located in Dunmore East, Dungarvan, Heilbhc (Helvick), Passage East and Tramore. Dunmore East (a National Fishery Harbour Centre) is particularly noteworthy as a primary landing port and main fishing harbour with regard to economic turnover and landing, whilst the Gaeltacht is a significant contributor to the national aquaculture industry.

ECON 17 Rural and Marine Policy objective states:

Marine Development

We will facilitate the sustainable growth and development of the aquaculture, fisheries and marine leisure sector, including in relation to improved water quality. The development of marinas, water sport based activities, improvement of harbours, quays and slipways, and enhanced interpretation and safety, should be considered as part of a broader strategy for these facilities to be carried out during the lifetime of the Development Plan and should be designed so as to avoid landscape/seascape or environmental/water quality degradation and adverse effects on designated sites in the area.

## 6.0 Overview of submission.

6.1. One number submission was received person claiming rights to fishing and sporting. The following concerns are outlines below:

- The order describes the property as “Open space and Recreation” and does not mention fishing of all types.
- The observer is the owner of the rights being sporting and fishing i.e. the several fisheries. The rights are inclusive of a several fisheries with the underlying soil from the high-water mark to the low water mark at the baseline of Tramore Bay and every bounding and interconnecting river or stream.
- The Property Registration Authority have confirmed ownership of these rights as set out in folio WD 1647 and in existence for hundreds of years up to the present day.
- Nothing can be done on the property which might undermine or adversely affect these rights, and CPO needs to state this.

## 7.0 Assessment

7.1. For the Board to confirm the subject CPO, it must be satisfied that Waterford City & County Council has demonstrated that the CPO is clearly justified by the common good<sup>1</sup>. Legal commentators<sup>2</sup> have stated that this phrase requires the following minimum criteria to be satisfied:

- There is a community need that is to be met by the acquisition of the site in question,
- The particular site is suitable to meet that community need,
- Any alternative methods of meeting the community needs have been considered but are not demonstrably preferable, and

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<sup>1</sup> Para. 52 of judgement of Geohagan J in *Clinton v An Bord Pleanála* (No. 2) (2007) 4 IR 701.

<sup>2</sup> Pg. 127 of *Compulsory Purchase and Compensation in Ireland: Law and Practice*, Second Edition, by James Macken, Eamon Galligan, and Michael McGrath. Published by Bloomsbury Professional (West Sussex and Dublin, 2013).

- The works to be carried out should accord with or at least not be in material contravention of the provisions of the statutory development plan.

7.2. In the interest of clarity, it is of note that Section 213 of the Planning and Development Act 2000, as amended, sets out the legal status of the compulsory purchase process in relation to Local Authorities, as follows:

(1) The power conferred on a local authority under any enactment to acquire land shall be construed in accordance with this section.

(2) (a) A local authority may, for the purposes of performing any of its functions (whether conferred by or under this Act, or any other enactment passed before or after the passing of this Act), including giving effect to or facilitating the implementation of its development plan or its housing strategy under section 94, do all or any of the following:

- (i) Acquire land, permanently or temporarily, by agreement or compulsorily,
- (ii) Acquire, permanently or temporarily, by agreement or compulsorily, any easement, wayleave, water-right or other right over or in respect of any land or water or any substratum of land,
- (iii) Restrict or otherwise interfere with, permanently or temporarily, by agreement or compulsorily, any easement, way-leave, water-right or other right over or in respect of any land or water or any substratum of land, and the performance of all or any of the functions referred to in subparagraphs (i), (ii) and (iii) are referred to in this Act as an “acquisition of land”.

(b) A reference in paragraph (a) to acquisition by agreement shall include acquisition by way of purchase, lease, exchange or otherwise.

(c) The functions conferred on a local authority by paragraph (a) may be performed in relation to- (i) land, or (ii) any easement, way-leave, water-right or other right to which that paragraph applies, whether situated or exercisable, as the case may be, inside or outside the functional area of the local authority concerned.

3(a) The acquisition may be affected by agreement or compulsorily in respect of land not immediately required for a particular purpose if, in the opinion of the local authority, the land will be required by the authority for that purpose in the future.

