

Board Direction

Ref: 61.PA0033

An initial presentation of the file was made to the Board by the reporting inspector (Mr. Caprani) at Board meeting held on 28th April 2015.

The Board visited the site of the proposed development on 29th April 2015 in the company of the reporting Inspector.

The file was considered at further Board meetings held on 25th June, 2nd July, 7th July, 13th August 2015 and deferred on each occasion for further consideration.

The submissions on this file and the Inspector's report were considered at a further Board meeting held on 3rd September 2015. The Board focussed its deliberations on the Appropriate Assessment required under Article 6(3) of the Habitats Directive, and on the possible application of Article 6(4) of the Directive (IROPI) to the case. The Board decided that consent could not be granted under the provisions of Article 6(3) of the Directive and decided, by a 7:1 majority, to invoke the Article 6(4) (IROPI) for further consideration of the proposal.

At a further meeting on 15th September 2015, the Board was joined by the reporting inspector and the specialist ecological consultant (Mr. Basterri), along with the Assistant Director of Planning Mr. Green. This meeting focussed on the detail of the article 6(3) assessment and application of article 6(4) in relation to compensatory measures. The case was deferred for consideration at a further board meeting.

At a further meeting held on 21st September 2015, the Board agreed the wording of the following aspects of the case:

- Board Article 6(3) Statement of 'Appropriate Assessment'
- Board position in relation to alternatives
- Board position in relation to Imperative Reasons of Overriding Public Interest
- Request for information in relation to compensatory measures.

As set out below.



STATEMENT OF APPROPRIATE ASSESSMENT (ARTICLE 6(3))

The Board 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. The Board agreed with the screening assessment and conclusion reached in the report of the specialist ecological consultant (Mr. Bastreri of Thomson Unicmarine, appointed to assist the Board's inspector) that the following sites:

- Galway Bay Complex SAC (site code 000268),
- Inner Galway Bay SPA (site code 004031) and
- Lough Corrib SAC (Site code 000297)

are the relevant European sites for which there is a likelihood of significant effects, requiring a 'stage II' assessment, and that other sites can be discounted from further consideration, owing to the separation distances involved and lack of likelihood of significant effects arising.

The Board considered the Natura Impact Statement and all other relevant submissions – including further information submitted by the applicant in response to a request by An Bord Pleanála, and further submissions made in the course of the oral hearing - and carried out an appropriate assessment of the implications of the proposed development for European Sites listed above in view of the sites' Conservation Objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment. x ?

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

- i) likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, including the reclamation of land in this area carried out by the Galway Harbour Company in the mid-1990s to create the Galway Harbour Enterprise Park (planning permission reference 95/68).
- ii) mitigation measures which are included as part of the current proposal,
- iii) Conservation Objectives for these European Sites, and
- iv) submissions of the National Parks and Wildlife Service (NPWS) of the Department of Arts, Heritage and the Gaeltacht, and of the other participants in the case including at the oral hearing.

In completing the AA, the Board accepted and adopted the Appropriate Assessment carried out in the report of the specialist ecological consultant appointed by the Board in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' Conservation Objectives.



The conclusions of the specialist ecological consultant in relation to impacts on the integrity of the European Sites can be summarised as follows (Table, and text below):

Table – Summary of impacts on the Integrity of Natura 2000 sites.

Natura 2000 site	Conclusion
Galway Bay Complex SAC Site code 000268	<p>The integrity of the European site will be affected by the proposed development, specifically:</p> <ul style="list-style-type: none"> • The direct and permanent loss of fucoid-dominated reef habitat [1170] and mud and sand flat habitat [1140] in Galway Bay Complex cSAC will result in the conservation objective for these features not being met. The direct and permanent loss of a habitat, which is part of the conservation objective of the site, is in general a significant adverse effect on the integrity of the site. • The loss of perennial vegetation of stony banks [1220] due to the sheltering effect of the harbour extension will also have a significant adverse effect on the integrity of the cSAC.
Inner Galway Bay SPA Site code 004031	While some adverse impacts are likely, a significant adverse effect on the integrity of the SPA will not arise in view of the site's conservation objectives.
Lough Corrib SAC Site code 000297	While some adverse impacts are likely, a significant adverse effect on the integrity of the SAC will not arise in view of the site's conservation objectives.

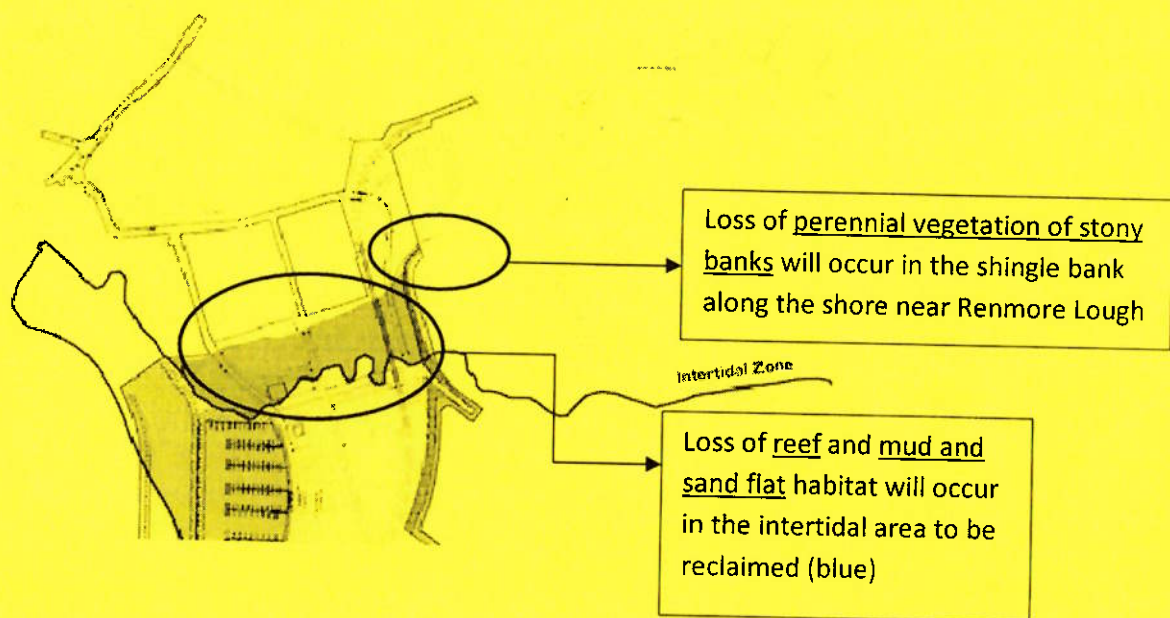
Impacts arising on the integrity of the Galway Bay Complex SAC

