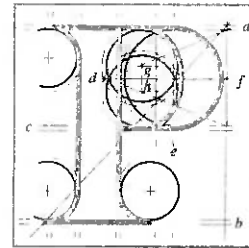


Our Ref: 61.PA0033

P.A.Reg.Ref:

Your Ref: JPK 7476-04-04



An
Bord
Pleanála

John P. Kelly
Tobin Consulting Engineers
Fairgreen House
Fairgreen Road
Galway

2nd March 2017

Re: Galway Harbour Extension.
Renmore and Townparks Townlands, Galway.

Dear Sir,

An Bord Pleanála has received your Proposed Compensatory Measures (Version 2.2) report, dated February 2017, in relation to the above mentioned case. An Bord Pleanála will revert to you in due course with regard to the matter.

If you have any queries in relation to the matter please contact the undersigned officer of the Board. Please quote the above mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,

Kieran Doherty
Executive Officer
Direct Line: 01-8737246

ADHOC/PA0033/63

Kieran Doherty

From: John P Kelly (Galway) <John.Kelly@tobin.ie>
Sent: Tuesday 28 February 2017 18:52
To: Kieran Doherty
Subject: 7476 Galway Harbour Extension, Compensatory Measures Report V2.2 280217 . Your Ref. 61.PA0033
Attachments: 7476 Aquafact Compensatory Report V2.2 280217.pdf

Kieran,

Please find attached copy of the Compensatory Report V2.2. 280217.

This was discussed in draft at a meeting with NPWS (Ciaran O Keeffe and David Lyons) and Galway Harbour Design Team (Brendan O Connor and John Kelly) at the NPWS offices at Ely Place on 21/02/17.

It was agreed that the report, as now attached, would be polished and forwarded as the completed copy to NPWS and to ABP.

NPWS would need to have others to review it. Subject to such review, it was considered that V2.2 was working in the right direction.

Further biparty work / meeting may be appropriate to progress the Compensatory details qualitatively and quantitatively and how Longevity , Security and Ability to review and adjust the proposed management could be achieved.

We will be glad to obtain your feedback and that of your consultant on this document, and that it is moving in the right direction.

That will allow us continue the recording of the "tight cooperation" .

The requisite on site surveys can then be agreed and scheduled with the Applicant and the Landowners.

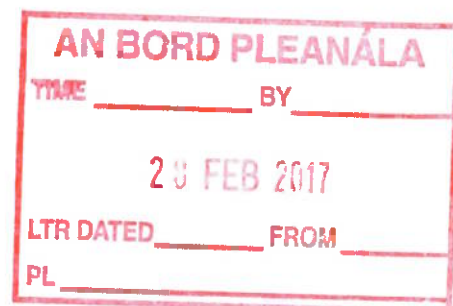
That will in turn allow progress to the stage of agreement of firm specific Compensatory Proposals with the respective parties which we then look forward to formally presenting to ABP accordingly.

Thank you.

John.

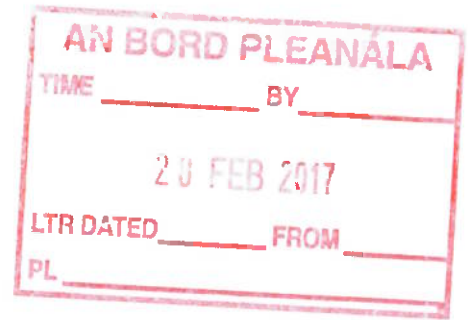
John P Kelly B.E. M.I.E.I.
Project Director

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Disclaimer



Galway Harbour Company

Galway Harbour Extension



**Proposed Compensatory Measures (Version 2.2) in relation to the
proposed Galway Harbour Extension,**

An Bórd Pleanála (Ref: 61.PA 0033)

February 2017



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1 INTRODUCTION

1.1 BACKGROUND

This is the third report on proposed compensatory measures (V2.2) for habitat loss arising from both the Galway Harbour Extension (GHE) project and the Galway Harbour Enterprise Park (GHEP). It follows a request from An Bord Pleanála (ABP) dated 29/9/2015 for such a report (V1 which was submitted on 24/11/15) and the 15 page responding document from NPWS dated 27/5/2016 and minutes of the meeting between ABP and NPWS dated 3/08/2016 on that first report (V.1).