(b) The acquisition may be affected by agreement in respect of any land which, in the opinion of the Local Authority, it will require in the future for the purposes of any of its functions notwithstanding that the authority has not determined the manner in which or the purpose for which it will use the land.

(c) Paragraphs (a) and (b) shall apply and have effect in relation to any power to acquire land conferred on a local authority by virtue of this Act or any other enactment whether enacted before or after this Act.

4. A local authority may be authorised by compulsory purchase order to acquire land for any of the purposes referred to in subsection (2) of this section and section 10 (as amended by section 86 of the Housing Act, 1966) of the Local Government (No. 2) Act, 1960, shall be construed so as to apply accordingly and the reference to “purposes” in section 10(1)(a) of that Act shall be construed as including purposes referred to in subsection (2) of this section.

Another test set out in “Planning and Development Law” (Garrett Simons-Second Edition) requires consideration of whether the proposed CPO measures will have a disproportionate or excessive effect on the interests of the affected persons.

I will therefore address each of the four criteria outlined above in turn below, together with the issue of proportionality and other issues arising from the submission. In assessing the CPO I have considered throughout whether the lands/rights being acquired are necessary for Tramore Pier.

### **7.3. Community Need.**

7.3.1. The Community Need was set out by Waterford County Council within the documentation submitted with the CPO and can be summarised as follows:

- The CPO will retain the local authority’s responsibility for the pier’s care and maintenance.



- The proposed CPO is not intended to facilitate any significant development of or change of the use of the existing pier; and
- Any future works to the pier that might be proposed would have to be subject to the normal public consultation and planning consent procedures.

7.3.2. The benefits of the proposed CPO are that the Planning Authority can carry out their responsibilities to care and maintain the pier for its current users and any future users.

7.3.3. I note that the objector did not challenge the fundamental community need outlined by the Council and that the concern relates to maintaining sporting and fishing rights.

7.3.4. Having reviewed the information submitted, I am satisfied that there is a clear need for the CPO of Tramore Pier in order to protect this community facility.

7.3.5. I am therefore satisfied that Waterford City & County Council has demonstrated a clear and pressing community need that would be facilitated by the acquisition of rights over the lands in question, should the Board confirm the CPO.

#### **7.4. Suitability of lands to meet community need.**

7.4.1. At the outset, the Board will note that Waterford City & County Council are seeking to permanently acquire Tramore Pier and surrounding lands.

7.4.2. The lands that are the subject of this CPO are currently used for a number of uses including boating, fishing, sea rescue depot and other sea related activities.

7.4.3. The pier is located directly adjacent to the sea and adjacent a tourist destination known as Tramore Bay.

7.4.4. The consideration of the suitability of lands for the purpose of this CPO relates to the compatibility of the lands with the proposed use in the context of surrounding uses and land typology. The lands are steep with cliff face overlooking Tramore Pier, the pier is accessible by car, there are a number of boathouses along the Pier and the Pier is considered suitable for which the CPO is sought as it has been in existence and operating for a number of years.

7.4.5. With regard to land use zoning objectives, I have addressed this in section 7.5 below, however in brief I consider that the proposed works would be acceptable within the appropriately zoned lands affected by the CPO.

- 7.4.6. I note the objection submitted relates to Sporting and Fishing Rights, whilst I acknowledge the objectors concerns in this regard, I consider the CPO of the suitable lands whereby sporting and fishing activities are currently exercised shall not be impacted by the CPO of the pier by Waterford County Council.
- 7.4.7. Thus, I consider that the lands and pier contained within the CPO at this location are necessary to facilitate the CPO.
- 7.4.8. Having regard to the nature of the CPO, I am satisfied that the elands are suitable to meet the aforementioned community need.

#### **7.5. Accordance with Development Plan**

- 7.5.1. As outlined in Section 5.0 above, Waterford County Development Plan 2022-2028 supports and encourages the future maintenance, dredging and improvements of harbours and piers and potential operation and maintenance role these piers and harbours could play in supporting offshore wind developments.
- 7.5.2. Having regard to the foregoing it is clear that the care and maintenance of Tramore Pier is strongly supported by Waterford City and County Council at a policy level. I am therefore satisfied that in principle, the CPO can be facilitated, should it be confirmed by the Board, accords with the proper planning and sustainable development of the area and that the acquisition of the lands or interests therein would not materially contravene any specific policies or objectives of the Plan.