The 'fucoid dominated reef' habitat (Annex 1 habitat) and the 'mud and sand flat not covered by sea-water at low tide' habitat that will be permanently removed by the proposed land reclamation are located in the inter-tidal zone directly adjacent to the existing Galway Harbour Enterprise Park. The **5.93 hectares** involved is clearly marked on the application drawings. There is a combination of reef habitat and mud and sand flat habitat occurring in this zone. The total area of reef habitat occurring in the SAC is 1227 hectares. Therefore in a 'worst case' scenario, the loss of 5.93 hectares would represent approximately 0.5% of the total area of the reef habitat that occurs within the European site.

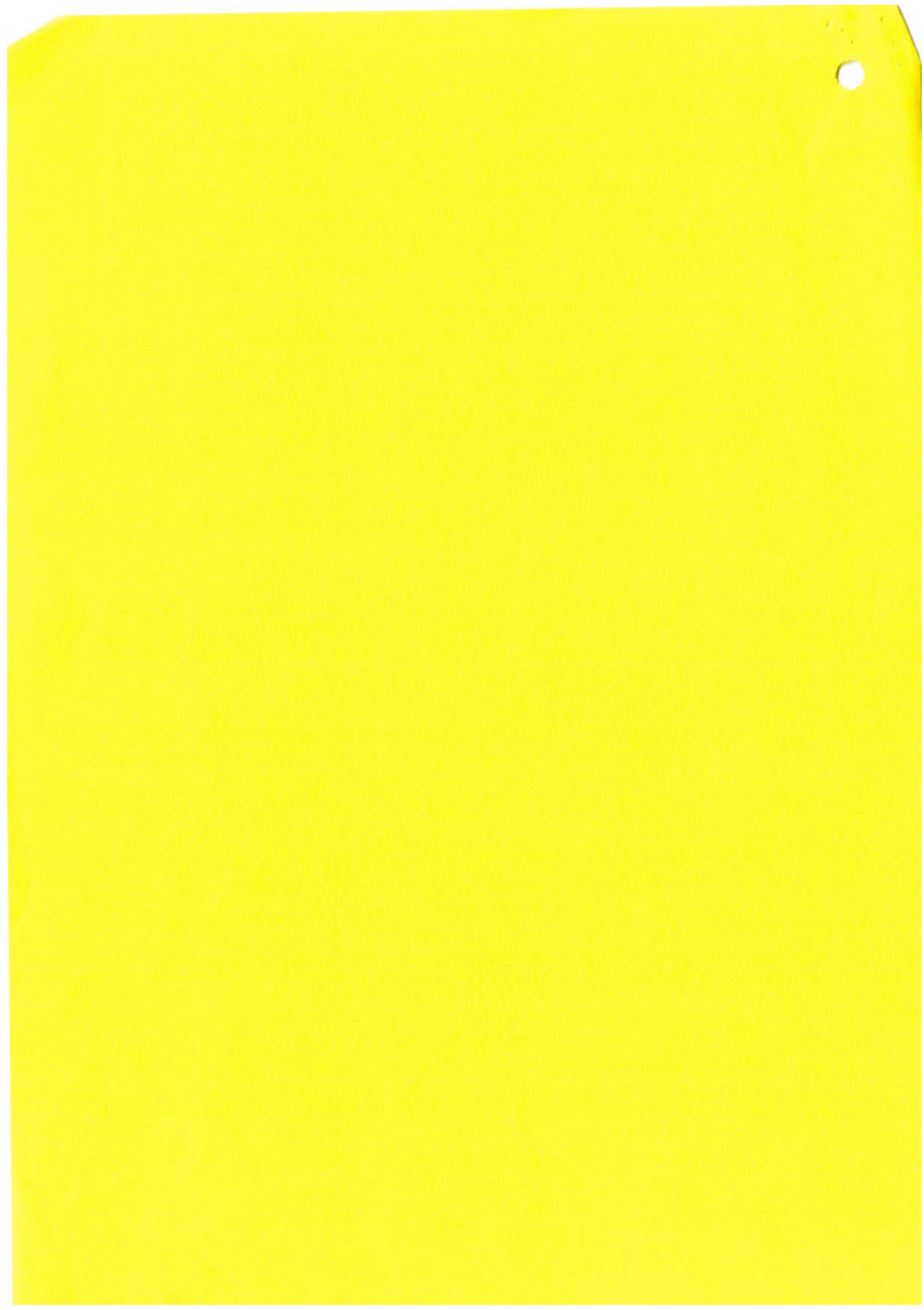


The habitat supporting **perennial vegetation of stony banks** is found adjacent to the Galway Harbour Enterprise Park, beside Renmore Lough, and comprises a low shingle bank running along the shore. The shingle bank has been affected by recent storms but may be expected to recover. The proposed development will lead to changes in the hydrological regime at local level, sheltering the stony bank that forms the south boundary of Renmore Lough, which in turn will prevent storm and wave surges from accessing the stony banks, leading to increased colonisation by terrestrial vegetation. Therefore the proposed harbour expansion is expected to lead to a loss of the habitat. The total area of this habitat affected is approximately **0.35 hectares** of which approximately **0.2 hectares** lies within the boundary of the SAC.

Figure – indicative location of habitats where adverse impacts on integrity of the SAC will arise.