V2.1 was submitted on 9/12/16 and was discussed at a tripartite meeting with An Bord Pleanála (ABP), National Parks and Wildlife (NPWS) and Galway Harbour Commissioners personnel and its consultants on 13/12/16. The minutes of that meeting were issued by ABP on 31/1/17.

This February 2017 report V 2.2 sets out the proposed compensation plan.

The approach to the identification of compensatory measures involved firstly identifying potential replacement habitats for those lost, followed by the identification of measures which, together with the replacement designated habitats, are considered to constitute compensatory measures.

In the first report (AQUAFAC V1, 24/11/2015), the overall approach to the identification of compensatory measures considered the request from ABP together with the Board's Statement of Appropriate Assessment including the report of the Board's specialist marine ecological consultant, Dr. Bastreri of Thompson Unicmarine. The identification of compensatory measures was informed by the EU Guidance on Article 6(4) and a summary of the relevant provisions/criteria from this guidance document was presented in that (AQUAFAC, V.1, 2015) report.

Also, in that report (AQUAFAC, V.1, 2015), the habitat types and areas that were lost by the development of the GHEP and those that will be lost if the GHE project is given planning permission, were presented. That report also identified potential replacement habitats similar to those lost and options for the provision of such replacement habitats. These included the engineering of replacement habitats and alternatively, the identification of similar existing habitats to those lost for subsequent designation. Locations both within and outside Galway Bay cSAC were assessed in that same report.

GHEP

Salt marsh: 7.39 ha.

ABP invited Galway Harbour Company to confirm that it wished to have the project considered for approval under Article 6 (4) of the Directive and this confirmation was issued to ABP on 1st October, 2015.

The letter of 29.09.2015 states that the Board proposes that the development of compensation measures be addressed in two phases:

Phase 1 – *“the proposals for compensatory measures should be set out by Galway Harbour Company for initial consideration. Galway Harbour Company was advised to liaise with the National Parks and Wildlife Service (NPWS) of the Department of Arts, Heritage and the Gaeltacht in this regard”*. As advised above, informal meetings were held in NPWS offices on 21/10/2016 and 30/11/2016. A further meeting is planned for 21/2/2017.

Phase 2 – *“pending the outcome of Phase 1, the applicant will be afforded further time to develop the compensatory measures in more detail leading to submission of a completed proposal for consideration by the Board”*.

ABP stipulated that there should be liaison with the NPWS to enable “close co-operation” between the Galway Harbour Company and the NPWS as encouraged in the Guidance Document on Article 6(4) of the Habitats Directive 92/43/EEC, published by the European Commission (DG Environment).

This present document has progressed the proposals on that basis and in light of NPWS (27/5/2016) and ABP (3/6/2016; 31//17) feedback and meetings referenced above and includes reference to 2 other IROPI decisions.

1.3 STATEMENT OF APPROPRIATE ASSESSMENT

In its Statement of Appropriate Assessment, ABP noted that it had regard to the documentation submitted by the applicant which included a comprehensive list of Natura 2000 sites potentially coming within the influence of the proposed port extension. ABP has also advised that it has agreed with the screening assessment and conclusion reached in the report of the

2 EU GUIDANCE ON COMPENSATORY MEASURES

2.1 GUIDANCE CRITERIA

2.1.1

ABP in its request for Further Information of the 29th September, 2015 has referred the applicant to the guidance in relation to compensatory measures set out in the European Commission (DG Environment) Guidance Document entitled: "Guidance document on Article 6 (4) of the 'Habitats Directive' 92/43/EEC" (2007/2012), as may be updated.

2.1.2

This EU guidance notes on page 10, bullet 2, that "*compensation measures sensu stricto are independent of the project (including any associated mitigation measures). They are intended to offset the negative effects of the plan or project so that the overall ecological coherence of the Natura 2000 network is maintained*".

2.1.3

It also states (page 11, line 2) that compensatory measures "*should be considered only after having ascertained a negative impact on the integrity of a Natura 2000 site*". Compensation measures are aimed at offsetting the negative impact of a project and to provide compensation corresponding precisely to the negative effects on the species or habitats concerned (page 11, text box).