#### **7.6. Use of alternative methods.**

- 7.6.1. Alternative measures of meeting the community need are constrained by the availability and location of suitable lands. Tramore Pier has been in place for a number of years and is used by the local community. The Council are seeking to CPO Tramore Pier in order to provide care and maintenance to the Pier, which can only be achieved through the CPO of Tramore Pier. I am satisfied based on the nature of the site and the location that this is the only suitable and logical option available to the Council which would facilitate the care and maintenance of Tramore Pier as required.

#### **7.7. Proportionality and Necessity of Level of Acquisition proposed.**

7.7.1. The only concern raised by the objection relates to his Fishing and Sporting Rights which shall not be affected by the CPO. I note from my site inspection that these lands are currently set out as a pier and offer fishing and sporting opportunities.

7.7.2. Thus, having reviewed the information submitted by Waterford County Council and the objection and having inspected the lands/piers, I am satisfied that the extent of the proposed permanent land acquisition is necessary and are proportionate in the context of meeting the identified community need.

## **7.8. Issue Raised by the Objector**

### **7.8.1. Sporting and Fishing Rights**

7.8.2. I note the concerns raised by the objector in relation to his sporting and fishing rights at Tramore Pier and the documentary evidence submitted from the Property Registration Authority which have confirmed ownership of these rights as set out in folio WD 1647. The Council have not provided a response to this issue raised, the objector is requesting that any registration of the Pier with Waterford County Council outlines his rights to continue sport and fishing at Tramore Pier. I consider this request shall not affect the process of this CPO, this is a civil matter to be resolved between the parties, having regard to the provisions of section 34(13) of the Planning and Development Act 2000 as amended.

## **7.9. Conclusion**

7.9.1. In conclusion, I am satisfied that the process and procedures undertaken by Waterford City and County Council have been fair and reasonable, that Waterford City and County Council has demonstrated a pressing community need that would be facilitated by the permanent acquisition of lands in respect of the lands identified in the Schedule and drawings submitted, that said lands are both suitable and necessary to meet the community need and that the extent of acquisition is proportionate to the objective being pursued. I therefore consider that the proposed acquisition of permanent lands relating to the pier would be in the public interest and common good and would be consistent with the relevant provisions of the Waterford County Development Plan 2022-2028.

## 8.0 Recommendation

I recommend that the Board confirm the Compulsory Purchase Order submitted to the Board on the 15<sup>th</sup> August 2024, based on the reasons and considerations set out below.

## 9.0 Reasons and Considerations

9.1. Having considered the objection made to the Compulsory Purchase Order, and not withdrawn, the report and the recommendation of the Inspector, the purpose for which the lands are to be acquired as set out in the Compulsory Purchase Order, and having regard to the following:

- (a) The community need, public interest served and the overall benefits to be achieved from the CPO;
- (b) The care and maintenance required at Tramore Pier to continue its use for the public;
- (c) The strategic nature of the pier in the context of providing increased economic and tourism opportunities to the local area;
- (d) The policies and objectives of the Waterford County Development Plan 2022-2028;
- (e) The submission made on 25<sup>th</sup> September 2024;

It is considered that, the acquisition of Tramore Pier by Waterford City and County Council on the land in question, as set out in the order and on the deposited maps, are necessary for the purposes stated and the objection cannot be sustained having regard to the said necessity.

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.

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Jennifer McQuaid  
Planning Inspector

1<sup>st</sup> April 2025

# Form 1

## EIA Pre-Screening

<b>An Bord Pleanála</b> <b>Case Reference</b>	ABP-320556-24		
<b>Proposed Development Summary</b>	Compulsory Purchase Order 2024 (No. 2), Tramore Pier, Newtown, Tramore, Co. Waterford.		
<b>Development Address</b>	Tramore Pier, Newtown, Tramore, Co. Waterford.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	
		<b>No</b>	No further action required
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>			
<b>No</b>	X		No further action required
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>			
<b>No</b>			

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes			

5. Has Schedule 7A information been submitted?		
No		Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_