The assessment carried out by Mr Bastreri concluded that although there are certain **priority habitats** present within the Galway Bay SAC - including Lough Atalia and Renmore Lough which comprise coastal lagoon habitat - the proposed harbour extension project will not lead to negative implications arising for the conservation objectives relating to these priority habitats. The Board adopted this conclusion.



Impacts on the Inner Galway Bay SPA

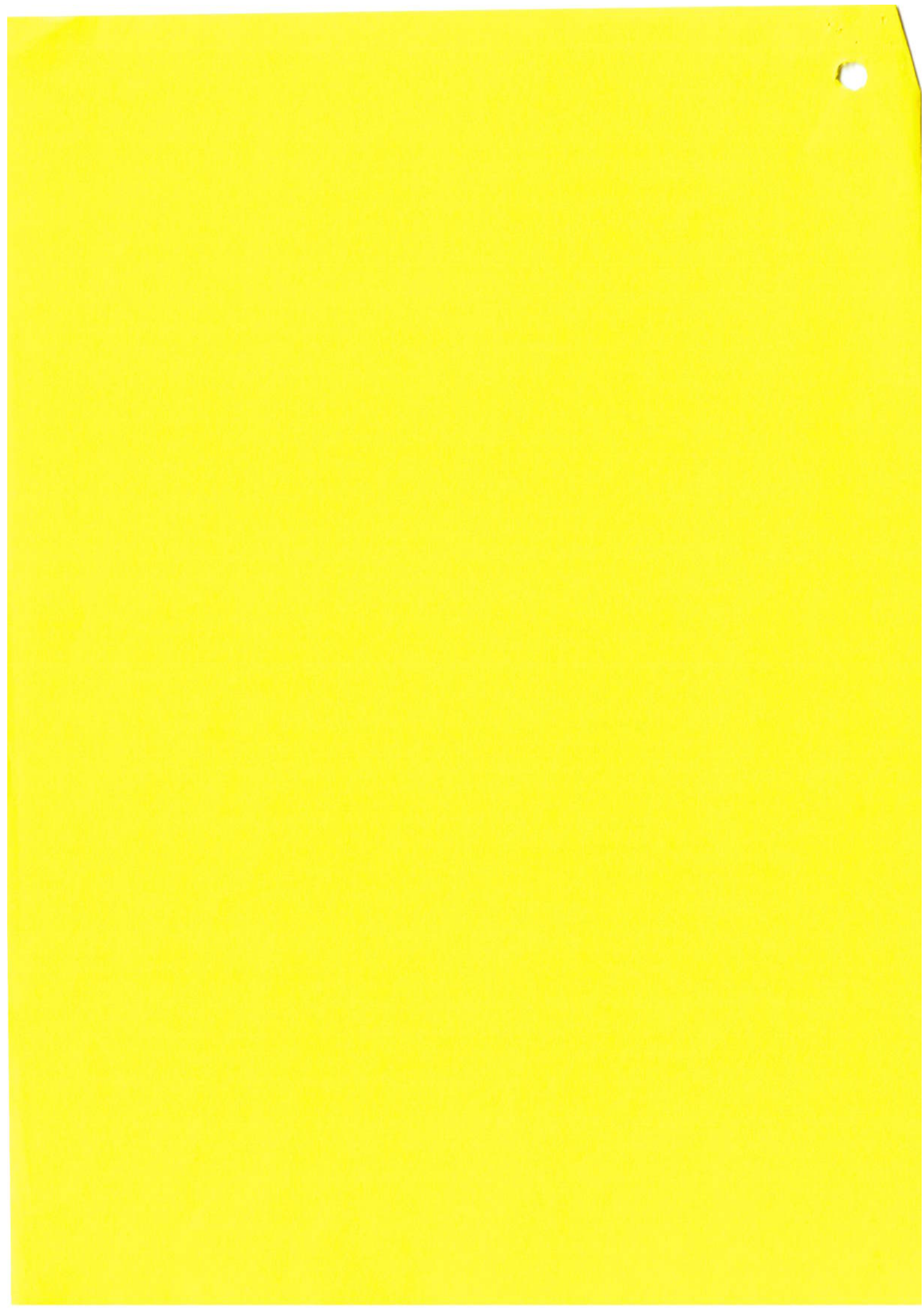
Significant consideration has been given in the course of the application (including at the oral hearing) to potential impacts on the conservation interests (bird species) of the Inner Galway Bay SPA. Having analysed the issues involved, the Board's specialist ecological consultant Mr. Bastreri concluded as follows:

- Loss of intertidal and subtidal habitat, underwater noise and vibration and disturbance during construction are likely to have a moderate adverse impact on many of the bird species that are qualifying features of the SPA.
- Disturbance caused by an increase in shipping traffic during operation are likely to have a moderate adverse impact on some of the bird species that are qualifying features of the SPA.

He does not include the SPA in those sites whose integrity will be adversely affected by the proposed development.

The Board also gave consideration to the impacts arising, in particular the potential impacts on bird species owing to increased shipping movements associated with the proposed harbour extension once operational. Notwithstanding the extensive written and oral submissions made in relation to this matter, there remain conflicting views taken by the specialist ecologists representing the applicant and the NPWS in the course of the case. The Board took the view that some disagreement in relation to this aspect of the appropriate assessment was understandable given the nature, scope and duration of the project and the availability of information on the receiving environment. The matter has already been the subject of a 'further information request' and extensive exchanges at the oral hearing, and the Board considered that further surveying or analysis was unlikely to resolve this lack of agreement in view of the current understanding of the behaviour of marine birds.

Having examined the matter, the Board considered that Mr Bastreri's report represents the best scientific advice available, and that it takes a conservative approach in concluding a 'likely moderate adverse' impact owing to disturbance. The Board agreed with Mr. Bastreri that such an impact, if it were to arise, would not comprise a significant adverse effect on the integrity of the SPA in view of the site's conservation objectives.



Appropriate Assessment Conclusion

The Board concluded that approval of the proposed development could not be considered under article 6(3) of the Habitats Directive, given that a significant adverse impact on the integrity of the Galway Bay SAC would occur.

The Board then proceeded to examine whether it should consider applying article 6(4) of the Directive to this project.

BOARD POSITION IN RELATION TO ALTERNATIVES

Preliminary - Consideration as to whether to apply a derogation under the Article 6(4) Process

Text of Article 6(4):

"If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.

Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest".

The Board took a step by step approach to this question, as advised in the relevant guidance from the EU Commission.

From EU Commissions "Guidance document on Article 6(4) of the 'Habitats Directive' 92/43/EEC" (2007/2012):

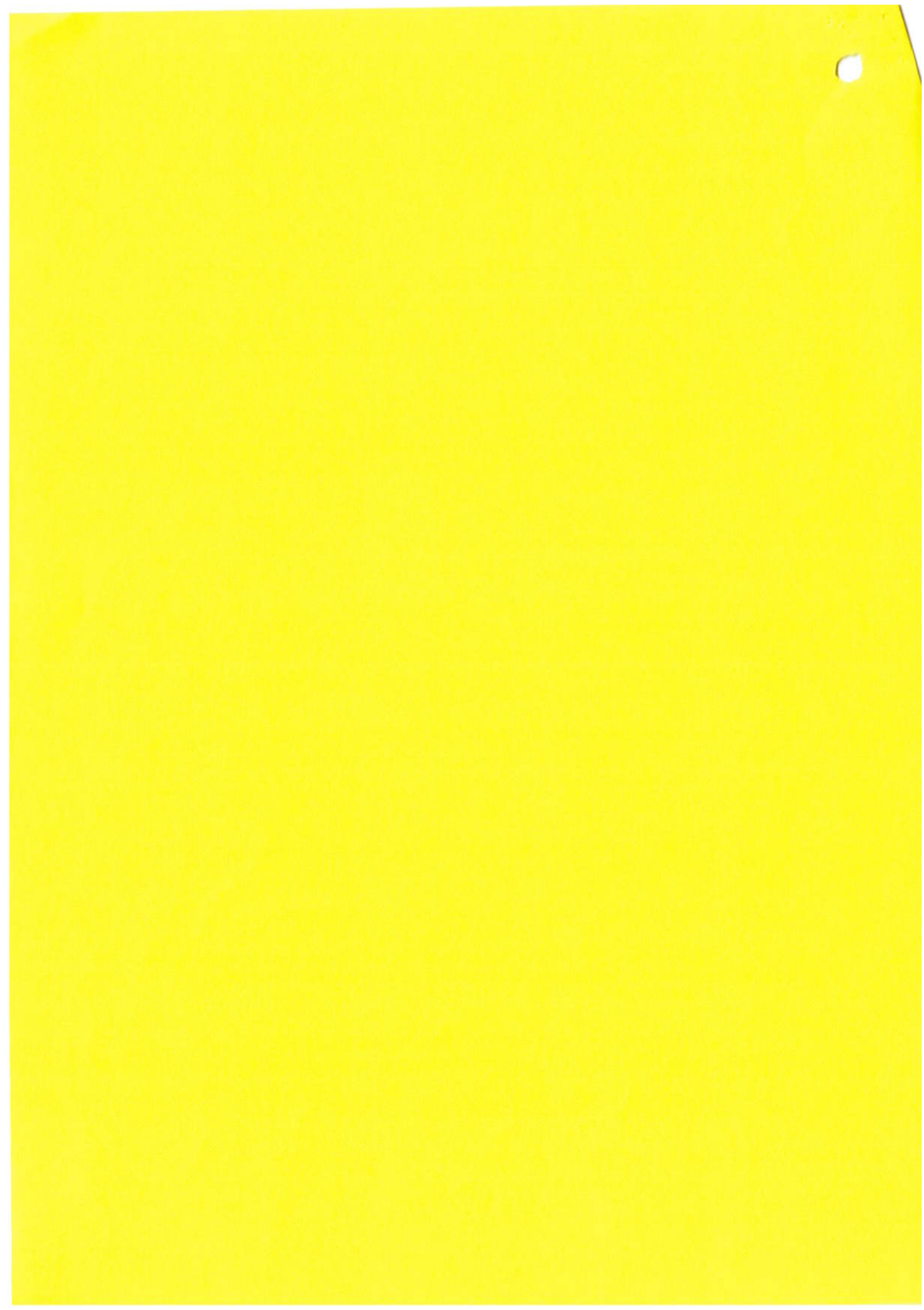
The decision to go ahead with a plan or project must meet the requirements of Article 6(4). In particular, it must be documented that:

1 The alternative put forward for approval, is the least damaging for habitats, for species and for the integrity of the Natura 2000 site, regardless of economic considerations, and that no other feasible alternative, exists that would not affect the integrity of the site.

2 There are imperative reasons of overriding public interest, including 'those of a social or economic nature'.

Being an exception to Article 6(3), this provision can only be applied to circumstances where all the conditions required by the Directive are fully satisfied. In this regard, it falls on whoever wants to make use of this exception to prove, as a prerequisite, that the aforementioned conditions do indeed exist in each particular case.

3 Once the lack of suitable alternatives and the acceptance of imperative reasons of overriding public interest are fully ascertained and documented, all compensatory measures that are needed to ensure the protection of the overall coherence of the Natura 2000 network have to be taken.



Re-Cap on Project Aims

The project aims can be summarised as follows: To provide new port facilities that upgrade and replace existing inadequate facilities, with a minimum 30-year time horizon. This includes extended quay length, sufficient draught for all-tide access, capacity to accommodate vessels of up to 20,000 tonne capacity, sufficient land to provide necessary facilities, address existing Seveso issues (relating to hydrocarbon offloading/storage), accommodate cruise ships, and a new marina.

Consideration of Alternatives

The Board examined alternatives to the proposed Galway harbour extension in order to ascertain whether the project, as applied for, is the least damaging for habitats, for species and for the integrity of the Natura 2000 sites, regardless of economic considerations, and that no other feasible alternative exists that would not affect the integrity of the sites. The Board's considerations are set out in the Table below.

Table - Summary of Board considerations in relation to alternatives.

	Description	Board Conclusion
Zero Option (Do-nothing)	Continue to operate Galway Harbour at its current location and subject to existing tidal constraints, limits on ship size and limited quay length.	<p>The constraints of the existing facility – in particular the tidal and vessel capacity constraints - make it increasingly difficult to meet evolving commercial shipping needs. Shipping services are evolving towards the use of larger vessels. The Board accepted that the 'do-nothing' scenario, in failing to address the existing constraints, would make the port unviable and ultimately lead to the demise of the port in the medium-long term. This would seriously undermine connectivity of the western region and would run contrary to National Spatial Strategy and the National Ports Policy.</p> <p>Furthermore the do-nothing alternative would fail to address existing Seveso constraints, would curtail the possibilities of cruise tourism or marina development, and would impede the opportunity for redevelopment of the inner harbour as an attractive urban quarter.</p> <p>The Board concluded that this is not a</p>

		feasible alternative.
Alternative Locations within Galway Bay	<p>The applicant explored the possibility of developing Mutton Island or Tawin Island, both in proximity to the existing port.</p> <p>The alternative of expanding existing harbour facilities at Rossaveel (37 km west of Galway city) to cater for commercial freight was explored in written and oral submissions.</p>	<p>The Board considered, generally in accordance with the recommendation of the Inspector, that the alternative proposals for a harbour extension or harbour development within Galway Bay are either not feasible or would result in greater negative impacts on the conservation objectives of the Galway Bay SAC and Inner Galway Bay SPA.</p> <p>The Board concluded that the alternatives considered in the inner Bay would result in greater impacts on the integrity of the Natura 2000 sites.</p> <p>The Board concluded that Rossaveel - owing to its location and lack of infrastructure and connectivity - did not represent a feasible alternative.</p>
Alternative Locations outside of Galway Bay	<p>It was suggested by Observers that other ports in Ireland would be more appropriate to handle the expanded commercial freight proposed by Galway Harbour Company.</p> <p>In particular, the alternative of Shannon-Foynes Port providing the necessary port capacity was the subject of written and oral submissions from the applicant and observers.</p>	<p>It is recognised that there are several other Irish ports, including Shannon-Foynes, which are capable of handling the existing and planned future commercial freight tonnage at Galway Port.</p> <p>However, shifting commercial shipping activities from Galway to Shannon-Foynes would seriously impair Galway Port's ability to fulfil its historical role as a tier 3 regional port, as envisaged in the National Ports Policy, into the longer term. Furthermore it would compromise the development of Galway as a Gateway City as designated in the National Spatial Strategy, which underlines the need for "adequate, reliable, cost effective and efficient access to ports" in Gateway Cities.</p> <p>Without the commercial shipping element the proposed harbour extension in Galway would not be viable and hence the cruise ship and marina/ leisure elements of the proposal would also be lost. Hence, under this alternative, the key aims of the project cannot be achieved.</p> <p>Consequently, and notwithstanding the</p>

		extensive written and oral submissions made in relation to Shannon-Foynes, the Board concluded that this is not a feasible alternative.
Alternative Configurations for a Port Expansion	<p>The application documents (EIS) demonstrates how the applicant considered a series of alternative configurations for expansion of the existing harbour.</p> <p>Note: some further alternative been suggested by Observers in the case (in written and oral submissions):</p> <ul style="list-style-type: none"> • Develop a smaller extension with a smaller footprint to accommodate a less ambitious expansion of commercial freight • Develop a facility that could accommodate cruise ships and not expand the commercial freight capacity 	<p>The physical constraints of the existing inner-harbour mean that the option of a small-scale incremental expansion is not available.</p> <p>The application documents demonstrated how the preferred design was arrived at following an iterative process carried out over a number of years.</p> <p>The Board was satisfied –noting the location of the reefs and mud and sand flat habitats immediately adjacent to the existing port lands - that there was no alternative design available that would deliver on the project aims but result in less interference with the sensitive ecology of the area.</p> <p>The Board concluded that the harbour extension design submitted for approval represented the least damaging option for the relevant Natura 2000 sites that meets the project objectives.</p>

Conclusion on Alternatives.

The Board concluded that there are no feasible alternative to the extension of Galway Harbour that would result in reduced impacts on the habitats, species and integrity of the Galway Bay SAC. It therefore proceeded to examine whether imperative overriding reasons of public importance are applicable to the proposal.

BOARD POSITION IN RELATION TO IMPERATIVE REASONS OF OVERRIDING PUBLIC INTEREST

From EU Commissions "Guidance document on Article 6(4) of the 'Habitats Directive' 92/43/EEC" (2007/2012):

It is reasonable to consider that the "imperative reasons of overriding public interest, including those of social and economic nature" refer to situations where plans or projects envisaged prove to be indispensable:

- **within the framework of actions or policies aiming to protect fundamental values for the citizens' life (health, safety, environment);**
- **within the framework of fundamental policies for the State and the Society;**
- **within the framework of carrying out activities of economic or social nature, fulfilling specific obligations of public service.**

Preliminary - Whether Commission Opinion is required prior to invoking IROPI procedures.

The second paragraph of article 6(4) states as follows:

Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest

There are examples of priority habitats in the Natura 2000 site concerned (Galway Bay Complex SAC). The following guidance is set out in the EU Commission's "Guidance document on Article 6(4) of the 'Habitats Directive' 92/43/EEC" (2007/2012):

Art. 6(4), second subparagraph may be understood as applying to all sites hosting priority habitats and/or species, when these habitats and species are affected.

The appropriate assessment carried out by An Bord Pleanála under article 6(3) of the Habitats Directive found that the proposed harbour extension would not have significant adverse impacts on any priority habitat or on any priority species. Therefore the Board concluded that priority habitats would not be affected and the second paragraph of article 6(4) did not apply to this case, and therefore it will not be necessary to seek the opinion of the Commission at this point.

1. Public Nature of the project.

Improved transportation infrastructure supports the social and economic development goals of the region. Development of modern, efficient transportation services by a public authority (in this instance Galway Harbour Company) is therefore an initiative fulfilling the public good. The proposed project presents an integrated development that enhances the social, economic and recreational benefits of the port for the wider benefit of the population of Galway and its regional hinterland, with a long term perspective that aligns with public policy goals.

The enhancement of port facilities also aligns with European transportation policies promoting 'Short Sea Shipping' as a cost effective and environmentally sustainable alternative to road transport.

2. Securing the future of Galway Port

Status of the Western Region

Ireland's western region has been designated as a NUTS III region for the purpose of EU statistical purposes. The western region forms part of the Border Midlands West NUTS II region which includes the least economically developed parts of the country, attracting favourable consideration for European Structural Funds. Galway is the only Gateway City serving the western region.

Recognising the imbalance across Ireland in terms of economic development, employment and population, the National Spatial Strategy (NSS) includes policies to strengthen Gateway cities such as Galway, Limerick and Cork as a counterbalance to Dublin and the eastern region. The NSS underlines the need for "adequate, reliable, cost effective and efficient access to ports" in Gateway Cities. The Western Regional Planning Guidelines (2010 – 2022) identify the plans to extend Galway Harbour as critical for growth in the region.

Enhancement of the quality of transport infrastructure serving the region will therefore align with European, national and regional policies in favour of balanced spatial and economic development.

The Future of Galway Harbour

As far back as the 14th century, Galway was established as an important trading centre, with an established trading network across Europe. The history of the city in the intervening centuries is closely interwoven with the strategic function of the port, and its ebb and flow in terms of prosperity. The port and the tradition of maritime trade is fundamental not just to the economy of Galway but to its culture and identity.

The National Ports Policy designates Galway as a port of regional significance, which function as important facilitators of trade for their regional and local hinterland, and identifies Galway as an important strategic regional hub for petroleum importation, storage and distribution. A number of existing companies in the western region rely on proximity to Galway to make the transport of bulk goods viable. Currently in the region of 800 jobs are directly supported in companies whose goods are channelled through the port.

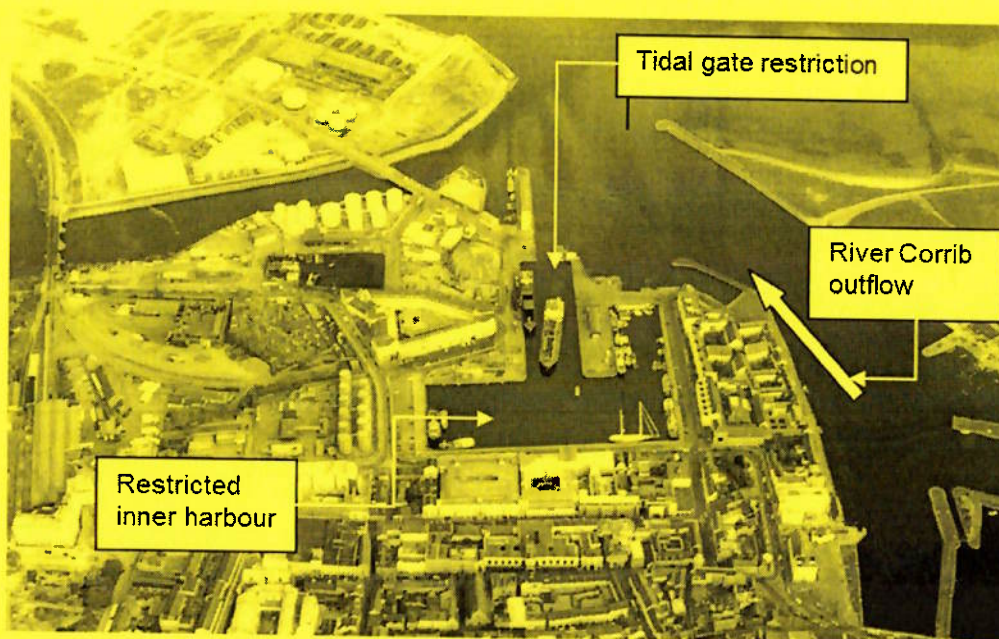
Nevertheless the last significant investment in the port dates to 1964, and, as set out in the table below, the existing harbour facilities are increasingly unsuitable for modern-day shipping, which is evolving towards larger capacity ships.

Table - Constraints affecting existing operations at Galway Port

- Tide dependant– only available 4 hours per day
- Restricted gate width (18.9 m) and restricted channel depth (-3.4mOD) meaning ship size is limited to 7,000 tonnes
- Limited berthage (enclosed inner harbour)
- Navigation constraints due to River Corrib outflow
- Limited serviced land for harbour facilities and storage
- Handling oil in a city centre location

Failure to address these deficiencies would signal the demise of commercial shipping in the medium – long term. This would undermine the national planning and economic policies that support balanced regional development. It would impair the ability of the western region to exploit the natural resources of its hinterland, and will impair the competitiveness of the region and increase the disadvantage of the western region. **This creates an imperative need for this important regional infrastructure.**

Furthermore the continuation of the constrained inner harbour as a commercial port is constraining the development of the city centre.



Annotated Photograph of existing harbour (image taken from figure 1.9 of Natura Impact Statement)

3. Social and Economic Benefits of the Project

There are a number of opportunities opened up by the proposed harbour extension as follows:

Tourism Development

The tourism assets of Galway and its environs – encompassing for example Connemara and the Cliffs of Moher in County Clare – represent a tourism destination of international quality. The proposed harbour extension would enable cruise ships to dock in the heart of Galway, which would open up the significant potential of the region as a destination for cruise tourism. This would in turn bring a significant dividend for employment and economic development in the region.

Marine Research and Development and Offshore Renewable Energy

Ireland has significant potential to develop offshore renewable energy projects. The 'Offshore Renewable Energy Development Plan' (DCENR) provides a framework for expanding research and development, demonstration projects, and ultimately commercial installation. Galway is one of a number of ports that has potential to expand its role in servicing this emerging sector, as identified in the Irish Ports Offshore Renewable Energy Sector (IPORES) report, prepared for the Irish marine Development Agency. Galway's advantages in this regard include:

- The Marine Institute is based in Galway. Galway is the home port for its international research vessels RV Celtic Explorer and RV Celtic Voyager.
- Smart Bay Ireland – based in Galway Bay - is the national marine test facility for the development of innovative products and services for the global maritime sector.
- Two third-level institutes with marine and environmental science expertise are based in Galway (NUIG and GMIT)

Building on this cluster of existing activity, Galway is uniquely placed to develop the opportunity for increased employment in marine research and development and in providing land-side services for the renewable energy sector. Improved port services at Galway are key to advancing this opportunity, as identified in the IPORES report.

Urban Regeneration Opportunity

The proposed extension creates the opportunity for a comprehensive urban regeneration of the existing Galway Docks as a vibrant and attractive waterside quarter, in the city centre. This regeneration would align with the policies of the Galway City Development Plan to enhance the attractiveness of the city, and would bring substantial social and economic benefits. Existing facilities for offloading hydrocarbons at Galway introduces Seveso *Directive* concerns for surrounding land use. These safety concerns would be addressed by the proposed extension. The National Ports Policy endorses the proposals to regenerate the inner harbour.

Sailing/ Leisure Opportunities

Galway Harbour has previously hosted the 'Volvo Ocean race' which underlines the potential of the area as a destination for premium race sailing events. Despite the success of this event, and the attractiveness of Galway Bay as an amenity for sailing/ leisure, the city lacks good quality marina or boating facilities, and the potential for local people or visitors to enjoy the amenities of the bay are accordingly limited. The proposed development would create a new marina and new public boat slipway, which would greatly encourage leisure uses of the bay for local people and visiting sailors. It would also enhance the underdeveloped network of marinas on Ireland's west coast, which will facilitate greater sailing tourism.

When the foregoing benefits are taken together, it is considered that important social and economic benefits will accrue to Galway and the western region as a result of the proposed development, which will improve the accessibility, competitiveness and attractiveness of the region. These improvements align with the national development goals for the western region in terms of employment and sustainable

economic development, and create an imperative reason for the project to proceed.

4. OverRiding Nature of supporting reasons.

It is considered that the imperatives in favour of the project – namely the need to ensure the continued operation of Galway as a regional port, and the long term social and economic benefits of proposed development - justify the identified impacts on the integrity of the Galway Bay Complex SAC.

The impacts on the integrity of the Galway Bay SAC relate to the permanent loss of intertidal habitat and a shoreline habitat, both of which have been identified and quantified. This loss has been weighed against the imperative reasons for the proposed project, as set out above, which are primarily social and economic in nature.

Compensation Measures

Having regard to the outcome of its deliberations in relation to the availability of alternatives, and in relation to the imperative reasons of overriding public importance, the board decided to explore the possibility of compensatory measures as provided for in article 6(4) of the Directive.

FURTHER INFORMATION REQUEST (COMPENSATORY MEASURES)

The Board approved the following notice to be issued to the applicant (Galway Harbour Company) in respect of compensatory measures as required under Article 6(4) of the Habitats Directive.

1. Findings of Appropriate Assessment

Having completed an appropriate assessment of the proposed Galway Harbour Extension in accordance with Article 6(3) of the Habitats Directive, the Board has concluded as follows:

The Board considered that approval of the proposed development could not be considered under article 6(3) of the Habitats Directive, given that a significant adverse impact on the integrity of the Galway Bay SAC would occur.

The impacts on the integrity of the European Site are as follows:

- The direct and permanent loss of fucoid-dominated reef habitat [1170] and mud and sand flat habitat [1140] in Galway Bay Complex cSAC will result in the conservation objective for these features not being met. The direct and permanent loss of a habitat, which is part of the conservation objective of the site, is in general a significant adverse effect on the integrity of the site.
- The loss of perennial vegetation of stony banks [1220] due to the sheltering effect of the harbour extension will also have a significant adverse effect on the integrity of the cSAC.

2. Confirmation Required

Without prejudice to the final outcome of the application which is before the Board, Galway Harbour Company is therefore **invited to confirm** that it wishes the project to be considered for approval under Article 6(4) of the Directive, in which case it is necessary to respond to the following request for information.

3. Information Required

The following information is required by ABP in order to continue to consider the case and to decide whether to apply a derogation under Article 6(4) of the Habitats Directive.

Proposals for compensatory measures to address the impacts on the integrity of the Galway Bay Complex SAC identified above. The compensation measures should offset the negative effects of the project such that the overall coherence of the Natura 2000 network is maintained.

4. Guidance

The applicant is referred 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.

It is noted that within this guidance, 'tight co-operation' between the applicant, the Natura 2000 authorities, and the assessment authority is encouraged with respect to the programme of conservation measures.

5. Approach to be followed

An Bord Pleanála proposes that the development of proposed compensation measures be addressed in two phases:

- **Phase 1** – the proposals for compensation should be set out by the applicant for initial consideration. The applicant is advised to liaise with the National Parks & Wildlife Service of the DAHLG in this regard. It is envisaged that once proposals are received, ABP will also seek the views of the NPWS with respect to the acceptability in principle of the emerging proposals. ABP will advise in due course whether the compensatory proposals should be developed in more detail, or otherwise.
- **Phase 2** – pending the outcome of Phase 1, the applicant will be afforded further time to develop the compensation proposals in more detail leading to submission of a completed proposal for consideration by ABP.

6. Further Public Involvement

Prior to any decision on the acceptability or otherwise of any compensation proposals, the Board will consider what public involvement is appropriate and may invite further submissions from the parties to the case or seek further public notices.

7. Clarifications

Should the applicant require clarification of any matter a written request can be submitted to ABP. We will endeavour to clarify any technical or procedural queries arising. It is not the Board's role to suggest or influence what form the compensation measures should take.

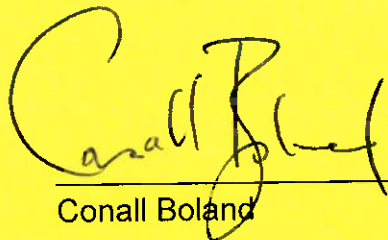
8. Attachments

The following documents are attached for information purposes:

- An Bord Pleanála, findings of the Appropriate Assessment of the project.
- Galway Harbour Extension Project: Assessment of Ecological Impacts on the Marine Environment for An Bord Pleanála. Author Mr. Daniel Basterri of Thomson Unicomarine, February 2015.

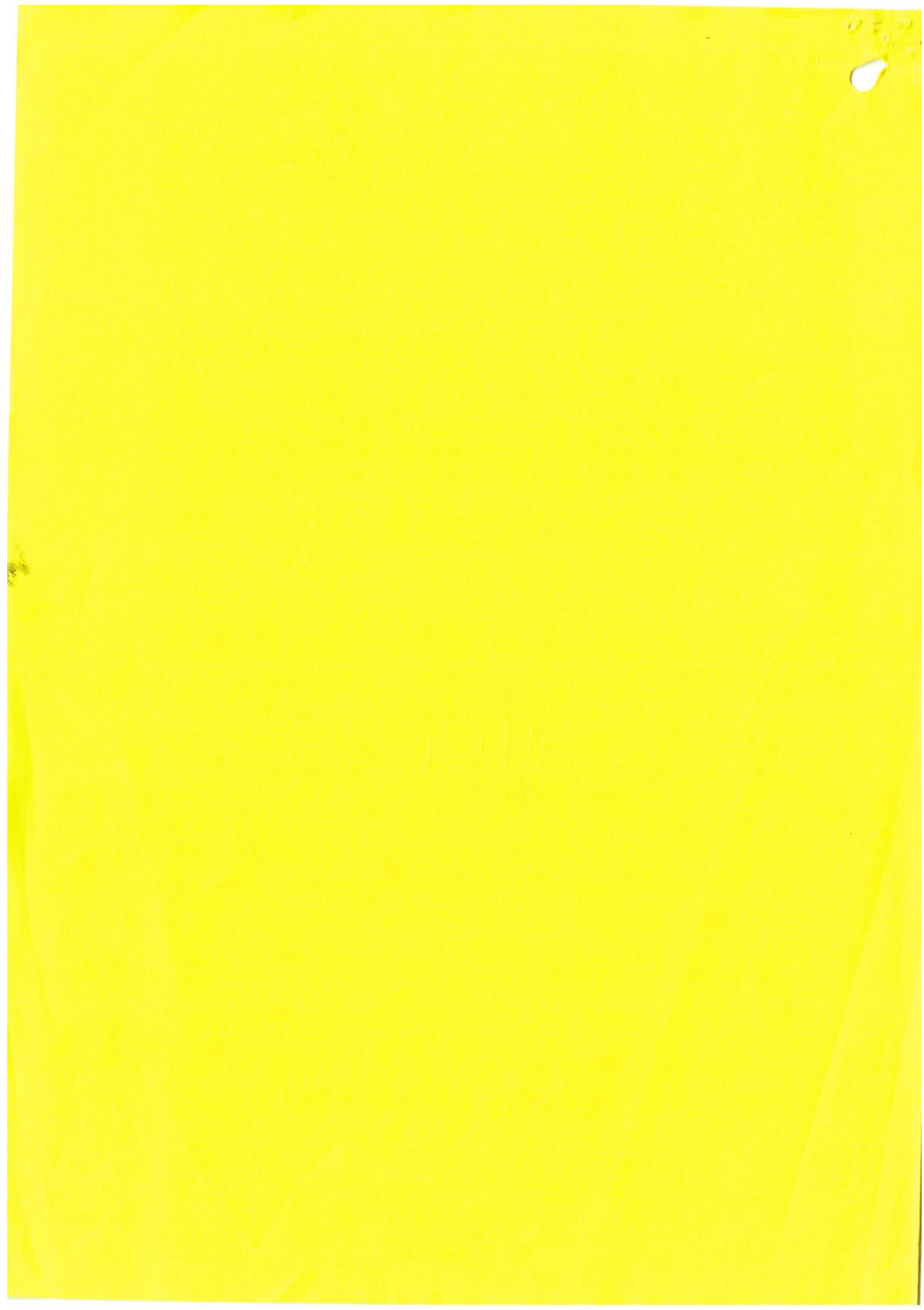
(Allow 8 weeks)

Board Member:

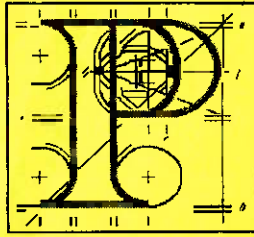


Conall Boland

Date 25th September 2015.



An Bord Pleanála



Board Direction

Ref: 61.PA0033

The applicant's response to the Boards letter of 29th September 2015, containing initial proposals in relation to Compensatory Measures (received by ABP on 25th November 2015) was considered at Board meetings held on 1st December 2015, and on 19th and 26th January 2016. At the latter meeting the Board decided to defer consideration of the file and to proceed as follows:

1. To forward a copy of the applicants initial proposals in relation to Compensatory Measures to the NPWS, inviting their comment in relation to the acceptability in principle of these emerging proposals and/or a recommended approach to development of compensatory proposals relating to this project. (P&D Act section 37F(1)(c)).
2. To invite NPWS to a meeting with ABP in relation to the applicant's initial proposals for Compensatory Measures in order to discuss the acceptability in principle of these emerging proposals and/or a recommended approach to development of compensatory proposals relating to this project (P&D Act section 37F(1)(e)(1) and section 37F(3))

(Allow 8 weeks for written response. Meeting to take place well in advance of this deadline.)

Board Member:

Conall Boland

Date 29th January 2016