2.1.4

The EU document states (page 13, text box, para. 1) that "*in order to ensure the overall coherence of Natura 2000, the compensatory measures proposed for a project should therefore*

- a) *address, in comparable proportions, the habitats and species negatively affected;*
- b) *provide functions comparable to those which had justified the selection criteria of the original site, particularly regarding the adequate geographic distribution."*

2.1.5

It also notes (page 13, text box, para. 2) that "*the distance between the original site and the place of the compensatory measures is not necessarily an obstacle as long as it does not affect the functionality of the site, its role in geographical distribution and the reasons for its initial selection.*"

2.1.6

On page 14, para. 2 of the document, it states that compensation "*could, similarly, consist of the recreation of a comparable habitat or the biological improvement of substandard habitat within an*

in reinstating structure and functionality within a short period of time (e.g. without compromising the preservation of the habitats or the populations of key species likely to be affected by the plan or project)”.

2.2.5 Location of Compensatory Measures

The location of compensatory measure required to be as per paragraphs 2.1.5 – 2.1.7 above which are extracts of the EU Guidance Document on 6 (4) *i.e.* the distance between the original site and the place of compensatory measured is not necessarily an obstacle, a new site may be added to the Natura 2000 network or locating compensation within or nearby to the Natura site are all given as options.

2.2.6 Timing of Compensation

The EU Guidance on 6 (4) notes that a site must not be irreversibly affected *i.e. commencement of development works* before compensation is in place² and that the results of the compensation should be effective at the time damage occurs. If this cannot be achieved, then overcompensation would be required for the interim losses. Time lags might only be admissible when it is ascertained that they would not compromise the objective of “no net losses” to the overall coherence of the Natura 2000 network. Time lags are not permitted if they lead to population losses for any species protected in the site under Annex II of Directive 92/43/EEC or Annex I of Directive 79/409/EEC requiring particularly attention when it entails priority species.

The purpose and timing of the compensatory measures proposed is to ensure that all necessary provisions, technical, legal or financial, necessary to implement the compensatory measures must be completed before the plan or project implementation starts, so as to prevent any unforeseen delays that may hinder the effectiveness of the measures³.

2.2.7 Long-term Implementation

Compensatory measures being proposed must take into account a number of different aspects of what the Commission regards as long term implementation and these include:

- devising binding enforcement methods at the National level aimed to ensure the full implementation and effectiveness of compensation
- devising the necessary legal means in case land or rights purchase is deemed essential for the effective implementation of the compensation and
- establishing monitoring programmes for the life of the project, including objectives, responsible bodies and requirements on reporting to the Commission.

² See section 1.5.6 of the Guidance Document

³ As required under Section 1.5.6 of the Guidance Document.

3.2 PROJECT MAINPORT ROTTERDAM, 2003.EU COMMISSION OPINION C (2003) 1308 24/04/2003) MARINE RESERVE PRECEDENT.

Project Mainport Rotterdam is a plan to extend the port of Rotterdam consisting of a combination of

- better use of space available in the existing harbour area
- reclamation of 2500ha from the sea (Maasvlakte 2) and
- creation of a new area of 750ha as a nature reserve and recreation areas.

This westward extension into the North Sea is expected to significantly affect a priority habitat (Grey Dunes, area lost 19.5 ha), 2 non-priority habitats (White Dunes, area lost 23 ha and Sandbanks which are not covered by seawater at low tide, area lost 3,125 ha), one plant species (the fen orchid, *Liparis loeselii*) and two bird species (Slavonian grebe, *Podiceps auritus* and Scaup, *Aythya marila*).

The compensation for these losses included

- creation of a new area of Grey Dune, 100ha in size,
- creation of 23 ha of White Dune,
- creation of an intertidal marine reserve 31,250 ha in size in the SPA Voordelta. This will not involve creation of new habitat but will entail measures that reduce disturbance of the sea bed such as restrictions on fisheries allowing the creation of better conditions for foraging birds such as Slavonian grebe and Scaup and
- creation of 10 ha of humid dune slack for colonisation by the fen orchid.

The EU Commission held the view that *“this land reclamation project could be executed for reasons of overriding public interest on the condition that all necessary compensation measures to ensure the overall protection of the coherence of Natura 2000 be taken in due time.”* It went on to add that it *“presumes that the compensatory measures will be implemented and monitored as described by the Dutch Authorities”* and that *“the results of the accompanying monitoring programmes regarding Natura 2000 are taken into account in the sense that they may, if need be, lead to appropriate rectifications in project design or to additional compensation and mitigation measures”*.

These two examples of IROPI projects that included priority habitats and that were accepted by the Commission are of considerable relevance to developing a compensation plan for loss of non-priority habitats: in the Nied example, a simple management plan for remaining areas of the

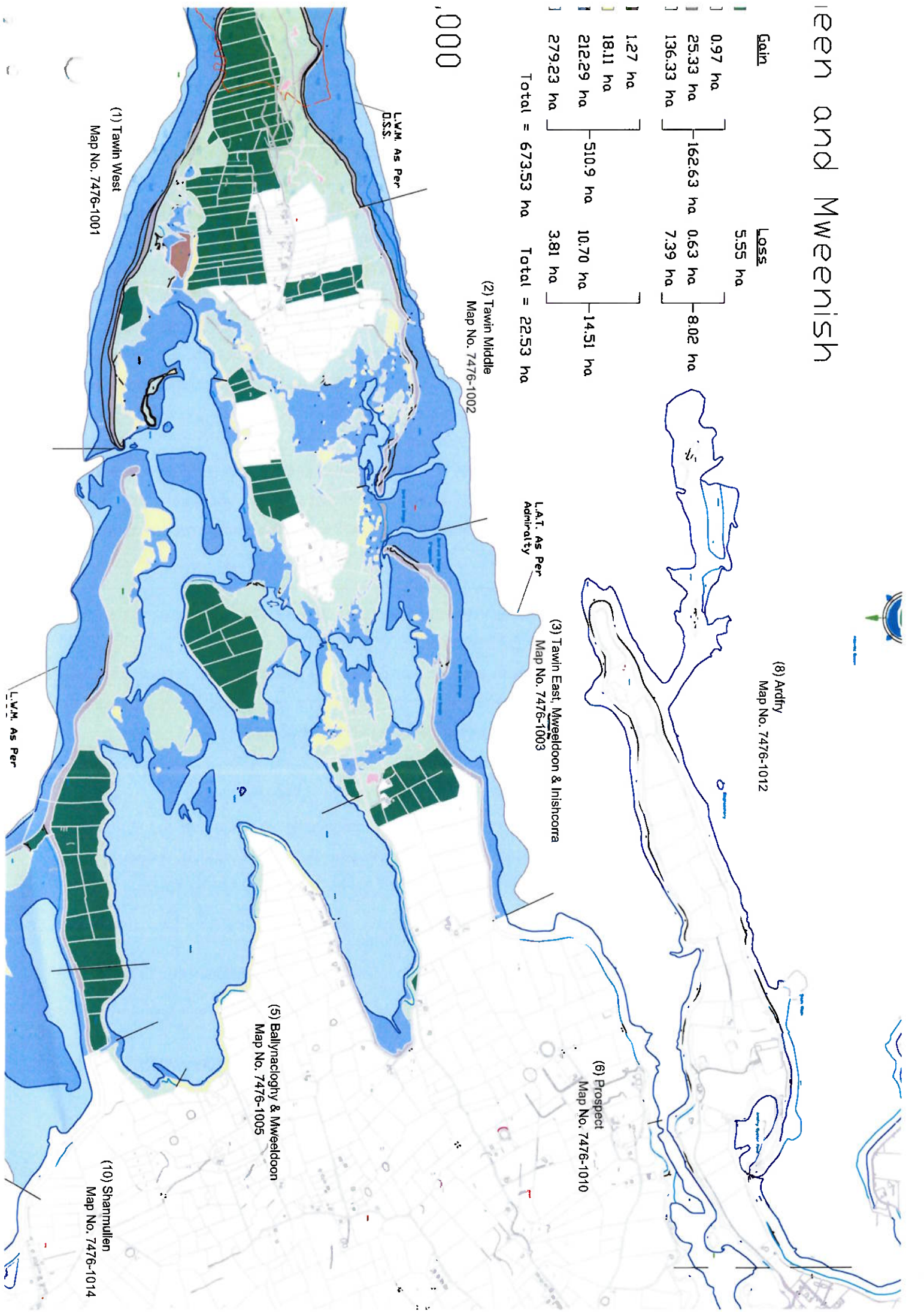


Figure 1 - Overall Study Area

Green and Mweenish

Gain	Loss
0.97 ha	5.55 ha
25.33 ha	0.63 ha
136.33 ha	7.39 ha
1.27 ha	8.02 ha
18.11 ha	
212.29 ha	10.70 ha
279.23 ha	14.51 ha
Total = 673.53 ha	Total = 22.53 ha

,000



(1) Tawin West
Map No. 7476-1001

(2) Tawin Middle
Map No. 7476-1002

(3) Tawin East, Mweeloon & Inishcorra
Map No. 7476-1003

(4) Ardfrv
Map No. 7476-1012

(5) Ballynacloghy & Mweeloon
Map No. 7476-1005

(6) Prospect
Map No. 7476-1010

(10) Shanmullen
Map No. 7476-1014

L.V.M. As Per

L.A.T. As Per
Admiralty

3. Cease fertilizer and slurry spreading in areas of saltmarsh and eliminate dunging by animal fencing in stony bank habitats,
4. Prevention of the use of herbicides within or close to the three habitat types,
5. Livestock using the lands are to be outside of the withdrawal period for medicines and anthelmintics,
6. Prevent removal of cobbles,
7. Prevent the construction of any drainage channels,
8. Control of access by tractors to the three habitats,
9. Eliminate of the use of round feeders/winter feeding and related poaching and rutting of lands at feeding and gate sites,
10. Prevent the construction of any further sea defence works or dumping of materials to act as a sea defence,
11. Cease repair of any sea defence works to allow for erosion/ingress by the sea,
12. Regular removal of flotsam and jetsam and other refuse,
13. Annual biological surveys of the habitats to document any changes in their extent and their characterising species,
14. In the light of the results of the annual biological surveys, adjust/modify the management plan,
15. Commission annual, independent audit of the progress of the management plan,
16. In the light of the results of this independent audit, adjust/modify the management plan and
17. Erection of signage including drawings at chosen vantage points demonstrating what the project comprises and what species are contained within each habitat.

Within the Tawin peninsula, a total of 25ha of stony bank habitat and a total of 136.33ha of saltmarsh mosaic has been mapped. In relation to areas of these habitats lost or that will be lost as part of the Galway Harbour Extension *i.e.* 0.63ha of stony bank and 7.39ha of saltmarsh, the relative ratios are high.

4.3.2 Intertidal sands, muds and fucoïd-dominated reef complex

This complex of three different habitat types are found throughout the Tawin peninsula and covers an area of *ca* 500ha. Both the historic loss and the future loss of this habitat totals to 14.51ha. As for the Rotterdam example, it is planned to establish a marine reserve that will include all the intertidal habitat areas of the Tawin peninsula.

A relevant case of the creation of a marine reserve is Flamborough Head in the U.K. In 2010, a portion of Flamborough Head marine protected area was designated as the first UK marine reserve in the North Sea. Collaborative efforts led by the local fishing community helped ensure

This suite of plans for the 3 **non-priority** habitats that require compensation due to impacts arising from the proposed expansion of the proposed Galway Harbour Expansion relative to the respective scales of the project, far outweighs those proposed by the developers for the TGV line and the infilling of marine habitats at Rotterdam for **priority** habitats and that were accepted by the Commission.

5 NEXT STEPS

For this package of management plans to be developed to the phase 2 stage as per ABP 29/9/2015, detailed surveys by agreed suitably qualified botanists and zoologists are required. These will include initial site surveys by the relevant specialist to qualitatively assess the Tawin area in terms of site suitability for the habitats in question.

This will then allow for the selection of the most suitable areas for quantitative survey work to be carried out at a suitable time of the year to document the plant and animal species present in each habitat. This will document the existing pressures and impacts from land and aquatic use, on lands where the owners will have agreed that the enhanced management plans proposed would be acceptable to them.

Confirmation in principal is required that the package of measures presented above forms an acceptable method to compensate for the loss of the 3 habitats in question arising on foot of the Galway Harbour Extension and Galway Harbour Enterprise Park developments. This will then allow the further qualitative and quantitative studies to progress as soon as possible.

6 REFERENCES

AQUAFACT International Services Ltd. (2015). Proposed compensatory measures associated with the Galway Harbour Extension, Renmore and Townparks townlands, Galway.

Curtis, T. and Sheehy Skeffington, M. (1998). The salt marshes of Ireland: an inventory and account of their geographical variation. *Biology and Environment: Proceedings of the Royal Irish Academy*. Vol. 98B, No. 2 (Dec., 1998), pp. 87-104.

EU (1992). Council Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora.