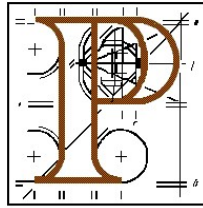


# An Bord Pleanála



## Inspector's Report

### Galway Harbour Extension

**Address** : Renmore and Townparks Townlands,  
Galway City.

**Application under Section 37E of Planning & Development Act 2000 (as amended)**

Planning Authority : Galway City Council

Applicant : Galway Harbour Company

Type of Application : Strategic Infrastructure Development under the provisions of S37E of the Planning and Development Act (as amended).

### Submissions & Observations

Galway City Council : Yes\*  
Prescribed Bodies : Yes (27\* submissions)  
Others (Third Parties) : Yes (105\* submissions) - See separate excel sheet attached. (\* includes responses to the additional information submission.)

**Date of site inspection** 24<sup>th</sup> of February and 14<sup>th</sup> of March and 10<sup>th</sup> of December 2014. :

**Inspectors:** Paul Caprani  
Daniel Bastreri (Ecological Consultant)  
Professor Jorgen Fredsoe (Marine Hydrologist Consultant).

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**Appendices:**

**Appendix I – Consultant’s Brief for Marine Ecology Issues**

**Appendix II – Report from Mr. Daniel Bastreri – ‘*Assessment of the Ecological Impacts on the Marine Environment*’**

**Appendix III – Consultant’s Brief for Marine Hydrology Issues**

**Appendix IV – Report of Professor Jorgen Fredsoe – ‘*Galway Harbour Extension – Review of Marine Hydrology Issues*’**

**Appendix V – Summary of Proceedings of the Oral Hearing**

## 1.0 INTRODUCTION

PA 61.0033 relates to a planning application made under the provisions of Section 37E of the Planning and Development Act for an extension to the existing harbour of Galway at Galway City docks. The application was deemed to be Strategic Infrastructure Development (SID) under the provisions of the Planning and Development Act 2000 (as amended). Under the provisions of the said Act, the development was deemed to come within the following Article as set out under Schedule 7 of the Planning and Development Act 2000 (as amended) for the purposes of Sections 37A and 37B of the Act:

*“A Harbour and Installation (which may include facilities in the form of loading or unloading areas, vehicle queuing and parking areas, ship repair areas, areas for berthing or dry docking of ships, areas for the weighing, handling or transport of goods or the movement of transport of passengers) - (including customs or passport control facilities, associated administrative offices or similar facilities directly relating and forming an integral part of the installation) –*

- a. Where the area or additional area water enclosed would be 20 hectares or more, or*
- b. Which would involve the reclamation of 5 hectares or more of land, or*
- c. Which would involve the construction of one or more quays which are each of which would exceed 100 metres in length, or*
- d. Which would enable a vessel of over 1,350 tonnes to enter within it.*

An Bord Pleanála on foot of the pre-application consultation (Reg. Ref 61. PC 00150) considered that the proposed development would be of strategic, economic or social importance to the State or the Region in which it would be situate and that the development would contribute substantially to the fulfilment of the objectives in the National Spatial Strategy and the Regional Planning Guidelines for the area.

## 1.1 Pre-Planning Consultations with An Bord Pleanála

As provided for under the provisions of Section 37B of the Planning and Development Act 2000, Tobin Engineers, agent on behalf of the Galway Harbour Company, entered into discussions with An Bord Pleanála in relation to the proposed development (Reg. Ref. 61PC0150). A total of four meetings were held between the Board and the prospective applicants on the 1<sup>st</sup> October 2012, the 15<sup>th</sup> January 2013, 24<sup>th</sup> April 2013 and 11<sup>th</sup> July 2013. In addition, the Board also held separate meetings with the National Parks and Wildlife Service (NPWS) on the 11<sup>th</sup> February 2013, the Department of Transport, Tourism and Sport on the 13<sup>th</sup> February 2013 and with Galway City Council on the 26<sup>th</sup> June 2013. The Inspector's Report prepared on foot of the pre-application consultation meetings concluded that the proposal, involving the extension to the Port of Galway, constituted a strategic infrastructure development in accordance with the provisions of Section 37 (a) (2) of the Act. The Board in its decision dated 2<sup>nd</sup> October 2013 confirmed this conclusion. The current application to the Board was made on foot of this decision.

## 1.2 Application Submitted

The planning application was lodged on the 10<sup>th</sup> January 2014 and was accompanied by:

- A Planning Report.
- An Environmental Impact Statement (including Appendices and Non-Technical Summary) – (two revisions/errata/addendums were submitted to the EIS during the course of the application. One as a result of the additional information request and a second addendum at the oral hearing).
- A Natura Impact Statement - (two revisions/errata/addendums were submitted to the NIS during the course of the application. One as a result of the additional information request and a second addendum at the oral hearing).
- Accompanying drawings.

The various folders submitted with the application are set out below:

- Volume 1 A – *Application Form for Permission in respect of a Strategic Infrastructure Development.*
- Volume 1 B - *Planning Report*
- Volume 1 C - *Natura Impact Statement*
- Volume 2 A - *EIS Non-Technical Summary*

- Volume 2 B - *EIS Main Volume Part 1 of 2 Parts*
- Volume 2 B - *EIS Main Volume Part 2 of 2 Parts*
- Volume 2 C - *Appendices Part 1 of 3 Parts*
- Volume 2 C - *Appendices Part 2 of 3 Parts*
- Volume 2 C - *Appendices Part 3 of 3 Parts*
- Volume 2 D - *EIS Drawings.*

The Board requested additional information on the application on May 27<sup>th</sup> 2014. The applicant furnished to Board the additional information on October 16<sup>th</sup> 2014 (the additional information is contained in a number of white folders with a green cover page and green spine). This information included addendums to both the EIS and the NIS.

The following folders were submitted in October 2014:

- *Response to request to further information.*
- *Appendices to Response to Request for Further Information.*
- *NIS Addendum/Errata*

Further addendums to both the EIS and the NIS were submitted on the first day of the Oral Hearing on January 13<sup>th</sup> 2015 (see submissions no's 9 & 10 presented on Day 1 of Oral Hearing).

An oral hearing was held over an 8 day period (including a half day preliminary hearing) between of January 6<sup>th</sup> - January 23<sup>rd</sup> 2015. A summary of the proceedings of the oral hearing is attached as Appendix 5 to this report. Written submissions to the hearing are contained in 8 Pouches (Pouches A – H contained on file).

## **2.0 SITE LOCATION AND DESCRIPTION**

### **2.1 Description of the wider Galway Bay Area.**

Galway Bay at its widest point is approximately 60 kilometres wide and is over 70 kilometres long. The inner part of the bay, where the harbour is situated, does not generally exceed 10 metres in depth. There are two Islands in the vicinity of the approach to the Harbour, Mutton Island to the west and Hare Island to the east. Both islands are c.1 km from the mainland. Mutton Island is linked to the mainland via a causeway and a newly constructed WWTP serving the city is situated on the Island (completed 2003/2004). Hare Island is uninhabited. Mutton Island and Hare Island provide a natural shelter to the approach to the harbour.

The seabed between the islands and the mainland incorporate very shallow depths.

The maximum tidal range in the inner part of the Bay is c.6 metres. An Admiralty Map submitted with the application (drawing no. 2139-2103) indicates the sea depths within the inner harbour area. It is only at distances beyond Hare Island and Mutton Island on either side to the approach to the harbour that water depths exceed minus 5 metres chart datum (CD)<sup>1</sup>. The soils along the sea bed comprise of alluvium which consists of sand interlayered with silts with localised clusters of large angular boulders (for more information of sea floor formation, see Chapter 6 of EIS and the evidence of Mr Dan Duggan – Submission no. 43 at Oral Hearing. Geotechnical investigations are contained in Appendix 6.1 of EIS).

In terms of tidal movements and water circulation within the Bay, the main water movement is characterised by inflowing waters between the north Clare Coast and the Aran Islands before moving outward to sea along the Galway Coast on the north side of the Bay. (For more details on tidal and wave climate; see Chapter 8 of EIS, Anthony Cawley's Brief of Evidence- submission no.3 at the Oral Hearing and Mr. Jorgen Fredsoe's report attached as Appendix 4.)

Galway Harbour is also a designated candidate Special Area of Conservation, Special Protection Area and is a proposed Natural Heritage Area. Details of the conservation objectives and qualifying interests associated with these designated sites are set out further in the report.

## **2.2 The Existing Harbour Facility**

The existing port facility is located at the heart of Galway City. The main commercial dock is located between the River Corrib and Lough Atalia on the northern shore of Galway Bay. The commercial dock is less than half a kilometre from Eyre Square in the centre of the city. The existing port straddles on both sides of the channel linking Lough Atalia to Galway Bay. Lands on the western side of the Lough Atalia Channel, including the commercial Inner Dock berthing facility are almost exclusively under the ownership (by either absolute title or leasehold interest) of Galway Harbour Company. The inner dock area comprises of three quay areas and a small marina area. There is a narrow, gated

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<sup>1</sup> Chart Datum refers to sea depths at the lowest astronomical tide level

channel entrance (19.8 meters in width) to the Inner Dock area and the larger ships can only access this area at high tide. The existing dock area is surrounded by multi-storey commercial and residential blocks, including a multi-storey car park which fronts directly onto Dock Road and Dock Street which adjoin the commercial dock area. The Harbour Hotel is located adjacent to the existing dock area at the junction of Quirke Quay and Folan Quay and but is not under the ownership of the applicants. Some residential and office accommodation is located along Mulvoy Quay and Breathnach Quay. Oil and bitumen is currently offloaded at Dun Aengus Quay and Folan Quay in close proximity to the entrance to the Inner Dock area.

Lands on the eastern side of Lough Atalia Lake accommodate the Galway Harbour Enterprise Park. The Port of Galway obtained planning permission for this enterprise park in 1995. The enterprise park is bounded to the west by the Lough Atalia channel, to the north and east by CIE lands including the main Galway – Dublin railway line which runs along the northern boundary of the enterprise park and to the south by Galway Bay. The Galway Harbour Enterprise Park (GHEP) accommodates a mixture of commercial and industrial uses including additional oil and fuel storage depots, transportation depots, bus depots, open yard storage as well as a number of commercial type warehouses and marine and harbour related activities including the Galway Ocean Sports Club and the Marine Institute. The total landholding of the GHEP is 37.78 hectares (c.93.3 acres). These lands are held in either absolute title, leasehold interest or part leased to other companies. See drawing 2139-2114 for land ownership details.

### **2.3 Land Uses Surrounding the Dock Area**

In terms of surrounding land uses, lands to the north and north-west of the site accommodate commercial uses typically associated with a city centre. These uses include a mixture of retail, residential and other commercial uses. Ceannt Railway Station is located approximately 250 metres to the north-east of the commercial dock area. General retail uses and a large multi-storey car park are located on the lands opposite the main commercial dock area. A small pocket of residential apartments are located adjacent to the south-west of the existing docks (referred to in the drawings as Breathnach Quay – see drawing 2139-2116). This residential development in the Claddagh Area lies adjacent to the confluence point between the River Corrib and Lough Atalia Channel to the immediate south of the existing docks. The River Corrib is enclosed somewhat by the construction of Nimmo's Pier along the

south bank of the river. Nimmo's Pier is located approximately 200 metres to the immediate south of the entrance into the existing docks.

Lands on the southern side of the mouth of the River Corrib accommodate Claddagh Park (sometimes referred to as South Park), a large open space accommodating a GAA club and associated recreation facilities. Residential development is located further west of this park.

The Galway Harbour Enterprise Park to the east of the existing docks is bounded to the south by Galway Bay and the east and north by Lough Atalia. Lough Atalia is linked via a tidal channel leading to Galway Bay.

The CIE railway line runs along the northern boundary of the Enterprise Park. A CIE depot is located on contiguous lands to the east. Beyond the CIE depot a small coastal lagoon area, known as Renmore Lagoon is located. Beyond the coastal lagoon is a pitch and putt course and sports ground. A small residential development, Mellows Park, is located on the southern side of the railway line adjacent to the shores of Renmore Lagoon. This residential development is located approximately 350 metres from the eastern boundary of the port's lands. Both Lough Atalia and Renmore Lough are designated as 'priority habitats' in the Inner Galway Bay cSAC. This is important in the context of Article 6(3) and 6(4) of the Habitats Directive. Issues regarding 'priority habitats' are set out in more detail further on in this report.

## **2.4 Access and Traffic**

In terms of transport and access, the most direct route from the port area to the strategic road network around Galway City is via Lough Atalia Road. Lough Atalia Road links up directly with the Dock Road which surrounds the commercial docks area. It is envisaged that the vast majority of port traffic travelling to and from the harbour will utilise Lough Atalia Road. The Lough Atalia Road runs north-eastwards along the western shore of Lough Atalia, under the railway bridge and meets up with the Moneenageisha signalised junction (previously a roundabout on the R338 and R339 Regional Routes). Traffic can then turn westwards along the R338 linking up with the N6, which in turn provides access to a number of national secondary routes, including the N59 which runs north-westwards towards Connemara and Clifden, and the N84 which runs northwards towards Ballinrobe and Castlebar. Alternatively, traffic can continue north-eastwards along the R339 meeting up with the N6 and providing access to the N17 towards Tuam,

Claremorris and Sligo or can continue along the N6/M6 towards Dublin or turn southwards along the N18 at Oranmore for Ennis, Shannon and Limerick. Alternative routes from the port area are available through the city centre; however these routes are generally less suitable for HGV traffic due to traffic congestion, narrow roads and tight radii at junctions (particularly in the vicinity of Eyre Square) and bridge restrictions<sup>2</sup>.

## **2.5 Environmental Designations within the Bay**

The Galway Inner Bay area is designated as a Special Protection Area (*site code 004031*) and a candidate Special Area of Conservation (*site code 000268*).

### **2.5.1 cSAC Designation**

Galway Inner Bay incorporates a variety of marine habitats and communities. The shoreline is noted for its diversity, with complex mixtures of bedrock shore, shingle beach, sandy beaches and salt marshes. The inter-tidal sediments of Galway Bay support good examples of communities that are moderately exposed to wave action. The southern part of the Bay holds a very high number of littoral communities and these are particularly important as feeding grounds. The best examples of salt marshes are located to the east of a line from Galway harbour to Kinvarra. Examples of Atlantic Salt Meadow and Mediterranean Salt Meadow are found in the area. The salt marches found in Galway Bay are among the rarest found in Ireland, due to the highly indented coastline which provides excellent shelter for saltmarsh development.

An excellent range of lagoons of different types, sizes and salinities occur within the site. The lagoons within the site are excellent examples of the habitat type and are of high conservation importance.

Inner Galway Bay provides extensive good quality habitat for the common seal (Annex II species) and the site also provides optimum habitat for the Otter (also Annex II species).

The Qualifying Interests associated with the Galway Bay cSAC are as follows:

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<sup>2</sup> It was indicated by Galway City Council at the Oral Hearing that a weight restriction will shortly be applied to Wolf Tone Bridge leading to Frenchville and the Claddagh Areas to the west of the City. See evidence of Ms Caroline Phelan, Planner and Brian Burke (submission no's 49 and 50).

- 1140 *Mudflats and sandflats not covered by seawater at low tide*
- 1150 *Coastal Lagoons\* (priority habitat)*
- 1160 *Large shallow inlets and Bays*
- 1170 *Reefs*
- 1220 *Perennial vegetation of stony banks*
- 1310 *Salicornia and other annuals colonising mud and sand*
- 1330 *Atlantic Salt Meadows (Glauco-Puccinellietalia maritimae)*
- 1355 *Otter*
- 1365 *Harbour Seal*
- 1410 *Mediterranean salt meadows (Junetalia maritimi)*
- 3180 *Turloughs\* (priority habitat)*
- 5130 *Juniperus communis formations on heaths or calcareous grasslands*
- 6210 *Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco Brometalia) (\*important orchid site)*
- 7210 *Calcareous fens with cladium mariscus and species of the Caricion davalianae*
- 7230 *Alkaline Fens*

This large coastal site is of immense conservation importance, with many habitats listed on Annex I of the E.U. Habitats Directive, four of which have priority status (lagoon, *Cladium* fen, turlough and orchid-rich calcareous grassland). The examples of shallow bays, reefs, lagoons and saltmarshes found within this site are amongst the best in the country. The site supports an important Common Seal colony and a breeding Otter population (Annex II species), and six regular Annex I E.U. Birds Directive species. The site also has four Red Data Book plant species, plus a host of rare or scarce marine and lagoon animal and plant species.

### 2.5.2 SPA Designation

In terms of the Natura 2000 SPA designation, the NPWS site synopsis notes that the Inner Galway Bay SPA is one the most important ornithological sites in the western region. There are internationally important wintering bird populations including the Great Northern Diver and Brent Goose. The site has several important populations of breeding birds most notably colonies of Sandwich Tern and Common Tern. The site synopsis also states that there is no imminent threat to birds, although some concern is expressed that sewage effluent and detritus from the aquaculture industry could be deleterious to benthic communities and could affect food-stocks for Divers and other birds.

The bird Species listed for designation for the Inner Galway Bay SPA are as follows:

- A003 *Great Northern Diver*
- A017 *Cormorant*
- A028 *Grey Heron*
- A046 *Brent Goose*
- A050 *Widgeon*
- A052 *Teal*
- A056 *Shoveler*
- A069 *Red-breasted Merganser*
- A137 *Ringed Plover*
- A140 *Golden Plover*
- A142 *Lapwing*
- A149 *Dunlin*
- A157 *Bar-tailed Godwit*
- A160 *Curlew*
- A162 *Redshank*
- A169 *Turnstone*
- A179 *Black-headed Gull*
- A182 *Common Gull*
- A191 *Sandwich Tern*
- A193 *Common Tern*
- A999 *Wetlands*

### 3.0 EXISTING PORT OPERATIONS AT GALWAY HARBOUR

#### 3.1 Existing Trade

Galway Port is one of nine state commercial ports in the country. Currently there are nine berths with a total quay length of 1,189 metres. There are also 40 dedicated marina berths within the commercial dock. Galway's percentage of national port-related traffic from 2000 to the present is indicated on the Table below.

**Table 1 Galway Port Traffic as a Percentage of National Port Traffic 2000-2012 '000 tonnes**

Port/Year	2000	2002	2004	2007	2010	2011	2012
Galway	727	896	960	945	671	554	501
ROI	45,273	44,919	47,720	54,139	45,071	45,078	47,649
Percentage	1.6%	2.0%	2.0%	1.7%	1.5%	1.2%	1.1%

Information submitted at the Oral Hearing (see submission of Mr Raymond Burke on behalf of the applicant – submission no. 38) provided figures for 2014 where the Port handled 582,804 tonnes, an increase of c.16% over the 2012 figures. For further comparison with other ports in the country please refer to Table 2.2.3 on p. 2-17 of the Environmental Impact Statement (EIS).

The number of vessels using the port over the previous six years is indicated in Table 2 below.

**Table 2 Number of Vessels Visiting Galway Port and Imports/Exports 2006-2012**

	2006	2007	2009	2010	2011	2012
<b>No of Vessels visiting Port</b>	<b>355</b>	<b>324</b>	<b>229</b>	<b>212</b>	<b>184</b>	<b>159</b>
<b>% Goods Imported</b>	<b>96%</b>	<b>95%</b>	<b>95%</b>	<b>94%</b>	<b>92%</b>	<b>86%</b>
<b>% Goods Exported</b>	<b>4%</b>	<b>5%</b>	<b>5%</b>	<b>6%</b>	<b>8%</b>	<b>14%</b>

Figures presented at the oral hearing (submission no. 38 p.5) stated that there were almost 180 ship movements in 2014.

It is clear from the Table above that the vast majority of trade associated with the port relates to the importation of goods. Up until recent years, imported goods represented between 90 and 95% of all goods traded within the port. The increase in exports in more recent years can probably be attributed to recent exports of refuse derived fuel (RDF) to foreign markets from the Barna Waste Facility in Galway. 41,400 tonnes of RDF was exported in 2014<sup>3</sup>.

The main imported commodities are set out briefly below.

Petroleum is by far the major commodity imported at Galway Port. In 2012, petroleum imports accounted for almost 90% of the total imports for that year. The EIS states that the Port of Galway supplies a wide geographical area in terms of petroleum stretching from Bunrana to the north, Athlone to the east and Ennis to the south. There are a number of large oil depots within the Galway Harbour Enterprise Park including Enwest Oil Terminal and Topaz Energy Limited. Dublin, Shannon/Foynes and Galway Harbour are the only remaining storage facilities left in the state as oil storage facilities at Drogheda, New Ross, Cork City and Limerick have closed.

<sup>3</sup> See evidence of Mr. Raymond Burke at oral hearing Submission No. 38 p.5

Bitumen In 2012, Bitumen accounted for 8% of the total imports at the port. Cold Chon are the major company importing this material. Evidence provided at the oral hearing (evidence presented on Tuesday morning 20th of January by Mr. John Kileen – no written submission on file) suggested that there is significant scope for expansion of the bitumen importation and storage facilities at Galway harbour in that the port could facilitate the importation of more bitumen if it were not for the capacity constraints on the size of vessels entering the port. Mr Kileen indicated that, were the expansion to proceed, under the right tidal conditions ships up to 40,000 tonnes could deliver bitumen to Galway port from the US and Canada for further transshipment within Europe to destinations such as the UK and Iceland. In fact Mr Kileen indicated at the hearing that planning permission has been obtained for the expansion of the Cold Chon facility which could involve up to 50 new jobs. The enactment of the planning permission is predicated on permission being obtained for the expansion of the harbour.

Coal is also imported but not in significant quantities ranging from 4,000 tonnes in 2010 to 15,000 tonnes in 2007. Coal is mainly imported from Poland, Spain and United Kingdom.

Steel is also imported. The steel is mainly used for the construction sector. Just less than 18,000 tonnes of steel were imported in 2006 and this reduced to just below 12,500 tonnes in 2012.

Other imports are negligible amounting to 700 tonnes or less than 0.2% of imports in 2012.

In terms of exports, in overall trade terms, exports from Galway Port are modest ranging from between 5 and 15% of total port activity. Although exports have grown in recent years – (see Table 2 above), the main exports include granular limestone which is exported mainly for glass making industries in Scotland and Sweden. In 2012 the granular limestone amounted to just less than 48,000 tonnes or just over 66% of the total volume of exports. The other major export is scrap steel exports and this accounted for the other 33% of exports in 2012. The EIS states that ships handling scrap steel are becoming increasingly larger and greater than the 5,000 tonne capacity which can be catered for at the port. This is resulting in the port becoming less competitive. Both Galway Metals and Mc Grath's Limestone made submissions at the oral hearing arguing that expansion of the port is vital if these industries are to survive and thrive (see submission no.'s 60 and 67)

It is envisaged that timber, offshore energy infrastructure and refuse derived fuel (RDF) as well as other bulk products including agri-products, fertilisers, cement, sand or an aggregate could become significant trade products to and from the port if permission is forthcoming for the expansion of the port. Submissions were made by Bearna Waste and Murray Timber Group attesting to the importance of port expansion for their respective industries (see submission no. 72, no written submission was handed to the Board by Bearna Waste at the hearing).

Cruise Liners It is also noted that the harbour benefits from cruise liners. Between one and six cruise liners visited Galway Port on annual basis between 2007 and 2014. The EIS notes that the cruise market has a significant tourism potential if appropriate facilities were put in place to accommodate larger cruise ships.

In terms of Offshore Energy, the EIS states that Galway is strategically situated to support the expansion of this sector in the Atlantic Ocean, particularly in relation to wave energy products, wind turbines and off shore oil and gas exploration support. The potential that could be harnessed is demonstrated in the submissions on behalf of the Galway Chamber of Commerce (in particular see submissions of Mr. Maurice O Gorman and Mike Devane – Submission no's 74C and 74D).

It is estimated that Galway Harbour Company has had a gross overall economic impact of €2.2 million in 2004. Furthermore, ferry-based tourism has contributed approximately €0.7 million while employment both direct and indirect is estimated to be worth circa €29 million to the local economy. The value of freight throughput at the port is estimated to be €275 million annually.

### **3.2 Existing Limitations Associated with the Port**

The main constraints associated with the port presently are as follows:

- The existing approach channel is only dredged to a depth of minus 3.4 metres CD.
- There is inadequate quay length to cater for ships - particularly larger vessels.

- The shallow-gated dock area can only open for two hours before and after high tide. As a result large ships can only enter the dock area over a 4-hour window on two separate occasions over a 24-hour period.
- The width of the dock entrance is just less than 20 metres which puts a significant constraint on the size of ship which can be catered for within the commercial dock area.
- The constrained geometry of the Inner Dock area makes it difficult to manoeuvre, particularly large ships, into the docking and berthing areas. This is particularly problematic due to the lack of a proper turning circle.
- Navigation into the port via the channel when the River Corrib is in spate is a complicated and challenging manoeuvre.
- While the total quay wall length is approximately 1,000m due to the layout of the Inner Dock only c 500m is usable.
- The requirements for handling petroleum and other dangerous substances under the EC COMAH Regulations place severe restrictions on the location of storage and on other developments in the vicinity.
- The overall area of the harbour at less than 3 hectares in size is deemed to be insufficient to cater for existing and future traffic.
- The bridge height at Lough Atalia Road places restrictions on HGV traffic as HGV traffic has to move to the centre of the road to avoid bridge strikes
- All the above constraints results in the port being able to only cater for vessels of approximately 5,000 tonnes or less.
- The current size of the port facility is of an inadequate scale to take advantage of opportunities which exist within the Galway area for the expansion of the maritime leisure and cruising activities.

Further details of the constraints associated with the port are set out in the briefs of evidence submitted at the oral hearing by Eamonn Waldron (submission no. 1) Capt. Brain Sheridan (submission no. 37) Esmonde Keane SC (submission no. 82).

#### 4.0 PROPOSED DEVELOPMENT

The proposal essentially envisages the provision of the same range of functions and services within the port, only on a larger scale that currently exists within the harbour. It is proposed to extend the harbour southwards from Renmore Point (where the existing Galway Harbour Enterprise Area is located). The proposal will involve developing and reclaiming 23.89 hectares of land from the sea. It is also proposed to develop 4.1 hectares of the existing Galway Harbour Enterprise Park as part of the proposed development. The total land development/redevelopment will therefore amount to just over 28 hectares. In addition, it is proposed to construct breakwaters and revetment areas and this will amount to just over 3 hectares. The proposal will also involve dredging an area of just under 46.5 hectares for the approach channel to the new harbour area and also altering the existing approach channel for the existing harbour facility and a proposed new marina facility to be located on the western side of the reclaimed area. The main components and land uses of the proposed developed and redeveloped area (i.e. the 28.07 hectares) are broken down in the following Table.

**Table 3 Land Uses in the Proposed Development**

<b>Land Use</b>	<b>Area (Ha)</b>
<b>Commercial Port Back-up Yard Areas</b>	<b>6.45</b>
<b>Commercial Quay Areas</b>	<b>1.72</b>
<b>Harbour Company Warehouse Yards</b>	<b>1.53</b>
<b>Future Oil and Bitumen Yard Areas</b>	<b>1.86</b>
<b>ESB, Security Yard, and Fire Water Storage Area</b>	<b>1.08</b>
<b>Marina Boat Yard</b>	<b>1.83</b>
<b>Fishing Pier and Yard Area</b>	<b>0.55</b>
<b>Roads and Access Area</b>	<b>3.97</b>
<b>Rail Line and Embankment Area</b>	<b>2.20</b>
<b>Nautical Yard and Slipway Area</b>	<b>0.82</b>
<b>Passenger Terminal and Yard Area</b>	<b>0.34</b>
<b>Landscaped Area</b>	<b>5.44</b>
<b>Wave Wall Area</b>	<b>0.28</b>

Access to the extended port area will remain primarily from Lough Atalia Road and through the existing Galway Harbour Enterprise Park. This will necessitate road improvements along Lough Atalia Road and the Galway Harbour Enterprise Park access road. The improvements will involve the lowering of the roadway under the railway bridge at Lough Atalia.

The individual elements associated with the proposed development are set out in more detail below.

#### **4.1 The Commercial Quay Areas**

The most southerly part of the reclaimed land will accommodate a new commercial quay and commercial landing area for boats. The projecting quay will face north-eastwards and will accommodate ships carrying oil and bitumen - 260m quay length. The seabed contiguous to these quays will be dredged to a depth of minus 12 CD. The main quay on the landside facing south-eastwards will accommodate various commercial cargoes, cruise liners and commercial passengers. This quay will be 400m in length. The north projecting quay wall directly opposite the oil and bitumen off-loading area will accommodate mainly fishing vessels, with a quay length of 170m. A 400 metre diameter dredged turning circle will be provided within the enclosed quay area. This area will be dredged to a depth of minus 8 CD. This will provide adequate draft clearance for large vessels at the lowest tide. A new channel beyond the quay area will also be dredged to minus 8 metres CD. The design of the new commercial quay areas allows for 24 hour operation (although dry bulk cargoes will generally operate from 06.00 to 20.00 hours and Cruise Liners from 07.00 to 20.00).

#### **4.2 The New Railway Spur to Serve the Port Area**

Public rail connections to the quay area will be provided by the development of a spur off the existing Dublin – Galway rail link to the end of the proposed reclaimed area. A rail link therefore will be provided adjacent to the main quay area to transport cargo by rail should commercial considerations prove to be viable. The EIS states that there are only limited opportunities to provide additional freight services on the Dublin - Galway rail line due to intercity services and commuter services from Athenry. It is not envisaged that rail freight will be a viable option in the short-term; however opportunities may present themselves in the longer term

#### **4.3 The Fishing Pier**

A dedicated fishing pier will be located on the northern side of the north-eastern quay area. The leeward side will facilitate moorings for small fishing vessels and the seabed will be dredged to a depth of minus 3.5 metres CD. Larger vessels will dock within the main commercial quay

area and the area along the quay wall will be dredged to a depth of minus 6 metres CD. The landing of fish will be carried out on a 24-hour basis. The fishing vessels accommodated on the northern side of the pier will typically be 10-15m in length. Larger fishing vessels will be accommodated in the main port area.

#### **4.4 Marina Area**

The marina area is located on the west side of the port extension area and is to be enclosed with the construction of breakwater and a revetment area which runs in a southerly direction from the Galway Harbour Enterprise Park. Boat access to the marina area will be provided from the south. A new dredge channel of circa minus 3.5 metres CD will lead directly into the marina area. 216 berths will be provided within the marina. A small quay at the southern end of the marina area will provide further shelter and this quay will also provide for refuelling and servicing of yachts and crafts. The marina is intended to serve both local and tourist demand.

Details of all vessel movement parameters (commercial, cruise, fishing and yacht) are set out in the brief of evidence submitted at the oral hearing by Capt. Brian Sheridan (submission no. 37).

#### **4.5 Galway Harbour Extension Yards**

The remainder of the reclaimed area will comprise mainly of transit open yard areas which will be used for the storage of dry bulk and liquid bulk facilities as well as other cargo (see drawing 2139-2172 in the EIS). A fire water retention pond is to be located within this area. These areas will be accessed by a series of roads which traverse the reclaimed land in a roughly north-south and east-west direction. The main spine road which runs in a north-south direction through the reclaimed area is referred to in the drawings as the 'New Port Road' or the 'Commercial Port Road'.

#### **4.6 Buildings**

A number of buildings will be constructed within the new extended harbour area. These include the following:

- Harbour Warehouse: This building is located just north of the marina. The single-storey structure will be used for the storage of

waste and will also be used as a work shop and will store port and navigational equipment associated with the port.

- Harbour Company Offices: This circular building is located to the immediate east of the marina quay. It comprises of a four-storey structure and will house the main control centre within the development. It will accommodate general administration and will also direct vessel traffic management within the port.
- The Cruise Terminal Building: This building is located directly opposite the commercial quay area in close proximity to where patrons will disembark from the cruise liners. It comprises of a single-storey flat-roof structure (512 square metres) and will accommodate a queuing, waiting, customs and passport area.
- The Marina Management Building: This building is located at the northern end of the marina promenade which runs in a north-south direction and is immediately adjacent to the western side of the marina berthing area. This is a single-storey structure which will provide for a reception and service facilities associated with marina craft and berthing at the facility. The structure will accommodate toilet and laundry facilities etc. for the Marina users.

There are a number of other ancillary structures proposed, including security huts, ESB substations and pump houses etc. The locations of these are indicated in drawings 2139-2122 to 2125.

#### **4.7 Amenity Areas**

The proposal also incorporates landscaped areas and walkways throughout the development which will be accessible to the public and will be under the control of the management company. Many of the landscaped areas are provided in the form of linear strips adjacent to the roadway which traverse the reclaimed area. A larger amenity area is located in the north-eastern portion of the site adjacent to a proposed nautical slipway which is located north of the fishing pier and located along the Renmore promenade road (see Landscape Master plan – Figure 1 and briefs of evidence from Margaret Egan and Sean O Loaire presented at the oral hearing – submissions no.'s 45 and 46).

As a result of the proposed development, the harbour will be able to accommodate vessels with a draft of up to minus 7.5 metres under all tidal conditions. Vessels with a draft of minus 11.5 metres can be accommodated under high tide conditions.

## **4.8 CONSTRUCTING THE PROPOSED HARBOUR EXTENSION**

### *4.8.1 Lagoon and Revetment Construction*

It is estimated that construction will take place in four phases over approximately eight years (96 months). Details of the phasing are indicated on Table 4.5.1 of the EIS (pages 4-20 to 4-24) and details are also set out in the brief of evidence by Mr. Eamonn Waldron at the oral hearing (submission no 1 pp.14-17).

Phase 1 will essentially comprise of the construction of lagoon walls which will form the skeleton of the proposed extension. Lagoons 1 – 6 will be constructed during the first phase, while the lagoon no. 7, the most southerly lagoon, will be constructed during phase 2. The lagoon walls will consist of imported granular free-draining rock fill which will be placed on a firm seabed. The walls will be laid at an angle of approximately 45°. The walls will be constructed to a height of 6.7 metres ordnance datum. To protect the embankment against wave action, layers of rock armour revetment will be placed on the seaward face of the lagoon walls. The lagoon areas will be lined with geo-textile membranes to contain sediment entirely within the confines of each discreet bunded lagoon. The westerly seawall which will be constructed adjacent to the shipping canal to the old port area will incorporate a steel sheet pile combi-wall structure. The revetments will comprise of circa 1–tonne boulders and will be a minimum of two boulders in depth. For further details in relation to the construction elements see brief of evidence of Mr. Dan Duggan, submission no. 43 at the oral hearing. The lagoon areas will be subsequently filled using an estimated 1.815m cubic metres of spoil and 24,000m<sup>3</sup> of rock will be collected during the various dredging works to be carried out on the seabed in order to incorporate requisite depths to facilitate larger vessels (see below for further details).

#### 4.8.2 Quay Construction

The quays at the deep water berths will be constructed by drilling two lines of combi-wall piles into the bedrock and then infilling with rock. Similar methods of construction will take place for the construction of the port breakwater which extends from the southern projecting quay and also for the proposed breakwater and revetment area to protect the marina.

#### 4.8.3 Dredging Works

Significant dredging works will be required in the following areas:

- Provision of adequate port access channels to both the new harbour and the old harbour. These areas will be dredged to a depth of minus 8 metres CD and minus 3.5 metres CD respectively.
- The provision of a turning area within the confines of the new harbour to minus 8 metres CD.
- Provide deeper berths adjacent to the quay wall, to minus 12 metres CD. Dredging to minus 8 metres CD on the south side of the fishing pier and dredging to minus 3.5 CD metres on the north side of the fishing pier.
- The depths of the various channels are indicated in Table 4.5.2 of the EIS.

Details of the proposed lagoon construction, quay construction and revetment and breakwater construction are indicated on drawings 2139-2141 to 2139-2155.

Stage 2 will involve the construction of lagoon no. 7. This will initially involve the construction of the two outer walls which will be constructed in a similar fashion to the other quay walls by infilling sheet piled combi-walls which are driven into the bedrock.

#### 4.8.4 Other Construction Elements in the Port Area

The rail link construction will be constructed in phase 3. A rail link and embankment area will be constructed to Irish Rail standards. The embankment area is envisaged only in the northern portion of the

harbour area in order to link in with the existing elevated rail line and also to provide an appropriate underpass height for vehicles accessing the Bus Park. The rail line outside the passenger ferry terminal will be located at ground level (see photomontages submitted). The railway will pass over the Galway Harbour Enterprise Park Road which leads to the Renmore promenade road. A double set of railway tracks are proposed.

In terms of amenity and open space, the vast majority of open space is to be provided in the north-eastern corner of the site in the vicinity of the nautical slipway. Smaller strips of linear open space and trees planted are to be provided along the main roads through the harbour extension. The marina area also provides an amenity walk both along the marina promenade and also along the breakwater to the west of marina. Details of the proposed planting including species to be used are set out in the brief of evidence of Margaret Egan (submission no. 46). It is proposed to plant hardy species which can withstand winds and salt spray.

The nautical slipway which is located in close proximity to Renmore promenade is to provide access for amenity boating, kayaking, canoeing and general bathing. The slipway is to be of precast construction so as to minimise the impact on the Galway Harbour cSAC. The slipway will be laid down upon an excavated area at the end of the Renmore Peninsula. The top level of the slipway will be 4.7 metres OD and this will slope downwards to a level to - 3.3 metres ordnance datum. The gradient will be 1:15. The slipway will be 10 metres in width and 120 metres in length. Details are indicated on drawing 2139-2162. Two sets of steps between the harbour area and the foreshore are to be provided between the fishing pier and the nautical slipway.

The marina quay is to be constructed in the same manner as the other quay walls at the main harbour (a double combi-pile wall in-filled with rock). Floating wooden walkways will be constructed on fibre reinforced concrete floating pontoons guided by tubular piles drilled into the bedrock.

#### *4.8.5 Works on Lough Atalia Road*

It will also be necessary to carry out some works on the Lough Atalia Road which will include the lowering of the profile of the Lough Atalia Road by approximately 1 meter to accommodate higher HGV's associated with the port related traffic and to eliminate the possibility of bridge strikes. It is envisaged that the road will be closed for a period of 8 weeks while these works are undertaken and traffic diversion routes

will put in place. The Board should note that the works envisaged for Lough have been the subject of a separate Local Authority Part 8 process, and subject to funding, this work could be carried out separately this year.

#### 4.8.6 *Seveso Requirements:*

There are currently two fuel tanks farms located on harbour lands. The Leaside terminal was established in 1982 on lands between the Lough Atalia Road and the Lough Channel. It was decommissioned in 2012. The Enwest/Topaz site is a newer state of the art facility located in the Enterprise Park and has a storage capability to hold 40,000 tonnes of oil. The facility comes within the European Communities (Control of Major Accident Hazards Involving Dangerous Substances Regulations) (SI 74 of 2006). Currently petroleum is discharged to the Topaz site through 250mm hoses from either Folan's Quay or Dun Aengus Quay. Under the current proposal it is proposed provided a ducting concrete chamber to carry 4 fuel lines and 1 bitumen line in one compartment under the main access road from the new loading area directly to the storage areas. This will obviate the need to unload and handle dangerous substances in such close proximity to city centre uses. As such it will be more beneficial from a health and safety perspective.

#### 4.8.7 *Services*

In terms of services, it is proposed that all main services with the exception of sewers will be located in a central duct chamber which will run along the main north-south access road which traverses the port extension area. Service spurs will be provided along the east-west roads which traverse the main access road.

### 5.0 **PLANNING HISTORY**

A detailed synopsis of the planning history is set out in the Galway City Council submission to the Board, dated 31<sup>st</sup> March 2014. This planning history is briefly set out below:

**95/68:** Planning Permission was granted for Harbour offices; ancillary port facilities; storage areas; coal yards; fish processing units; bulk goods storage areas; parking areas; filling/reclamation (7.55ha); open space; sea walls (1,095m long); and shore line promenade (1,170m long).

**98/592:** Permission was granted for 3 No. Bitumen Storage Tanks covered loading Gantry Boiler House, Control office & site works, Galway enterprise Park.

**04/188:** Permission Granted by Galway City Council and on Appeal by An Bord Pleanála in February 2005 for construction of oil storage and distribution terminal with associated offices, car parking, ESB substation and ancillary accommodation.

**06/621:** Permission refused for construction of a Marine Logistics Centre (8,770m<sup>2</sup>); a new quay wall (95m long by 15m wide) to facilitate docking of fishing vessels; a 104 space car park; and associated landscaping, boundary treatments and site development works.

**07/372:** Permission granted on Appeal by the Board in May 2008 for Bus Garage including Maintenance and Service Building.

**07/1000:** Permission granted on 16/04/2008 for development which will consist of a bitumen storage tank, 24m diameter, 10m high to replace a previously approved storage tank, 16.0m diameter, 10m high (Pl. Ref. 84/04); relocation of previously approved office building (Pl Ref: 07/68); and relocation of access gate and bunded diesel tank.

**08/621:** Permission granted for retention and completion of fire pump house with incorporated oil and foam tanks and associated site works as previously granted under Pl. ref. no. 07/740 to service development granted under Pl. ref. no. 04/188.

**08/283:** Permission granted for the construction of an 88m long slipway and a 2,827m<sup>2</sup> dry dock (minus 6m chart datum), consisting of quay wall and pontoons with a 1.5m high decorative perimeter fence. The dry dock and slipway will have access onto the existing channel (minus 3.4m CD). The construction of the dry dock and slipway will be formed by the excavation and infill of existing material above the high water mark. The dry dock and slipway are required for the Volvo Ocean Race. An application for the extension of duration of the permission for the Dry Dock was granted under planning reference 13/25 on 2nd April 2013.

## **6.0 ORIGINAL SUBMISSIONS IN RELATION TO THE PROPOSED DEVELOPMENT**

### **6.1 INTRODUCTION**

Initially a total of 117 submissions were received in relation to the application. These included submissions from Galway City Council (Mangers Report) and a submission from Galway County Council. In addition, 18 submissions were received from proscribed bodies. The Local Authority Reports and the individual reports from the prescribed bodies are individually summarised in sections 6.2 and 6.3 below. An additional 97 submissions were received from third parties mainly from the Galway City and some from the wider area. Many of the Submissions came from local traders and businesses in Galway City and to a lesser extent, County. The Majority of the submissions, c. 75 were in favour of the development and essentially argued that the development will greatly facilitate business in the City and wider region. Circa 16 submissions opposed the development on various grounds. One of the objections was received from the Shannon/Foynes Port Authority. No other commercial Port Authorities submitted observations either for or against the proposal. 5 submissions were received from public representatives, 4 T.D.'s (all in favour of the proposal) and one Councillor (objecting to the proposal)<sup>4</sup>. The 3<sup>rd</sup> Party submissions, both for and against the development, are not summarised individually but are summarised on an issue basis in sections 6.4 and 6.5 below.

### **6.2 LOCAL AUTHORITY SUBMISSIONS**

#### **6.2.1 Galway City Council Managers Report**

A 63-page report on the Galway Harbour extension was submitted by Galway City Council on the 1<sup>st</sup> April 2014. The report is set out in 27 sections and these sections are briefly summarised below.

1. Details of the current development plan and how its policies relate to the proposed harbour extension are set out. It is noted that the plan contains references to the likely requirements for the harbour to relocate and expand, but there are no specific policies for the exact sites into which the expansion will take place. The main provisions set out in the plan as they relate to the harbour extension are detailed in full in the report. (See section 8.6 in this report).

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<sup>4</sup> Additional Public Representatives made submissions at the hearing.

2. With regard to other relevant plans including local area plans, it is stated that there are no such plans applicable to the subject site.
3. Section 3 of the report sets out the relevant planning history relating to the subject site (see section 5 of my report above).
4. It is stated that there are no enforcement files in relation to the subject site at present.
5. With regard to other national, regional and local policies, the report makes reference to the policies in the National Development Plan, the National Ports Policy, The Regional Planning Guidelines for the West and the County Development Plan. All the policies and statements contained therein, that are of relevance to the proposed Galway Harbour extension are referred to.
6. It is stated that there are no Special Area Amenity Orders associated or affected by the proposed development.
7. Section 7 outlines the European Designation and Natural Heritage Areas that may be affected by the proposed development. It is noted that the site is located in the Galway Bay Complex cSAC Site Code 000268 and the Inner Galway Bay SPA Site Code 004031. The site is also located within the Inner Galway Bay Ramsar Site 838 (County Galway) and a proposed Natural Heritage Area. There are also a number of Natura 2000 sites in proximity to the proposed development. This includes Lough Corrib candidate cSAC (Site Code 00297) and the Lough Corrib SPA (Site Code 004042. The River Corrib has salmonid status. The Galway Bay Complex cSAC hosts a priority habitat (Annex I). There are also 12 Natura 2000 sites within a 15 kilometres radius.
8. In terms of protected structures, it is noted that the proposal, being primarily located on reclaimed land, will not have an impact on any protected structures. However works will be necessitated around Lough Atalia Bridge which is a protected structure (Reference No. 10002 – ‘Railway and Ancillary Buildings’). The lowering of the roadway beneath this bridge is acceptable and it is not considered that it will have an impact on the protected structure. As already noted in this report these works are planned as part of a part 8 process under the Planning Acts. These works are deemed necessary in the interest of public safety and for maintaining traffic flow as evidenced by the frequency of bridge strikes. It is noted that there is both recorded and possibly significant unknown recorded

underwater archaeology in the location of the proposed build and dredge areas.

9. In terms of waste policy which may be relevant to the proposed development, the City Council requires that arrangements in relation to a C&D Waste Management Plan be an important consideration. In addition to a waste management plan for the operational phase would be required to be agreed and designed with the local authority. The issue with regard to the recovery and reuse of excavated dredge material may require a waste facility permit or waste licence in accordance with the Waste Management Act as amended. The replacement Waste Management Plan for the Connaught Region 2006 – 2011 or its review may also have relevance to this application and should be consulted.
10. The proposed development requirements regarding potable water will not create any capacity issues. Standard requirements regarding design specifications, metering and connection charges will be in accordance with the requirements of Irish Water.
11. The proposed development requirements regarding the disposal of foul drainage will not create any capacity issues for Galway City Council's Mutton Island Wastewater Treatment Works.
12. The proposed development requirements regarding the disposal of surface water should not create any capacity issues.
13. In terms of flood risk assessment, the site, owing to the nature and location is classified as a high flood risk zone. This issue has been addressed in Chapter 8 of the EIS. It is noted that the uses proposed are compatible with the preferred uses under flood zone A (Harbour/Marina Docks etc.). The Council consider however that it is critical that the Board should consult with the OPW with regard to the preparations of the CFRAMS where Galway City has been designated an area of further assessment. It is noted that as part of CFRAMS, specific hydrology and hydraulic modelling reports for Galway City are scheduled to be produced in draft form by the OPW by the end of April 2014 with the core maps issuing in July/August 2014. It is anticipated that this mapping will take into account recent significant weather events in Galway City in 2013/14. In the event that these indicate that revised assumption should be used, the Board should seek a review of the assessment of the impact in particular with regard to the impact on flood vulnerability in Galway City. As flooding has been identified as a critical issue for the City

Centre, the Board should be satisfied that the development will not increase the risk of such occurrences in the city. The Board should also be satisfied that a wave movement within the Bay should not exacerbate erosion at Renmore and should in no way undermine the integrity of Nimmo's Pier.

14. The proposal was also assessed under the provisions of the Water Framework Directive and associated Regulations. Under the provisions of the Water Framework Directive, Galway Bay is designated as being of 'Good Status' both ecologically and chemically. It is noted that the extensive dredging has the potential to impact on water quality and consequently ecology, recreation, commercial fishing and fish farming. The Board should be satisfied that the proposal poses no threat to the water quality from an ecological viewpoint.
15. The content of the NIS is noted and in particular the potential for direct loss/fragmentation of habitats arising from the development. Some impacts are described as "indeterminate". The latter may require more examination to arrive at an impact conclusion.
16. Any in-combination effects should include reference to the proposed Galway Eastern Environs Wastewater Treatment Works. There is concern that the simulations did not take into account the city eastern environs wastewater treatment works. The Board should request that this aspect be revisited. It should ensure that the proper functioning of the Mutton Island Wastewater Treatment Plant will not be impacted upon by the proposed harbour extension.
17. The conclusions in the NIS and EIS suggest that a favourable decision may not be feasible under Article 6(3) of the Habitats Directive owing to the likelihood of adverse impacts on the integrity of Natura 2000 sites. In this regard, options available under Article 6(4) may arise, should the Board consider that, in the absence of alternative satisfactory solutions, that the proposal merits the examination of the existence of imperative reasons of overriding public interest. The NIS and supporting chapters of the EIS are considered to be very comprehensive and the Planning Authority does not have any issues with regard to gaps in the study other than to draw the Board's attention to the fact that the NIS highlighted a number of "indeterminate impacts" on conservation objectives. The Board in this regard should procure specific expert advice to facilitate the decision-making.

18. Section 18 relates to the adequacy of the EIS. In general it is considered that the EIS is very comprehensive. The City Council however do highlight a number of points in relation to

- Soils.
- Water.
- Water quality.
- Noise and vibration.
- Flora and fauna.
- Material assets.
- Risk assessment.
- The business case for the proposed development and
- In-combination effects.

Many of the issues raised under each of these headings relate to specific aspects of the proposed development should it go ahead, which will require agreement with the Planning Authority. Many of the issues raised relate to monitoring agreements to be raised with the Planning Authority. It is suggested that the development should however be revisited to assess any possible impacts on both movements within the inner harbour and the extent to which the development overlaps with the shrimp breeding and fishing areas within the harbour. The EIS should also investigate the possible implications of a more prolonged construction scenario or where there is a risk of business failure mid-construction etc.

17. Section 17 relates to the assessment of landscape status and visual impact. It notes that the visual impact would be apparent from a range of views both protected and non-protected. It is considered that the selection of views contained in the EIS is enough to assess the visual impact from public areas and roads. The methodology is also deemed to be acceptable. However the conclusion that the development will have a slightly negative impact on the suburban settlement landscape is not accepted. It is considered that views from the east suburbs particularly Renmore will be more significant than that indicated in the EIS. Detailed specification of the hard landscaping is not apparent. The high quality public realm and amenity in the inner dock area also requires more detailed consideration.

18. Section 18 of the report relates to traffic and transport. It is noted that the impact of traffic generated by the proposed development was assessed using Galway City Council's Saturn Traffic Model.

The Saturn Model demonstrates that the proposed development will not have a significant impact on city traffic. It is considered that the model is good for assessing the implication of harbour generated traffic on the future network, but is not necessarily appropriate for the assessment of individual junction performances. The EIS concludes that the traffic generated from the harbour will not increase existing traffic volumes by more than 5% at most junctions. While this may be correct for general traffic, it does not take into account the increase in HGV traffic. The City Council anticipate that there will be a significant increase in HGV movements at the Lough Atalia /College Road junction. Due to general wear and tear, the City Council would recommend as part of the proposed development that the developer realign the junction at the College Road/Lough Atalia Road in order to ease HGV movements at this junction. It is noted that all HGVs in excess of 26 tonnes will be unable to use Wolfe Tone Bridge and alternative haul routes will have to be considered. All details of any traffic management plans including HGV movements should be agreed with the Planning Authority by way of condition. The City Council also expresses some concerns in relation to details shown on some of the junction design, particularly at the main access into the harbour from Dock Road. A number of comments are also made in relation to cycle network and rail network. A Mobility Management Plan for the development is considered to be essential.

19. With regard to the environmental carrying capacity, the City Council are of the opinion that in the case of a grant of permission, there is a requirement to carry out the detailed mitigation measures set out in the EIS and NIS and to incorporate a rigorous implementation of an Environmental Management Plan by way of condition.
20. Comments on a Part V (Social and Affordable Housing) are not applicable in this instance.
21. Section 21 of the report relates to amenity considerations. The amenity elements associated with the proposed development are welcomed. Additional street furniture is required along the promenade. The Board should investigate the possibility of extending the landscape plan to the gravel shore/Renmore Beach area.
22. Section 22 of the City Council's Manager Report addresses more general issues. The Planning Authority acknowledges the

importance of the harbour facility and considers it a key asset to the city. It also acknowledges the constraints within which the facility currently operates. It is recognised as an important transport facility for the city. Existing policy generally supports the expansion of the harbour. The use of rail offers a distinct advantage to the port. The proposal will also remove the requirement to discharge petroleum at the quayside and this would reduce health and safety risks. The proposal will provide greatly improved opportunity for water-based recreational facilities and public amenity areas. The proposal will also assist in the regeneration of the inner harbour for non-port related activities. This will ultimately benefit tourism. The proposed development is likely to have a significant negative impact on the natural environment and this will be an important aspect of the Board's deliberation. The Board should also be satisfied that if commenced, the proposal has a robust chance of completion in terms of the business case put forward. While the need for deep sea berthing has been qualified, the extent and need for reclamation (i.e. scale of the proposal) may need more qualification.

In terms of traffic, the Board must review the analysis in the EIS particularly in relation to HGV traffic. It is suggested that successful implementation of traffic management plans will be key to mitigating traffic impacts. In terms of visual impact, it is concluded that there will be a negative visual impact from the eastern suburbs, but the impact will not be so great from the western suburbs.

23. Section 23 of the report set out conditions in the event of the Board deciding to grant permission. A total of 41 suggested conditions are set out in the report.
24. Section 24 of the report sets out the Planning Authority's view on community gain conditions. It is considered reasonable that the developer will contribute towards the cost and provision of all recreation and community facilities which are listed. These include facilitate the storage of aqua-sport equipment and other associated infrastructure for boating and other amenity type clubs that would use the harbour area, the provision of a building specifically for public/community civic purposes and a high quality amenity space for water-based recreation on Lough Atalia and Renmore Lough.
25. Section 25 relates to Section 48/49 Development Contribution Conditions. It is considered that this development would attract development contribution schemes. The current scheme may be

superseded prior to a decision and the Planning Authority will forward a copy of the revised Development Contribution Scheme which has not been adopted by Council at the time of writing this report. This scheme may be available in advance of the oral hearing.

26. Section 26 relates to special contributions conditions. Special contribution schemes will be required for road strengthening and road junction upgrades and other traffic related infrastructure.
27. Finally, Section 27 of the report states that it is the local authority's considered view that the need for a harbour extension is fully supported but will inevitably be challenging owing to the scale of the associated works and the sensitivity of the site. The Planning Authority are of the view that the Board should assess the proposal in light of the potential economic and public amenity benefits for the city and the region and balance these benefits with the capacity of the site and the city to sustain the likely environmental impacts and risks. In this regard the need to comply with environmental legislation including the EU Habitats Directive is acknowledged.

Appendix 1 contains the views of relevant department/personnel within Galway City.

Appendix 2 contains an extract from the EIS, Chapter 15 relating to mitigation measures.

### **6.2.2 Submission from Galway County Council**

The submission states that, having regard to the identified impact of the proposed development on Natura 2000 sites in the vicinity, there are imperative reasons of overriding public interest which should be taken into account in the assessment of the proposal. The proposed development would be consistent with the Regional Planning Guidelines and also supports various statements contained in the Galway County Development Plan, particularly in relation to strategic integration of transport and the support of the expansion of Galway Sea Port and Rossaveel. The proposal is also in accordance with similar objectives contained in the Draft County Development Plan 2015 – 2021. It is stated that the expansion of port facilities at Galway Harbour are considered critical in facilitating the growth of Galway gateway and metropolitan area and this will have positive economic and social effects on the wider western region.

## **6.3 SUBMISSIONS FROM PRESCRIBED BODIES**

### *6.3.1 Submission from National Roads Authority*

The National Roads Authority stated that they have no comment to make in relation to the proposed scheme.

### *6.3.2 Submission from CIE*

CIE expresses its support for the project on the grounds that it builds acknowledged cooperation between the harbour landowners and the Ceannt Station landowners which include a common objective to have a coordinated and integrated approach embedded in future proposals.

### *6.3.3 Submission from Udaras Na Gaeltachta*

The submission supports the proposed development on the grounds that it represents investment in sustainable transport infrastructure which will add to the competitiveness and sustainability of the western region. The organisation specifically supports the creation of facilities for cruise liners. Notwithstanding its support, it remains a priority that the potential of the deep water facility at Rossaveel be realised.

### *6.3.4 Submission from the Health and Safety Authority*

The submission states the following:

- The application is covered by Regulation 27(1) (c) of SI 74 of 2006 (permitting the HSA to give technical advice to the Board on specific applications).
- On the basis that no Class 1 petroleum products would be off-loaded at the jetty while the cruise ship is in harbour, the HSA does not advise against the grant of planning permission in the context of major accident hazards.
- The advice is only applicable to specific circumstances of the proposals at this period of time.
- Developments around Seveso establishments may have a potential impact on future expansion of established (i.e. Seveso sites).

### *6.3.5 Submission from Iarnrod Eireann*

General comments relate to the safety requirements which must be observed in relation to undertaking any works in the vicinity of the rail line.

In terms of the proposed rail freight link, Iarnrod Eireann has no objection to the inclusion of this proposal, but notes that the feasibility of the link being brought into operational is dependent on its commercial viability. Iarnrod Eireann would be required to verify the assumptions made in the EIS to determine the actual capacity of the rail infrastructure to accommodate new freight services.

With regard to the proposed lowering of the Lough Atalia Road at the existing railway bridge, Iarnrod Eireann are supportive of the proposal to increase the headroom at this location, but it has recommended that an effective clearance of 5.2 metres is provided for normal HGV's. It was noted that a licence is required for the design, construction and maintenance of works to be carried out at the bridge. A number of conditions relating to specific drawings are also set out in the submission in relation to the works to be carried out at Lough Atalia Road.

With regard to the new railway under bridge on the Harbour Enterprise Park Road, it is recommended that detailed design be progressed and that an effective clearance of 5.3 metres be provided.

### *6.3.6 Submission from Bus Eireann*

Bus Eireann are fully supportive of the proposed development in terms of the economic and tourism benefits it will bring. It is stressed however that an unhindered non-signal control access route between the Bus Depot and the Bus Station adjacent to Galway Ceannt Station will need to be maintained during all stages of construction. Concerns are expressed about flooding of the Bus Park and details of finished ground levels and proposed drainage need to be set out. It may also be beneficial to improve the rear access road into Iarnrod Eireann's rail freight yard on the Lough Atalia Road. This is currently used for busses to access and park overnight. If this access route was used for the duration of the construction phase, it would relieve traffic pressure during the dock road and rail spur construction.

Some concerns are expressed in relation to the increased volumes of traffic that will be generated during the construction programme. A road safety audit would be appropriate in this regard.

#### *6.3.7 Submission from the Geological Survey of Ireland*

The GSI notes that there are no sites of geological interest within the primary study area as indicated in the documentation submitted. Reference is made to the various maps and database available in the GIS for the purposes of assessing the application. Should any geological heritage site be identified within the study, it is requested that the GSI be contacted. The GSI would also appreciate a copy of reports detailing any site investigations set out and this would be added to the GSI National Database.

#### *6.3.8 Submission from the Health Service Executive*

The HSE notes that there have been complaints regarding existing operations within the port area particularly in relation to the scrap metal processing operations. This operation and other possible polluting operations within the harbour need to be more fully assessed. It is also recommended that the application includes a more detailed consultation/communication plan having regard to the size and scale of the project.

Existing noise levels are deemed to be excessive and the section on noise mitigation for airborne noise is not as comprehensive as it should be.

The existing harbour emergency plan needs to be updated. Noting the 24 hour operation of the business, it is recommended that the general public and businesses be notified when they are likely to be adversely affected by port activities.

Possible impacts in terms of air quality and dust may arise as the result of the relocation of existing businesses within the port. Again specific reference is made to the scrap metal operation.

The proposed development would obviously have adverse impacts on the biodiversity within the Bay. It is recommended that bio-monitoring is commenced prior to any development and is continued thereafter. This monitoring should include standard water quality and shellfish testing, but should also include heavy metals and other possible contaminants.

### *6.3.9 Submission from Failte Ireland*

Failte Ireland welcomes the proposed development and considers that it will contribute significantly to the development of marine tourism in the area. This particular tourism sector aims at doubling its share of the market by 2020. Cruise line tourism is a particularly fast growing sector. Galway is strategically positioned to benefit from this growth.

### *6.3.10 Submission from the Department of the Environment, Community and Local Government – Marine Planning Foreshore Division*

This submission states that the Department has no objection to the making of this application. However no works can be undertaken on the foreshore until appropriate consent has been obtained from the Minister under Foreshore Act.

### *6.3.11 Submission from Inland Fisheries Ireland*

Inland Fisheries Ireland is not opposed to this strategic infrastructure project; however it does seek to ensure that the fishery resources are fully protected. Concerns are expressed that this development will encroach on a zone which is legally and an intrinsic part of Galway Fishery, the rights of which are vested in the IFI. The IFI is anxious to have the location of fishery markers within the Bay identified and replaced.

IFI would also recommend that public access to the proposed pier at the harbour would be permitted where it does not interfere with boating or shipping operations. The IFI would highlight the importance of ensuring that there is sufficient capacity available both within the receiving sewage network and that Mutton Island Wastewater Treatment Plant over the full duration of the project to ensure that the ecological integrity of the Corrib is protected.

Measures must be taken to ensure that non-native invasive species do not arise in Galway Bay as a result of the proposed development. The IFI have concerns that the escalation in marine traffic associated with the harbour extension will increase the volumes of ballast water discharged into Galway Bay which in turn, risk the introduction of non-native species to the estuary. The IFI has concerns that the narrowing of the channel will increase the likelihood of seal predation on migrating salmon. Observations from IFI personnel would indicate that there are

greater numbers of seals present at the estuary than that observed during the seal study undertaken as part of the EIS. There are also concerns that the proposed harbour extension may obstruct the upstream migration of elvers as they typically return to the River Corrib via the coastline. The IFI would recommend an elver monitoring programme to be undertaken pre-construction to determine the existing migration paths. Likewise it is recommended that a fish monitoring programme be implemented during the post-construction to ensure that the frequency of returning salmonids entering Lough Atalia rather than travelling straight up the River Corrib does not increase as a result of the harbour extension.

#### *6.3.12 Submission from the National Transport Authority*

The Authority considers the extension of Galway Harbour as proposed to be strategically important and in accordance with Regional Guidelines. There is no objection in principle to the proposal set out in the application. The provision of facilities for cyclists and pedestrians is welcomed and the design of these facilities is acceptable. In order to ensure that cyclist and pedestrian movement in the area is as convenient as possible, all cycle facilities should be designed in accordance with the Authority's National Cycle Manual. The proposal provides an opportunity to improve connectivity between Renmore and the city centre which is currently poor. The layout of the development as proposed would not preclude the development of sustainable transport corridor within the overall harbour lands.

#### *6.3.13 Submission from Department of Transport, Tourism and Sport*

The submission notes that the Galway Harbour Company is one of nine state commercial port companies established. The submission goes on to outline the core objectives in the National Ports Policy (see section 8.7 below). It is noted that Galway Harbour Company is designated a port of regional significance and serves an important regional purpose and/or specialist trade or maritime tourism. The National Ports Policy also refers to Galway Harbour's importance as a strategic regional hub for petroleum importation, storage and distribution and endorses the development proposals in respect to the inner harbour for marine tourism and leisure facilities, as well as for urban redevelopment.

#### *6.3.14 Submission from the Department of Agriculture, Food and Marine*

With regard to the new fisherman's pier, questions are raised as to whether or not this is in line with government policy in terms of its effect operations at Rossaveel? The impact on inshore fishermen that currently use Galway Dock/Bay area needs to be given due consideration. The issue of dredging needs to be considered for the proposed new channel and basin. Questions were asked whether or not the dredge spoil will be dumped at sea which could have adverse impacts for fishing grounds.

#### *6.3.15 Submission from An Taisce*

It is submitted that the Board should secure the advice of an appropriate independent ecological expert to assist the Inspector appointed to assess this application. It should also be noted that An Bord Pleanála refused the infill of 21 hectares at Dublin Port which was also a designated Natura 2000 site (SPA).

With regard to the Natura 2000 statement, it states that the assessment is limited to the construction area of a new sea wall and water construction. It does not address the 50 hectares affected by dredging to maintain the new port facility. It is suggested that the conclusions set out in the NIS and EIS are somewhat contradictory. The EIS acknowledges that despite the mitigation measures outlined above, permanent loss of habitat within the cSAC and SPA will arise which is considered a significant negative impact on the conservation objectives for both European sites.

It is argued that inadequate consideration of alternatives was undertaken in the assessment. The EIS unjustifiably and uncritically takes port expansion on the west coast as a 'given'. If Irish west coast port expansion is justified on social and economic grounds, has the alternative of expanding Foynes Port been adequately assessed?

No state body should lodge an infrastructure application predicated on increased fossil fuel and resource consumption both in national terms and trans-boundary terms. Chapter 11 of the EIS fails to deal with the issue of climate, and does not address increased trade and shipping tonnage generated by the port expansion.

The major expansion of Galway Port for commercial shipping is not justified by national policy. Alternative options for cruise liner jetty require assessment.

It is also questioned whether or not climate proofing and flood impact has been adequately assessed in the EIS. In certain weather conditions and depending on wind direction, the solid Pier could direct wave action towards the city.

Finally concerns are raised in relation to traffic. It is stated that it is inappropriate to expand a commercial port in an urban centre which has no direct connections for HGV's from the port entrance to the motorway or national primary road system. The Board had concerns in relation to this road and rail issues in the case of the proposed expansion of the Port of Cork (PA0003).

### **6.3.16 Submission from National Parks and Wildlife Service**

#### **6.3.16.1 General Conclusions with regard to the Implications of the Development on Natura 2000 Sites**

In terms of archaeology, it is stated that all works around Lough Atalia Railway Bridge and Fort Hill Graveyard should be monitored by a suitably qualified archaeologist. Similar monitoring should take place in relation to underwater archaeology.

In terms of architectural heritage, the Department is of the view that more information is needed on cultural heritage, including any impacts that may arise from the new railway spur.

With regard to nature conservation and in particular the assessment of significant effects, the NPWS, in consultation with the applicant, has recommended to the applicant that in such instances where the residual impact is considered to be indeterminate or indeterminate negative, that it would be appropriate in such instances to conclude that an adverse effect on integrity cannot be discounted. As currently proposed, and on the basis of the information provided, the NPWS is of the view that this development does not meet the requirements for approval under Article 6(3) of the Habitats Directive, it being contrary to conservation objectives to one or more European sites. A conclusion by the applicant of the permanent impact on the Lough Corrib SAC is also noted.

The NPWS welcomes the effort that the applicant has made to understand the effects of the proposed development on the sites in question. However, it is the NPWS's view that the level of analyses undertaken by the applicant does not adequately identify how the proposed development would adversely affect the integrity of the sites concerned. Thus, it is not yet clear whether any of the remaining effects on the sites that cannot be avoided, reduced or mitigated, can be compensated or how they can be compensated in order to retain the coherence of the Natura 2000 network. Thus a clear conclusion regarding the consequences of the proposed development on the integrity of the site should be gleaned before consideration is given to progression to Article 6(4). The Commission's guidance on Article 6(4) sets out clear standards for an assessment under Article 6(3) in order to allow for a progression through to Article 6 (4). It is the NPWS's view that the NIS as presented does not yet meet these standards.

The Department suggests that An Bord Pleanála request the applicant to further develop its analyses and undertake further research and survey work as required, in order to lead to more robust conclusions on the potential implications of the project on the Natura sites concerned.

In terms of the in-combination effects, it is noted that in the context of the timelines involved, that the Inner Galway Bay SPA was classified as an SPA in November 1994 and this is prior to the original grant of planning permission for the Galway Harbour Enterprise Development in 1995.

The NPWS acknowledged that the expansion of Galway Port is supported by land use plans relating to the area. However it is noted that the assessments of these plans did not address a situation where the question of Imperative Reasons of Overriding Public Interest (IROPI) might arise.

The Board should be advised that the applicant has included information within the EIS that is relevant to the conclusions of the NIS. Reference is also made in the NPWS submission to the extreme weather events which occurred in Galway in early 2014 and questions whether or not the models used in the EIS remain valid.

With regard to the impact of the proposed development on coastal lagoons, it is stated that reasonable conclusions as to the likely effects from activities associated with the development were reached in relation to Lough Atalia. Because of the very widely fluctuating salinities within

the Lough, a reasonable conclusion was reached that the ecological impacts would not be significant.

It would be advisable to seek an update in relation to the lagoon and the implication of the proposed development for the stability of the barrier for Renmore lagoon due to the recent storms and weather events of late 2013 and early 2014.

The Department considers that more detailed information is required to describe and evaluate the terrestrial and coastal habitat of the receiving environment to the east of the proposed development in terms of the site specific conservation objectives.

In light of the above, it is recommended to request further information and analyses in order to reach a conclusion on the significance of the effects on the Natura sites.

#### 6.3.16.2 Potential Impact on Mammals

With regard to mammals, it is also recommended that a further detailed otter survey in advance of any construction is undertaken as suggested in the NIS.

In relation to the harbour seal, it is recommended that a comprehensive and robust desktop analysis of the harbour seal and its habitat use and the observed impacts of similar developments associated with coastal/maritime activities be undertaken by the applicant.

With regard to the grey seal, it is the NPWS's view that adverse impacts arising from the proposed development may be mitigated by correct protective and environmental management actions including those described in the application.

With regard to cetaceans, it is recommended that a detailed assessment of risk in relation to all Annex IV cetacean species is undertaken and used to inform the decision making process for the development.

With regard to marine Annex I habitats, it is concluded that the most significant direct impact to the cSAC would be due to the loss of intertidal Annex I habitat beneath the intended extension of the port area. The applicant has shown that the direct loss of Annex I habitats within the footprint of the site is irreconcilable through mitigation. A clear determination of the significance of the impact is required, as

opposed to merely referring to it as “indeterminate”. References to “indeterminate” are not helpful for the purposes of reaching conclusions in relation to the impact. Such conclusions would make the task of assessing the completeness of the overall documentation difficult, particularly when the applicant proceeds to Article 6(4) or compensatory measures.

#### 6.3.16.3 Potential Impact on Birds

With regard to the potential impact on the birds within Galway Bay, it is noted that there will be an increase in berth capacity and an increase in boating activities within the Bay. The applicant does not appear to have considered the potential impact of such an increase in vessel activity causing birds to be displaced from favoured feeding or roosting areas. With regard to the loss of seabed, it is stated that the NIS does not fully consider that the dredging of the turning circle may permanently reduce the value of the sub-tidal habitat for some species. The level of assessment in terms of residual impact for various bird species within the Bay is not considered to be complete. A more complete and critical assessment should be made for some species (namely Cormorant, Sandwich Tern and Common Tern). A species by species assessment should be undertaken to determine the overall ‘in-combination significance’ of the proposal in the context of the conservation objectives for the various wintering water bird species. A more adequate analysis is required in this regard. A more intensive and critical assessment could conclude that the conservation objective target will not be contravened for several of these listed species. This would be more appropriate than merely describing the residual impact as “indeterminate”.

In terms of mitigation measures, it is noted that for certain species, the severity of impacts range from ‘temporary moderate negative impact’ to ‘indeterminate moderate negative impact’. Notwithstanding this, Table 3.11 or 3.14 of the NIS does not set out any mitigation measures to ameliorate these impacts.

The submission goes on to comment on some of the surveys undertaken in relation the bird studies within the Galway Bay. It is suggested that in some instances this has resulted in an incomplete assessment which in turn has given rise to the conclusion of “indeterminate impacts” in some situations. Some of the sources for the desktop studies are very old, over 20 years old. Whereas latest Irish

Wetland Bird Surveys for 2010/2011 are available. Some of the bird species need to be reassessed more critically and intensively against the relevant conservation objectives.

Given the level of analysis yet to be undertaken, it is not possible for the Department to provide recommendations of what type of further survey work may be required at this point in time that can only be informed by the additional information that the NPWS recommends to be sought.

### *6.3.17 Submission from the Office of Public Works*

The OPW were specifically requested to comment on the flood risk assessment, the hydraulic modelling and the Galway City CFRAMS project.

In relation to flood risk it is stated that it is not clear from the modelling assessment whether or not the proposal will exacerbate the flood risk on adjoining lands. Not all the modelling predictions have been shown in the EIS. The water level changes predicted in the model should be shown in plan. The draft CFRAM flood mapping outputs for the Corrib Catchment should be clearly demonstrated in the EIS in order to form the conclusion that the proposal will not impact on this source of flooding.

The 4.7 m OD design level for the quay may be adequate; however it would be normal practice to incorporate an additional freeboard level to allow for (a) glacial isostatic adjustment (b) subsidence of reclaimed land (c) potential for wave over-topping.

Part of the eastern coastline has been identified as being of risk for coastal erosion (a map is attached identifying these areas). The EIS, while modelling settlement movement, does not present the results in a form that demonstrates clearly that there are no changes in coastal morphology which would exacerbate coastal erosion.

The potential impact in wave heights at Nimmo's pier as predicted in the EIS does not appear to have been factored into the flood risk assessment.

The coastal modelling outputs undertaken do not appear to have had regard to extreme sea levels and flood maps and the coastal areas potentially vulnerable to wave overtopping studies. This again could have implications for the flood risk assessment.

Different modelling methodologies have been used for the various coastal models contained in the EIS and some of the modelling comparisons are not always appropriate.

#### *8.3.18 Submission from the West Regional Authority*

This submission sets out details of the proposed application. The proposal then outlines the various relevant sections, policies and objectives of the Regional Planning Guidelines for the Western Region (2010-2022) and highlights statements which recognise the strategic importance of Galway Harbour. Particular reference is made to Objective IO21 and Objective CO8. It is concluded that the policies and objectives contained in the Regional Planning Guidelines support the proposed development and recognise its strategic importance for the overall regional development of the area. The proposal is therefore considered to be consistent with the Regional Planning Guidelines.

#### *6.3.19 Submission for the EPA*

The submission from the EPA stated that based on the information submitted, it is not possible to determine at this stage whether an activity would be undertaken as part of the works for which a licence is required. The applicant should make formal contact with the EPA in this regard.

### **6.4 THIRD PARTY SUBMISSIONS ON GALWAY PORT**

#### **6.4.1 Submissions in Favour of the Proposal**

Over 70 submissions can be categorised as being generally in favour of the proposed development. The submissions represent a vast array of mainly business interests located within Galway City. However letters of support were submitted from businesses in the wider region including businesses from Spiddal, Kinvarra and Dublin. Submissions were also received supporting the development from outside the country from enterprises that have direct dealings with Galway Port. A submission from Galway Chamber of Commerce states that when surveyed, 98% of its members supported the proposal. The main arguments in support of the proposed development set out under the various headings outlined below.

### *Strategic Considerations*

- An Bord Pleanála has already determined that the proposed development is of strategic importance (in determining that the proposal qualifies as SID) and this reinforces the economic need for the project and the benefit it will bring for the regional economy.
- The proposal fully accords with specific objectives set out in the National Spatial Strategy, the Western Regional Planning Guidelines and the County Development Plan.
- The proposal is fully in accordance with the wider European strategies, including “Motorways of the Sea” programme and the “Marco Polo” programme.
- Galway is the only realistic port which can be expanded on the west coast between Killybegs and Foynes.

### *Facilitation of Business and Economic Expansion within the City and the Surrounding Region*

- A large number of businesses in the area highlighted the importance of the expansion of the port in supporting the role of business in the local economy. Submissions were received from businesses which currently use the Harbour Enterprise Park, including a host of cultural, leisure and commercial associations. Submissions were also received from ferry companies, the IDA, Galway Chamber of Commerce and IBEC, all of which were in favour of the proposal and set out various business opportunities which would arise and benefit from the expansion. These include:

- The proposal would be of significant benefit to employment, particularly during the construction phase.
- The proposal will facilitate the expansion of local hotels in the area.
- The proposal will facilitate the continued operation and expansion of restaurants, retail outlets and other service industries within the city centre. (Numerous submissions from the hospitality sector supported the proposal in this regard).
- The proposal will support the continued operation and expansion of various maritime industries within the port.
- Failure to permit the expansion will ultimately lead to the port and thus the city’s demise. The consequence of not moving forward will

inevitably be the slow decline of maritime traffic and a decline in all the associated beneficial trade along the west coast.

- The proposal will facilitate Galway as a 'waterfront city of excellence' and will develop new venues around the waterfront for culture and arts.
- The development will enable the expansion of Marine Research including the 'Smart Ocean Initiative' which will make Galway a premier location for Marine research.
- The proposal will support the expansion of the medical device industry that surrounds the city.
- The proposal will lead to a more efficient and cost effective import/export of materials via Galway Port.
- Galway is currently losing marine and ship repairs to other countries outside Ireland and the EU because of the port constraints currently experienced.

#### *Requirement to Accommodate Larger Ships*

- Many submissions highlighted the fact that currently Galway is unsuitable to accommodate modern size shipping, as ships are constantly becoming larger. Currently the inner dock can only accommodate ships of c.5, 000 tonnes. Many companies associated with port activities are being continually asked by ship owners and receivers to accommodate larger ships.

- The ability to berth large cruise ships without having to transfer passengers to the port on smaller boats from cruise ships off shore will significantly enhance Galway as a premier cruise destination.

- There have been no significant investments in the port since the 19<sup>th</sup> century. Investment and upgrading is long overdue.

- If the application fails to get the go-ahead, Galway will no longer be a commercial port for the first time since the middle ages.

- Bulk shipping offers significant economies of scale for port operations.

- The proposal will allow 24-hour access to the port as opposed to the current 4-hour window which is available over any 24-hour period.

- A potentially dangerous and at the least an inconvenience arises when ships have to wait outside the port for appropriate tidal conditions to permit entry.

- The existing modest dimensions of the Inner Dock Area make it extremely difficult to manoeuvre ships within the existing commercial dock area.

### *Supporting Petroleum and Energy Related Industries*

- Many of the submissions argue that the proposed development is strategically located to avail of opportunities in relation to the petroleum importation and off-shore energy industries which are vitally important for Ireland. The national port policy highlights the important role that Galway plays in the importation of petroleum which serves the north-west region. The proposal will facilitate the expansion of port facilities particularly in the area of petroleum. One submission points out that Galway handles 1% of port trade nationally, but 7% of the petroleum imports nationally.
- In terms of offshore energy potential, numerous submissions note that Galway is located adjacent to the world's highest wave energy area - off the Porcupine Bank.
- The development will also assist in facilitating and supporting the gas and marine exploration industry in the Atlantic.
- The expansion will assist the port in reaching its renewable energy targets.
- The proposal will facilitate the development and expansion of offshore renewable energy industry. It is anticipated that there will be significant investigations/exploration in the Spanish Point fields to the west of Galway and the harbour is ideally located to exploit this opportunity.
- The proposal will provide additional berthing facilities for larger ships associated with the renewable energy industry.
- The proposal will facilitate and support the existing marine based research institutions which are located in the city. This will help foster and develop the 'smart ocean economy'.
- The south and west coasts are best placed to support the wave fixed and floating wind energy installations.

### *Research and Innovation*

- The proposal will facilitate research and innovation and employment opportunities to graduates.
- Galway hosts the Marine Institute and the Martin Ryan Institute which are to the forefront of marine research and technology. The close proximity of a vibrant port involved in marine research will be of major benefit to the above institutes.
- The Irish Offshore Operators Association argues that the port is ideally placed to support and provide for drilling plans in relation to oil and gas exploration.
- The Marine Institute has launched two key initiatives entitled “Smart Ocean” and “Smart Bay” to deliver key next generation innovative marine technology. Galway can play a key role in this and can attract key investors into this area.

### *Reduction in Coastal Erosion*

- A submission from a local GAA Club in Renmore argues that the extension to Galway Harbour into the Bay will reduce coastal erosion in the Renmore area to the east of Galway City by reducing wave action and creating a more sheltered Bay. Coastal erosion had been particularly prominent adjacent to the pitches at Liam Mellows’ GAA Club in Renmore. However the club has noted that the link road which has been constructed as part of the Mutton Island Wastewater Treatment Plant has significantly reduced erosion.

### *The promotion of Leisure within the Bay*

- It is argued that too often the need to protect habitats and species is put before the needs of providing appropriate amenity for the people.
- A number of sailing clubs and boating enthusiasts submitted observations supporting the leisure element of the proposal. It is argued that there is a great potential to expand water-based leisure and maritime activities for locals.
- The proposal will enable Galway City to host local, regional and even international sailing competitions.

- The proposed harbour extension provides great opportunities for amenity and recreation on the city centre's doorstep.
- Coastal amenity walks are not currently provided in the eastern part of Galway City and this proposal will contribute towards the provision of such amenity walks.
- The development will allow Galway to become a landmark waterfront city like that associated with Capetown, Sydney and Dublin Docklands.
- The marina will be a very welcome facility for those people holidaying in the local area.
- Patrons using the marina are more likely to go on local excursions within Galway City and its hinterland. The Burren, Connemara and Clifden are all likely to be beneficiaries in this regard.
- Ireland has to date been overlooked as a destination for cruises and yachts from the Americas to Europe via the Azores. A first class marine facility will attract people in this tourism sector.
- There is a great opportunity to develop eco-cruises at the new harbour development.

#### *More Sustainable and Safe Transport*

The Institute of Engineers Ireland submitted an observation in support of the proposal. It argues that the proposal represents sustainable transport by facilitating larger ships and incorporating a rail link for the transportation of goods to and from the port.

- The proposed new road layout in the vicinity of the port will make it safe for pedestrians and cyclists. The proposal will result in, and act as, a catalyst in the upgrading of access roads in and around Galway and national roads to and from Galway.
- Short sea shipping is seen as a priority and a more sustainable mode of transport to counteract against congested roads.
- Sea transport will be a particularly important mode of transport going forward and the proposal will facilitate the expansion of such maritime transport.

- The lowering of the road at Lough Atalia Bridge will allow unhindered access to the harbour.

### *The Facilitation of Cruise Liners*

- Large numbers of observations highlighted the importance of the proposal in attracting the cruise liner industry to Galway. It is argued that the proposal will facilitate the expansion of significant tourism events which have already taken place in Galway, such as the Volvo Race, the Tall Ships, the National Sailing Championships and traditional regattas.

- The proposal will renew interest in boating and sailing within the harbour.

- Space is currently not available in the existing harbour to cater for the demand for berths associated with the tourism, marina and cruise industry.

- There is scope to provide “floating museums” within historic boats within the new harbour. The proposal will free up space for tourist related marine activity within the inner dock. The proposal will support the pleasure boat industry for locals.

- One submission noted that in 2012 there were 202 calls by cruise ships to Irish shores carrying over 200,000 passengers. The spend associated with these stopovers was estimated at €20 million. While tourism in this country is falling, cruise tourism is rising significantly.

- Ireland is a natural cruise destination. However poor port facilities and port infrastructure and appearance are key constraints in this industry. The proposal in this instance could significantly address this problem.

-Galway has an enviable position of having a beautiful medieval city on the ports door-step. Very few cities can boast a port and cruise liner berth so close to the city centre.

### *Visual Impact*

- The proposal will dramatically improve the aesthetic attractiveness of the city. Galway is a very compact city and the proposal will greatly benefit from having an expanded port so close to the city centre.

- Unsightly cargos including coal and scrap metal will be relocated out of the inner harbour area and away from the city centre.
- The marina will be a great visual amenity for onlookers.
- The proposal will rejuvenate the Inner Dock Area with compatible city centre uses

#### *Fishing*

- Bord Iascaigh Mhara supports the harbour extension. Many of the larger fishing vessels which currently use Killybegs cannot use Galway or Rossaveel because of the existing constraints at these harbours. The proposal will address this issue.

#### *Other*

- A submission from the Famine Memorial Committee argues that the recently completed Famine Memorial Monument in Galway will greatly benefit in terms of visitor numbers resulting from the extension of the harbour.

### **6.4.2 Submissions against the Proposal**

A total of 16 observations were submitted to the Board setting out arguments against the proposed development. The main arguments are set out below.

#### *Strategic Considerations*

- A number of submissions, including a detailed submission from Shannon/Foynes Harbour Authority argued that the proposed development is contrary to strategic policy for national port development. It is argued that the general trend has been for more large ports located outside city centres as opposed to expanding existing ports in close proximity to the city centre.
- The Shannon/Foynes submission also argues that the size, scale and nature of the proposal are contrary to European and National Ports Policy. In the case of Galway, it is argued that the future development

lies in the marine/leisure/cruise an activities and this is acceptable and in accordance with National Ports Policy.

- It is argued that the proposed development will compromise the development of the tiered ports hierarchy as set out in the National Ports Policy. This national policy also highlights the importance of a plan-led approach in developing ports into the future. In this regard it is noted that a Master plan has not been prepared for Galway Harbour. Therefore it is argued that the proposal is premature pending the preparation of a detailed economic, social and environmental Master plan for the port and the surrounding area.

- Shannon/Foynes forms part of a trans-European transport network. These are premier ports and serve a catchment area which goes beyond the local and national borders. Any expansion of Galway therefore cannot be considered significant in a European context or cannot be considered of strategic economic importance for the state.

- The National Ports Policy highlighted the limited role of regional ports. There is no reference within the national ports policy for the significant expansion of regional Tier 3 ports. The national ports policy does not support the development of the scale proposed. The national ports policy also refers in the case of Galway to consideration being given to the relocation, as opposed to the expansion, of the port to a new site on reclaimed land.

- The proposal has the potential to upset the hierarchical tier structure of ports in Ireland and compromise the future expansion of Tier 1 ports. The provision of another significant port on the west coast of Ireland in close proximity to a Tier 1 port (i.e. Shannon/Foynes) would compromise the expansion of this Tier 1 port which is a key objective of the policy.

- The DKM Business Case Report (submitted with the Galway Port Application) acknowledges that much of the identified business could currently be using other ports including Shannon/Foynes. Any redirection of such trade away from Shannon/Foynes would undermine the expansion of the Tier 1 port.

- Shannon/Foynes port has to date handled the majority of windfarm energy products as well as petroleum and coal and these are the very sectors into which Galway seeks to expand. Shannon/Foynes has the

immediate capacity to handle the cargo that Galway Port through its expansion intends to handle.

- Any expansion of Galway therefore will directly compete with Shannon/Foynes in doing so it will therefore undermine the expansion of a Tier 1 port and thus will be contrary to the national ports strategy.

Other strategic considerations raised by parties other than Shannon/Foynes included the following:

- There is no reference to the contribution of Galway Port to the national economy in the statutory policy guidance.

- The proposal is premature pending the adoption of a National Ports Policy.

- The proposal is premature pending the preparation and adoption of a local area plan for the Port.

- The proposal is premature pending the preparation and adoption of a master plan for the port.

#### *Inappropriate Assessment Alternatives*

- Observations other than the one submitted by Shannon/Foynes, argue that it is inappropriate to rule out Shannon/Foynes as an alternative on the basis of its perceived lack of connectivity. Any such analysis undertaken in the EIS fails to take into consideration the proposed road upgrades which are due to be implemented in and around the Shannon/Foynes area. Furthermore, the assessment fails to take into consideration that Shannon/Foynes is one of three core ports in Ireland under the Trans European Transport Network (TEN-T). Other submissions also argue that Shannon/Foynes currently has the capacity to cater for the oil importation and distribution to serve the whole of the west of Ireland.

- Observations also argue that the proposed development would have an unacceptable impact on the integrity of Inner Galway cSAC whereby there are clearer alternatives such as Shannon/Foynes which would have a lesser impact.

- The Port of Galway is more suitable for tourism/cruise liners as opposed to its development as a large-scale commercial port. The

construction of a large jetty and/or pipeline would serve the purposes of the port adequately and would be much less intrusive than the large scale development and reclamation proposed in this instance.

- In terms of alternatives, one submission argues that the size and scale of the proposed development has not been justified and the alternatives have failed to look at more modest proposals which may adequately suit the needs of Galway.

- It is also argued that the IROPI reasons for granting planning permission have not been adequately justified as there are clear alternatives.

- An observation was also submitted by Rossaveel Harbour which argues that the port of Rossaveel offers a realistic alternative which would not face the same problems as Galway in terms of funding, environmental issues, navigation aspects, dredging issues and flooding.

- It is argued that Rossaveel should have been included as a viable alternative for the purposes of the EIS. The submission from Rossaveel is accompanied by a report prepared by Wallingford Consultants (dated 2012) outlining the potential for further expansion in Rossaveel Harbour.

- The submission also requests that An Bord Pleanála note that Rossaveel Harbour is not located within an SAC.

#### *Environmental Impact*

- The EIS acknowledges that the proposal will have a significant “*negative environmental impact on the conservation of objectives for the Natura 2000 site*”. Such an impact is deemed to be unacceptable.

- If Galway Bay is designated as a protected area under the provisions of the Habitats Directive, it should be de facto protected.

- It is suggested that a full environmental impact of the wider area has not been properly ascertained.

- An Bord Pleanála refused Dublin Port expansion due to the impact of the proposal on a designated site. A similar scenario is equally applicable to the current application.

- No evaluation of the impact of the proposal on Brent Geese has been carried out particularly on the Claddagh Foreshore.
- The impact of the proposal on salmon migration has been understated. Salmon use the waterway throughout the year and blasting associated with construction will have an impact on migration.
- The proposal will significantly impact on the wildlife surrounding the site.
- There will be a greater potential impact due to oil spills as a result of the expansion of the petroleum handling facilities at the port.
- The port expansion could result in other invasive species being introduced into Galway Harbour.
- The proposal fails to consider the impact of the development in terms of the Birds Directive and the Habitats Directive.
- Suspended solids released through the dredging activities could significantly impact on the shrimp industry.
- The proposal would have a significant adverse impact on the littoral environment in and around the harbour area.
- The proposal will have a serious effect on the deposition of silt flowing down from the River Corrib, particularly during the winter months and when there is a south to southeast wind prevailing. The silt will congregate in and around Mutton Island Wastewater Treatment Plant.

#### *Adequacy of the EIS*

A number of submissions, including a submission from Bird Watch Ireland, expressed concerns in relation to some of the information contained in the EIS. These concerns are set out below:

- A single year of data is not considered sufficient to inform the decision-making process. The IWeBS data information is not designed to assess the relative importance and habitat usage across the site.
- The needs of bird species in an extreme weather event should to be taken into consideration.

- There is a lack of assessment of cumulative impacts on bird population contained in the EIS.
- There is a lack of full consideration of mitigation measures and alternatives in advance of considering IROPI procedures.
- The granting of consent in the absence of a complete and robust assessment would not be in keeping with the EU Habitats Directive.
- The socio-economic chapter of the EIS is incorrect in stating that the proposed impact will be negligible on human beings. It is contended that the proposal will have significant impact on the livelihood of inshore fishermen.
- The EIS does not adequately assessed alternatives.
- The archaeological monitoring of the seabed is considered to be incomplete and therefore invalid.
- Previous applications relating to the site that were withdrawn are not referred to in the EIS.
- The EIS acknowledges that the loss of habitat is regarded as “*a significant negative impact on the conservation objective for both Natura 2000 Sites*”.

#### *Flooding*

- The proposal will exacerbate flooding in the Galway area. Recent events (winter storms of 2013-14) have shown the devastated impact of flooding in the area. The proposal will result in water being restricted and this water will enter the Bay particular around Claddagh Quay and South Park.
- Global warming and climate change should be factored into any flooding study/flood risk assessment. One of the submissions (Claddagh Bay Residents Association) has included a DVD showing the extent of flooding which occurred in the city during 1995.
- Numerous submissions have outlined general concerns in relation to flooding particularly around the Claddagh, Grattan Road and Spanish Arch area.

- The proposal is premature pending the completion of a flood study for Galway which is due to be completed by 2014.
- The modelling carried out in the EIS does not take into consideration the flood occurrences which are experienced in late 2013 and early 2014.
- The proposed break waters could restrict the flows out of the Corrib during the ebbing tide and this would exacerbate flooding.
- Land reclamation within the harbour area will result in the displacement of water and will exacerbate flooding.

#### *Economic Arguments*

- The analysis undertaken has failed to establish that the proposed development is acceptable on the grounds of economic viability.
- The current harbour is adequate to cater increased expansion and is only used for approximately 50% of the time.
- There is no requirement to import more fossil fuels and current levels need to be substantially reduced. The idea of expanding the port as a petroleum hub is therefore flawed.
- The applicants' business case for a four-fold increase in liquid and dry freight handling within an 11-year timeframe is implausible.

#### *Visual Impact*

- The visual amenity of the Bay needs to be protected particularly for tourism. The proposal will impact on the preservation of the beautiful and iconic Galway Bay.
- The height, scale and mass of the buildings proposed will significantly impact on the visual amenity across the Bay. Particularly in relation to vantage points from Salthill, South Park and also Nimmo's Pier.
- The visual impact of the break water defence has to be taken into consideration in terms of the overall visual impact of the proposal.
- The visual impact will devalue houses due to impinging on views across the Bay.

- The proposed development could impact on the visual amenity northwards from the Burren, County Clare.
- The proposed port-related buildings are of an inappropriate design.

#### *Traffic and Transport Issues*

- The proposal will exacerbate transportation problems in the area particularly in the absence of the outer bypass.
- The motorway system which has been developed nationally over the past two decades means that all produce can be now imported through any of the larger ports on the Island and transported anywhere in the country in a matter of hours.
- All material to and from the harbour is required to go via the Dock Road and the Lough Atalia Road. There are no other alternatives and the impact on these roads in terms of traffic is deemed to be unacceptable.
- The proposal should not go ahead in the absence of a designated tunnel to accommodate port traffic.
- Any construction work on Lough Atalia Bridge should be carried out at night and over a 48-hour period. Furthermore when works are being carried out on Lough Atalia Bridge, consideration should be given to the provision of a temporary slip road to bypass Lough Atalia Bridge while construction works are being undertaken. These two latter considerations should be taken into consideration as the proposed works around the bridge will seriously affect the viability of businesses along the Docks Road and Lough Atalia Road. This point is highlighted by the submission from the Texaco filling station on the Lough Atalia Road<sup>5</sup>.
- The closure of the Lough Atalia Road would cause traffic chaos.
- The lowering of Lough Atalia Road would undermine the foundations of the railway bridge.
- The lowering of Lough Atalia Road would exacerbate flooding along this section of the road.

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<sup>5</sup> This objection was subsequently withdrawn prior the commencement of the oral hearing.

- The upgrading of the road will take approximately 43 months and this is deemed to be entirely unacceptable. Off-peak traffic movements should be considered as part of the traffic assessment.
- It is unclear whether the road construction will impact on rail services.
- A submission from the Galway Cycling Campaign argues that the extensive construction works could impact on the safety of cyclists.
- The proposal represents a missed opportunity in that a designated cycle path could be provided under Lough Atalia Bridge as part of the works.
- Construction vehicles will be using routes which are also used by cyclists and school routes. The harbour scheme should have incorporated the long-standing proposals to provide a coastal cycle route around the Bay area of the city.
- Works should include the restoration of existing pedestrian and cycle paths along the railway line on the eastern approach to the city.
- The proposal includes cycle lanes which in some instances are running in a contraflow direction to the main traffic and this constitutes poor design.
- In relation to rail, concerns are expressed that the works undertaken at Lough Atalia Bridge could undermine the integrity of the overlying rail line.
- One submission argues that the proposed railway spur to the docks area incorporates an incline which is too steep to accommodate rail traffic.
- Grattan Road should be excluded as a transport route to and from the port as a condition of any permission, as Grattan Road is extensively a residential area.

#### *Health Issues*

- The importation of increased amounts of fuels and other substances could have an effect on local people's health.

- The proposal will result in more hazardous material being transported into the port in close proximity to centres of population.

### *Noise Levels*

- Increased noise levels resulting from the port expansion in other cases has proven to be a particular irritation to local communities.
- Trains and licenced tankers will give rise to excessive levels of noise.

### *Tourism*

- The proposal offers little benefit in terms of tourism. Cruise liners represent one of the most unsustainable forms of tourism.

The proposal will do very little to develop Galway as a waterfront city, as such, the proposal constitutes a missed opportunity.

### *Fishing*

- The proposal will impact on traditional fishing sites within the Bay.
- The area is of extreme importance to the local inshore commercial fishing fleet as it produces a significant volume of annual shrimp which is famous throughout Europe. The Inner Bay is also a nursery for juvenile shrimp.
- Fishing vessels cannot berth safely in the north-eastern corner of the site as proposed due to the prevailing winds.

### *Cumulative Impacts*

- The proposal has not been assessed in conjunction with the Mutton Island Wastewater Treatment Plant.
- The development will significantly contribute to additional demands on wastewater and sewage treatment. Mutton Island WWTP will not have the capacity to cater for these increased loads.

### *Miscellaneous Issues*

- Proper consultation was not undertaken in relation to the proposed development and it is considered the proposal fails to analyse the true impact on local communities.
- It appears from the information submitted in the EIS that part of the site earmarked for development (8.02 hectares) is not in the ownership of the company and is in fact leased out to other third parties.
- The proposal is the first step in an SDZ process whereby the harbour will eventually be sold off to private individuals.
- The proposal to import more fossil fuel goes directly against the government strategy for renewable energy.
- The importation of infrastructure for renewable energy projects will be a short term activity and does not justify the long-term expansion of the port. Once these importation activities become obsolete, the *raison d'être* of the port expansion will be removed.
- The cruise liner business is a passing fashion and is not sustainable in the long term.

## **7.0 AN BORD PLEANALA'S REQUEST FOR ADDITIONAL INFORMATION**

On the 27<sup>th</sup> of May 2014, the Board in accordance with the provisions set out in section 37(F)(1) of the Act, requested the applicant to furnish additional information in relation to the following:

- **Alternatives:** Further details in relation to the assessment of alternatives, in particular the applicants are asked to comment on the Shannon/Foynes Port Company Vision 2041 Natura Impact Report.
- **Noise and Vibration:** Further details were requested in relation to the noise and vibration assessment set out in the EIS.
- **Marine Hydrology Issues:** Further details on marine hydrology issues, including further information on sediment transport, the wind wave regime, together with further details in relation to flow resistance modelling and outfall dispersion modelling.

- **Ecological Issues:** The applicant was asked to address some of the perceived short-comings in the NIS, particularly in relation to conclusion contained throughout the NIS that the potential impacts can be described as 'indeterminate'. It was also noted that many of the sources used for obtaining ecological data are very old and need to be updated. Further information is required in relation to terrestrial and coastal habitats in terms of their structure sensitivity and functioning. More information is required in relation to the potential impact of the proposal on the harbour seal and other cetaceans using the Bay area. Further details in relation to Birds, particularly water based birds were also requested. Further information is required in relation to additional desk-top studies, mitigation measures, and loss of inter-tidal habitat, impact on extreme weather conditions and impact of 'in-combination' effects. The applicant is asked to elaborate upon the conclusion that the impact will be 'indeterminate' in relation to birds.

#### **7.1 Submission of Additional Information on behalf of the Applicant.**

The information was submitted to the Board on October 16<sup>th</sup> 2014. It is not proposed to detail the information submitted in this section of the report other than to state that three separate volumes were submitted (white folder with green cover page and spine) entitled as follows:

- *Response to Further Information.*
- *Appendices to Response to Request for Further Information*
- *Natura Impact Statement Addendum/Errata.*

Where necessary and relevant, this information will be referred to in the planning assessment below.

#### **7.2 Further Observations on the Additional Information Submitted**

A total of 15 observations were made on foot of the applicant's additional information submission. A number of submissions were received from businesses involved in importing and exporting goods and raw materials through Galway Port. These submissions reiterated general support of businesses for the proposal and highlighted the necessity of the port expansion in order to foster and grow business within Galway City and the wider regional area. It was highlighted that planned expansion of some companies are predicated on the extension to the port.

The more important points raised in other submissions are outlined below:

### *Inland Fisheries Ireland*

Concerns are reiterated that the proposed development will encroach into a zone which is legally an integral part of the Galway Fishery the fishing rights are vested in the IFI. A map is submitted which illustrates the encroachment of the new harbour on the fishing rights.

### *Submission from Gia Griffiths Howard*

The proposal will permanently damage and destroy the beautiful and natural setting of the existing harbour and Bay. The proposal will also increase the potential for pollution in the Bay.

### *Submission from Irish Water*

Irish Water notes that the additional information takes account of the concerns raised regarding in regard to the ultimate loadings of the Galway City Eastern Environs WWTP and that the proposal will not affect the plume characteristics of this treatment plant nor will it affect the performance of the Mutton Island WWTP.

### *Galway Bay Inshore Fisherman's Association*

The submission suggests that the Board in requesting additional information should have asked the applicant to specifically comment on the importance of the commercial pot fisheries in the area proposed for the development and the impact that the proposed development could have on the displacement of berthage for fishing vessels. It is reiterated that the proposal will destroy a unique Natura 2000 site. Various other ports within the state offer viable alternatives for the development of Galway.

### *Shannon Foynes Port*

This submission primarily relates to the applicants comments on Natura Impact Report (NIR). It specifically responds to the assertion in the additional information submitted by the applicant which concluded that the development envisaged under the Shannon Foynes Master Plan is likely to be more damaging on Natura 2000 sites in the Lower Shannon Estuary than the proposed Galway Harbour Extension. It is stated that the NIR for Shannon Foynes was carried out in accordance with best practice. It is acknowledged that the Board has to assess alternatives particularly in the context of less or no adverse effects on Natura 2000

sites, however it is questionable whether it is practical for the Board to seek a comparison between the NIR and the NIS<sup>6</sup> submitted with the Galway Port application as both have been prepared on the basis of two distinct levels of detail. The NIR is a strategic assessment of the effects for a plan under the 2041 Vision for Shannon Foynes as opposed to a site specific project such as the Galway Port proposal. Thus it is argued that in comparing the two documents one is not comparing like with like. On this basis it is argued there is no validity in the conclusion reached by the applicant that the Shannon Estuary is more environmentally sensitive than Galway Bay. The Shannon Integrated Framework Plan identifies key sites and areas of opportunities and through an evidenced based approach and the assessment of scientific, environmental, and technical approach has identified key sites which are deemed to be least environmentally sensitive and therefore most feasible for development.

The findings in the NIR that 'no significant effects' will occur are based on the implementation of all mitigation measures. The NIR highlighted the following:

- There is potential for disturbance of the bottle-nosed dolphin however this greatly depends on the extent of future development.
- The extent, layout design or exact location of any proposed development within the sites for opportunity within Shannon Foynes are not determined therefore it cannot be stated categorically that qualifying interests of Natura 2000 sites within or adjacent to the Shannon area will not be affected.
- Operational dredging of the ports within the Shannon Estuary will give rise to temporary increase in sediment and not permanent increases and suggested by the applicant.

#### *Atlantic Fuel Company, Mahon, Cork*

The proposal is excessive in scale and is not supported by the National Ports Policy. There is no case for the IROPI procedure having regard to the clear alternative at Shannon Foynes. The applicant's assessment of alternatives is based on an all or nothing approach (i.e. the project for which permission is being sought or no development at all). The applicant also acknowledges that as an alternative, Shannon Foynes comes closest to satisfying the criteria under which the alternatives are

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<sup>6</sup> S177T(1)(a) and S177(1)(b) of the Act, distinguishes between the requirement to prepare a NIS in the case of a proposed project and the requirement to prepare a NIR in the case of a plan. The Act does not differentiate in terms of the information to be provided in each of the documents.

assessed. In evaluating Shannon Foynes however no reference is made to improvements in the transport network in the vicinity of the Port.

Furthermore a key question arises about the propriety of the proposal relative to the ports status and other issues such as up-front investment and where long-term investment does not materialise. If the project was realised, it would take business from other ports including Tier 1 ports. There is no rationale in the applicant's contention that development at other ports (Shannon, Cork and Dublin) will have a greater impact on Natura 2000 site than the development at Galway.

The applicant's determination as to how IROPI has been satisfied in this instance is not unique and can in reality be applied to any port development

### *Birdwatch Ireland*

Notwithstanding the additional information submission, Birdwatch Ireland still has the following concerns in relation to the proposal:

- Count data across two winters is insufficient for measuring the likely variability in site usage over time. The assessment of the suitability of saltmarsh habitat as potential roosting site for birds is inadequate.
- Bird populations from nearby SPA's which may use the site has not been addressed.
- There is a lack of consideration of the ecological needs of birds in extreme weather events.
- The report states that the site is not of significant importance for any species in comparison with other areas of the SPA. However there appears to be no rationale to support this conclusion.
- The likely disturbance impacts to birds and inter-tidal habitats will extend far beyond the footprint of the planned development.
- The intertidal and sub-tidal habitat lost is c.26.9 ha. Further details are required concerning habitat type, prey availability and the tidal sediment regime at this exact location.
- There is a lack of full consideration of mitigation measures and alternatives in advance of IROPI in the additional information submitted.
- There are concerns regarding the possible significant cumulative impacts from habitat loss in combination with impacts on waterbird populations of the Inner Galway Bay SPA from other pressures such as increased disturbance, mussel bottom culture and other extrinsic factors such as sea-level rise and storm surge events.

*The Department of Arts, Heritage and the Gaeltacht (NPWS)*

The Department submitted a reasonably lengthy observation in relation to the additional information and the main points are summarised below:

Nature Conservation – General Comment

The Department welcomes the considerable efforts made by the applicant to address the information gaps highlighted in the original NIS. However there remain gaps in critical areas of assessment and this leads to uncertainty as to how some of the qualifying interests of the Natura 2000 sites in question will be affected.

As for other qualifying interests, it can be concluded that the development is contrary to the Conservation Objectives of the Natura 2000 sites. This includes the impacts from the historical development at the Galway Enterprise Park application which was lodged (in 1995) subsequent to the designation of the Galway Bay SPA (November 1994).

The capacity of the Department to furnish an opinion on the sufficiency of any proposed compensatory measures will depend on the quality of the assessments underpinning the Board's decision. Commission Documentation provides useful guidance in this regard (Guidance Document on Article 6(4) of the Habitats Directive 92/43/EEC and the European Commission Document 2000 Managing Natura 2000 Sites). The incorporation of information from the EIS into the NIS has resulted in a significant improvement in the NIS as a standalone document.

Impact on Marine Habitats

With regard to the effects of the proposed development on marine habitats (i.e. mudflats and sandflats not covered by sea water at low tide, reefs and large shallow inlets and bays) it is noted that the proposed development would result in a substantial loss of the first two of these qualifying interests due to the extended footprint of the proposed harbour area into the Bay and this cannot be ameliorated through mitigation.

The conclusion in the amended NIS that an indeterminate effect would arise from the historic development of the Galway Harbour Enterprise Park is not supported by the information contained on file and this has

the potential to diminish the robustness and adequacy of the assessment.

#### Impact on Coastal Lagoons

It is noted that because of recent winter storms (January 2014) the stony bank along Renmore is likely to be afforded more shelter and this bank would only be breached in a storm surge. However the increased sheltering by the extension of the coastline may stabilise the barrier and cause its encroachment into Renmore Lagoon. It therefore could adversely affect Conservation Objectives in relation to same. The applicant has not appeared to have assessed or analysed what effects, if any, the increased levels of sheltering could have on the lagoon and how these effects could be mitigated. In the absence of this analysis, it is the Department's view that it cannot be concluded that the proposed development will not adversely affect the integrity of a European site with regard to the conservation objectives for coastal lagoons.

#### Terrestrial and Coastal Habitats

In relation to terrestrial and coastal habitats, it is noted that some further information was submitted regarding these habitats but this is confined to additional descriptive information. There are no maps or drawings indicating where these habitats are located and whether or not these habitats form part of the cSAC. Further information is required as to the potential effects on coastal habitats arising from the storms. This should include further analysis of the long-term implications for the barriers to Renmore Lagoon an Annex I priority habitat.

#### The Harbour Seal

The harbour seal population associated with the Aran Islands and Galway Bay represents a significant regional component of the national population. The impact associated with the wider maritime activity within the port and its effect on the harbour seal should be the subject of a comprehensive and robust desktop analysis. While the Department commends the applicants efforts in providing desktop research on the harbour seal, this research is too reliant on international observations rather than national and regional observations. More locally focussed research would better inform whether or not the integrity of this qualifying interest will be impacted upon as a result of the proposal. Observed impacts on the harbour seal for similar type developments should have been referenced in the analysis. The impact of the proposal

on the conservation objectives of the harbour seal is generally unclear and examples of this are set out in the Department's submission. It is therefore the Department's view that access to a suitable habitat for the harbour seal cannot be reliably discounted based on the available knowledge and therefore a significant negative effect on the conservation objective for the species cannot be ruled out and as such it must be concluded that the integrity of the site would be adversely impacted upon. A conclusive suite of mitigation measures are not included in the NIS.

The Department is carrying out a harbour seal monitoring programme. It is stated that a minimum time series of 6 or 7 years of data is required in order to confidently predict any upward or downward population trends. Reference was also made in the additional information submission to the Blasket Island SAC and it notes that harbour porpoises from this SAC may enter Galway Bay. However no further analysis appears to have been undertaken on this matter.

#### The Otter

While the original NIS considered that the impact of the proposal on the otter is not significant on the grounds that the habitat was sub-optimal for the otter species, and while the Department broadly agreed with this conclusion, it is noted that the addendum to the NIS has revised this opinion and now considers that the impact, based on the precautionary principle, is considered to be significant. Based on this subsequent assessment and in the absence of any clear conclusions regarding the impacts, the Department agrees that a significant impact would arise based on the precautionary principle.

#### Impact on the Inner Galway Bay SPA

The Department welcomes the significant further information provided by the applicant but again it is argued that a clear and robust conclusion are not arrived at in the assessment, particularly in relation to wintering bird species. There is a requirement to assess the species in the context of the key attributes by which the conservation objectives for the site are defined. It is argued that the analysis is not carried out in any systematic manner in the revised NIS. Each of the qualifying interest species should have been assessed against each of the attributes and targets set out for the conservation objectives. The loss of foraging habitats resulting from historic developments at the harbour (the Galway Harbour Enterprise Park) together with the proposed development (c.10.7

hectares) could be significant notwithstanding the modest size of this loss in the context of the overall habitat available. It is suggested that such a loss of habitat particularly in relation to foraging could be important particularly in the case of the Turnstone species.

More comprehensive information is needed on the nature, timing and extent of the increased commercial and recreational vessel activities in order to assess the implications of the proposal on birds, particularly the Great Northern Diver. This together with an incomplete dataset as to how the species uses the Inner Galway Bay suggests that any conclusions on the impact of the proposal on this species cannot be considered robust.

The analysis of the potential impact of the proposal on the wetland habitat of the Inner Galway Bay only examines a loss of 5.93 hectares of intertidal habitat. It does not address the loss of sub-tidal habitat or the loss of permanent wetland habitat arising from the previous development.

#### Mitigation

In terms of mitigation, the project needs to be comprehensively reviewed and assessed to ensure that it will not give rise to other effects on site. More general comments are made in relation to overall mitigation and monitoring required and these are set out on page 12 and 13 of the Department's submission.

#### Alternatives

In the context of alternatives, it is noted that Shannon Foynes is at planning stage rather than project design. As such it is not feasible to draw conclusions on the information at this point as to which development would have lesser implications for the Conservation Objectives for the European sites.

#### Risk Assessment

The Department recommends that the risk to protected marine mammal species arising from underwater sound should be characterised and that clarification of the role of the acoustic deterrent devices be provided. The Department also notes that the risk assessment undertaken for cetaceans focuses only on the construction work undertaken and not on the longer term impact arising from port operations. The risk

assessment should also have assessed the cumulative risks to the protected species arising from multiple stressors (marine construction, noise, vessel activity displacement). More clear-cut conclusions are required in terms of the risk assessment on cetaceans in terms of noise, vessel collisions etc.

## **8.0 PLANNING AND POLICY CONTEXT**

In strategic terms, there are a number of important planning policy documents which set out the framework under which Galway City, and more specifically Galway Port, is envisaged to develop over the coming years. The following section provides a summary of the main European, National, Regional and Local policies that are relate to Galway Harbour and its environs. The main relevant points contained in these documents are set out below.

### **8.1 European Policy on Shipping and Ports**

European shipping and port policies are very much dictated by the White Paper on European Transport (2010): 'Time to Decide', The Marco Polo II programme (2007-2013) and the Trans- European-Transport Network (TEN-T) Policy<sup>7</sup>. The over-arching aim of these policy documents is to close the gap between Member States transport networks and reduce the reliance on road-based transport networks in favour of maritime and inland water based transport. The above programmes seek to reduce congestion and improve the environmental performance of the freight transport system. It also seeks to remove bottlenecks that hamper the smooth functioning of internal markets and overcome technical barriers in terms of infrastructure constraints.

The EU has produced Guidelines for the development for the TEN-T network. To this end the Commission has identified 329 key Sea Ports along the European coastline that will become part of a unified network with an aim of boosting growth and competitiveness in Europe's single market. €26 billion will be made available for supporting infrastructure associated with the ports and connections with the ports.

Five key sea ports in Ireland are listed as part of the 329 key ports identified across Europe these are Cork, Dublin and Limerick /Shannon (Shannon / Foynes). These 3 ports are described as 'Core Ports'.

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<sup>7</sup> The Brief of Evidence entitled 'Planning and Policy Context' presented by Augustine McCarthy (submission No. 40) provides a good overview of European Ports and Shipping Policy.

Waterford and Rosslare are also listed and are described as 'Comprehensive Ports'. These 'Core' and 'Comprehensive Ports' equate to Tier 1 and Tier 2 Ports in the National Ports Policy (See Section 8.7 below).

The targeted policies in relation to the TEN-T ports which are particularly relevant to the development before the Board are:

- The provision of targeted grants and other forms of financial supports for port related infrastructure.
- Supporting Initiatives to raise the environmental profile of Ports by providing guidelines and promote the exchange of good practices.

## **8.2 National Spatial Strategy**

The National Spatial Strategy (NSS) designates Galway as a 'Gateway City'. Other gateways along the western seaboard include Limerick/Shannon, Sligo and Letterkenny. A core objective on the National Spatial Strategy in the context of gateway cities is to seek the strengthening of the critical mass of such settlements in order to facilitate further development and expansion. In the case of the western gateway cities, the development of a critical mass is seen as being key to achieving a more balanced regional growth. Section 4.8 of the NSS notes that Galway, with its population catchment, quality of life attractions, transport connections and capacity to innovate with the support of its third level institutions, will continue to play a critical role in the development of the region. The challenge is now to sustain and broaden this role in order to strengthen other areas.

## **8.3 National Development Plan 2007 – 2013**

The National Development Plan sets out details of the estimated expenditure between 2007 and 2013. Chapter 3 sets out policies in relation to regional development. Galway as a gateway city is specifically referred to in this chapter. The city strengths include a good record of economic growth, its third level education facilities, its existing enterprise base and its strong tourism industry. Key development and investment priorities are set out in the plan. These include improvement in road infrastructure and rail infrastructure projects and the regeneration of the docks area of Galway City. There is no specific reference to the expansion of the Port of Galway in Chapter 3 of the Plan.

Chapter 7 specifically relates to economic infrastructure. Specific reference the Regional Port's Sub- Programme is set out on Page 136 of the National Plan. The information contained under the sub-programme relates to the transfer of powers from the regional harbours to the local authorities or commercial port companies. There are no specific policy statements in relation to Galway Harbour under this sub programme.

#### **8.4 Department of the Environment Community and Local Government: Planning Policy Statement 2015**

This newly published document<sup>8</sup> was referred to by An Taisce during the proceedings of the oral hearing. In particular reference was made to the 10 key principles set out in the document namely:

- (1) Planning must be Plan-led from national plans to local plans.
- (2) Planning must pro-actively drive and support sustainable development.
- (3) Planning is about creating and further developing existing communities.
- (4) Planning must support the transition to a low carbon future and adapt to a changing climate.
- (5) Planning must ensure the greater use of public transport.
- (6) Planning must ensure the effective use of brownfield sites.
- (7) Planning must ensure a sense of place within and between cities towns and villages and rural areas.
- (8) Planning will conserve and enhance the rich qualities of natural and cultural heritage
- (9) Planning will support the protection and enhancement of environmental quality by guiding development towards optimal locations and ensure high standards of water air quality, biodiversity and the minimisation of pollution risk.
- (10) Above all, planning will be conducted in a manner that affords a high level of confidence in the openness, fairness, professionalism and efficiency of the process.

#### **8.5 Regional Planning Guidelines of the West Region 2010-2022**

The Guidelines provide a framework for the long term strategic development of the region in accordance with the requirements of the National Spatial Strategy.

Section 1.5.3 sets out future investment priorities and these include:

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<sup>8</sup> Published mid-January 2015

- The completion of the N/M17 and N/M18 Gort to Claremorris Dual Carriageway.
- The construction of the Galway City Outer Bypass.
- The complete reopening of the Western Rail Corridor with extra stations.

In terms of the Habitats Directive, the Guidelines have identified a number of key planning and development proposals contained in the Guidelines which, when implemented, have the potential to result in negative impacts on one or more Natura 2000 sites. Issues therefore may arise under Article 6 of the Directive which will require Appropriate Assessment. Where an Appropriate Assessment concludes that negative significant impacts may arise, alternative solutions which fully comply with Article 6 of the EU Habitats Directive may need to be considered. Further details in the context of the Habitats Directive are contained in Appendix 4 of the Guidelines. Appendix 4 makes no specific reference to the Galway Harbour extension proposal. It does note however that various transport and commercial proposals which are liable to impact negatively on a Natura 2000 sites, that such a proposals must be assessed in accordance with the requirements of the Habitats Directive. If such an assessment demonstrates that the development cannot take place without impacting negatively on any Natura 2000 site then the development cannot proceed unless there were circumstances where IROPI are invoked.

Section 5.2.3 of the Regional Planning Guidelines relates to ports and harbours. It states that ports and harbours contribute to economic development and are important to transportation links to facilitate the growth and connectivity of the region. Galway sea port is of strategic importance to the west region and Rossaveel not only serves as an important amenity, but is now one of the largest fishing ports in the country. The plans for the relocation and extension of Galway Harbour area which includes a deep water port facility has the potential to contribute to both tourism and enterprise in the local economy and is considered critical for the growth of the region. Adequate infrastructure must be in place to facilitate the sustainable development of the aquaculture industry, marine tourism industry and to facilitate water based leisure activities.

In terms of objectives, IO 21 states the following:

*“Support the sustainable redevelopment and expansion of Galway Harbour which is critical to the continued important role in the growth of the west region. Galway Harbour is also supported in its role to serve and promote water based tourism. Facilities/infrastructure could include a secure berthing area for the marine leisure industry. All proposals will be subject to assessment on environmental sustainability, including impacts on the Natura 2000 network through the Habitats Directive assessment, visual, travel and transport impacts. Any proposal should support enhanced integration with the rail and road network”.*

## **8.6 Galway City Development Plan 2011 – 2017**

Section 9.2.2 of the Development Plan highlights the need to modernise Galway Harbour facilities and this will result in the relocation of the docks to alternative site. It notes that Galway Harbour Company has plans for such a development to the east of the existing inner harbour which will free up the site for redevelopment. This represents a welcome challenge to re-establish links with the sea and open up new opportunities for a range of uses including water-related leisure uses.

It further states that there would be a requirement for any redevelopment to ensure that opportunities for water based recreational facilities are maximised and that public access is secured throughout the area and along the seafront.

The industrial heritage of the area should be reflected in proposals for redevelopment. Due to the sensitivity of the natural environment which adjoins Natura 2000 sites, proposals for redevelopment shall adhere to the requirements of Article 6 of the Habitats Directive. Cognisance should also be taken of the proximity to Seveso II sites at the Port.

In terms of the Enterprise Park, the following policies are set out in Section 5.2 of the Development Plan: -

- Promote the further sustainable development of the Harbour Enterprise Park and related to harbour activities, subject to acceptability from appropriate authorities.
- Support the further sustainable development of Galway Harbour subject to environmental, visual, economic, viability and transportation considerations.

Page 40 of the Development Plan notes that Galway Harbour is an important transport facility. The Council will support proposals for the

development of a new and extended harbour facility and supporting infrastructure. Policy 4.4 of the Development Plan (p.57) seeks to protect conserve and promote the enhancement of internationally (EU) and nationally designated sites of national heritage importance including Galway Bay Complex and Lough Corrib Complex cSAC and Galway Bay SPA.

In terms of land use zoning, the plan sets out a land use zoning objective as “industrial land” for the existing harbour lands at the Harbour Enterprise Park. Acceptable uses include enterprise, industry and related uses. The harbour itself is zoned for city centre uses. Lands to the immediate southwest of the inner dock area are zoned for residential use.

## **8.7 The National Port Policy 2013**

This is a particularly important document in the context of the proposed development as it attempts to set out a national hierarchy for future port development within the state. The National Port’s Policy (NPP) introduces a clear categorisation of the port’s sector into ports of national significance (Dublin, Shannon/Foynes and Cork) which are referred to as Tier 1 Ports. Tier 2 ports are those ports lower down in the hierarchy and are limited to Waterford and Rosslare. Finally ports of regional significance, Tier 3 ports, which are the lowest category of port which includes 14 ports, one of which is Galway Port. Up until the adoption of the National Ports Policy, port companies were encouraged to compete commercially with each other while the State provided a limited direction on the developing an overarching vision for the sector. Under the current Port’s Policy, a differentiation is made between ports of national significance and those of more regional significance.

The report notes that port traffic has increasingly gravitated towards the larger ports in recent years to avail of capacity and economies of scale, particularly in relation to ship size. These trends present obvious opportunities for development at some ports and challenges for others. In this regard, it is noted that the ports differ greatly in current capability and future potential.

The three designated Tier 1 ports (Dublin, Cork and Shannon/Foynes) will form part of the European Union’s Trans European Network – Transport (TEN–T) and thus along with other European ports, these three national ports will receive high priority in terms of developing

highly efficient transport corridors and multi-modal hubs at the ports. Funding will be available from Europe for this development. In terms of Tier 1 ports, the policy document states that “*the continued commercial development of Shannon/Foynes port is a key strategic objective of the National Ports Policy*”.

In terms of regional harbours, the report notes that Galway Harbour Company is an important strategic regional hub for petroleum importation storage and distribution. The ports of regional significance serve an important regional purpose and/or specialise trades or maritime tourism. In the context of the long-term international trends in ports and shipping, these ports are limited in their future potential as centres of commercial shipping. The National Port Policy recognises the importance of these ports in serving their hinterlands and in supporting balanced regional development. With regard to certain specialised trades (e.g. oil/petroleum import and storage/offshore energy servicing) and maritime tourism, a number of these ports could play a more significant role in supporting Ireland’s national economic development. They are however not facilities of national significance.

Section 2.7.3 of the National Ports and Policy specifically deals with Galway Harbour Company. It is noted that Galway is a bulk port which caters primarily for liquid bulk products and the harbour is an important strategic regional hub for petroleum importation, storage and distribution. However declining throughput levels have led to increasing reliance on non-core port activity as revenue streams. The company derives over 50% of its revenue from non-core port activities. The location of the harbour close to Galway City Centre limits its potential for further expansion in terms of increasing trade. However the inner harbour is an immensely attractive location for the development of marine tourism and leisure facilities in particular the marina as well as for urban redevelopment.

The National Ports Policy endorses the development proposals in respect of the inner harbour as referred to in the Regional Planning Guidelines for the West Region and the Galway City Development Plan (see sections below for marine tourism and leisure facilities as well as for urban redevelopment and regeneration). The government also supports the company’s effort to develop the cruise tourist traffic industry.

The NPP also notes that The Department of Transport, Tourism, Sport and other relevant agencies are currently giving detailed considerations

to plans to relocate commercial port activities to a new site on reclaimed land.

Finally the National Port Policy expects that the ports of national significance (Tier 1) will lead the response of the state commercial port sector to future national port capacity requirements. There is also a role in this regard for Tier 2 ports to develop additional capacity to aid competitive conditions within the unitised sectors in particular. The document is silent with regard to the role of regional reports in this regard. The document also states that the Department of Transport, Tourism and Sport intends to instigate a more formalised approach towards capacity forecasting through commissioning of independence analysis at regular intervals from 2018 onwards.

## **8.8 Irish Ports Offshore Renewable Energy Services (IPORES) Report**

This report was prepared by the Irish Maritime Development Office and relates to a review of Irish Port's offshore capability in relation to the requirements for the marine renewable energy industry. The report examines the key role of ports in facilitating future large scale developments of ocean energy devices (wind turbines, wind energy converters, tidal turbines etc.) and provides extensive and updated summary of information on port infrastructure facilities and management in relation to meeting the requirements for marine renewable energy developments.

A total of 14 ports on the island were examined (including ports in Northern Ireland). The most suitable ports for facilitating offshore renewable energy services were designated as 'Category A' ports. These ports meet all the minimum criteria for offshore renewable services. Category B ports while not meeting all the minimum criteria, are nonetheless classified as being suitable in terms of meeting the requirements for offshore renewable energy. Category C ports were deemed to have limited opportunities to facilitate the offshore renewable energy sector. The Port of Cork, Shannon/Foynes and Dublin Port were all listed as Category 'A' ports. Galway was designated as a Category B port (along with Killybegs, Rosslare, and the Port of Waterford). Galway's main strengths were identified as a strategic location for the development of wave energy sector and marine technologies, but the potential for using the harbour is limited at present due to constraints with regard to depth, quay space and available hinterland for the assembly and storage of towers and turbines. The report notes that

there are ambitious plans in place to construct a new harbour which would significantly increase the commercial potential in all areas of maritime activities including marine tourism, marine renewable energy and associated Marine Technology Business Park. Galway Harbour is also being promoted as a centre of excellence for marine related SME and research. Galway Harbour is also gaining a foothold in information and technology associated with ocean and wave energy business. Once the technology is available, future licensing and commercial operation of offshore floating wind and wave energy generation off the west coast of Ireland would offer enormous opportunities associated with the management of operations maintenance and servicing these installations.

## **9.0 ASSESSMENT**

### **9.1 EIS ASSESSMENT**

#### *9.1.1 Introduction*

The EIS in this instance was a mandatory requirement in accordance with the provisions of Schedule 5, Part 18(b) of the Planning and Development Regulations 2001 as amended. *“Trading ports, piers for loading and unloading connected to land outside ports (excluding ferry piers) which can take vessels of over 1,350 tonnes”.*

The EIS submitted with this application has been assessed in accordance with:

- The requirements of Schedule 6 of the Planning and Development Regulations 2001 (as amended).
- The EPA Publication “Guidelines for the Information to be contained in Environmental Impact Statements” (2002).
- The DoECLG publication entitled “Guidelines for the Planning Authorities and An Bord Pleanála on the carrying out of EIA” (2013).

In carrying out the EIA I have had particular regard to the provisions set out in Section 172(1)(H) of the Act. As such; the various additional reports in the appendices and addenda/errata attached to the main EIS, and NIS (the addenda/errata was submitted by way of additional information and as additional information in the oral hearing), and the

subsequent reports submitted at the oral hearing have all been included as part of the overall EIA assessment.

It is noted as a matter of preliminary assessment that the EIA submitted assesses in a systematic way the direct and indirect effects of the proposed development on:

- (a) Human beings, flora and fauna.
- (b) Soils, water, air, climate and landscape.
- (c) Material assets and cultural heritage.
- (d) The interaction between the factors in the aforementioned paragraphs as required by Article 3 of the Directive and Section 171(A) of the Act.

The applicant also submitted a non-technical summary and I am satisfied that this document adequately summarises the information contained in the main document in an adequate and non-technical manner. The EIS also submitted an outline of the main alternatives (see Section 3 of the EIS and also see submission no.'s 38, 39 and 41 submitted at the oral hearing). There is no specific indication contained in the documentation which indicates that any difficulties were encountered in compiling the information submitted.

Chapter 1 of the EIS sets out the background and introduction to the project.

Chapter 2 sets out the planning context in a similar fashion to that which is contained in the planning report submitted with the application. Chapter 2 also contains a business case for the proposed expansion of the port and this section is augmented by an additional report carried out by DKM Consultants which is contained in Appendix 7 of the EIS and submissions by Mr Raymond Burke (No 38 entitled 'The Business Case' and submission no.39 entitled 'Cast Benefit Analysis' by John Lawlor).

### 9.1.2 *Alternatives*

Chapter 3 sets out the alternatives considered as part of the EIA process. In terms of the alternatives studied, different designs for the port layout, different locations within the Galway Bay Area and different port locations in Ireland were all assessed in the EIS. The EIS concludes that Shannon/Foynes offers the only potentially feasible alternative to Galway. However there are some limitations to the

development of Shannon / Foynes according to the document which makes the expansion of Galway Port the favoured solution, (also brief of evidence of Gus Mc Carthy on Alternatives (Submission no.41) the issue of alternatives is assessed in more detail further in my assessment.

Chapter 4 sets out a description of the proposed development. This has already been set out in section 4 of my report.

### 9.1.3 *Socio- Economic Impacts (Human Beings)*

Chapter 5 relates to human beings and the socio-economic impacts of the development (submission no. 42) at the oral hearing presented by Gus McCarthy dealt with this subject matter also. The EIS sets out demographic trends within the city and sets out the future growth anticipated in 2016 and 2022. The statement also analyses employment trends. The tourism industry is identified as a significant contributor to the socio-economic well-being and vibrancy of the city. The amenity and visual benefits of relocating harbour related use to the extended area are deemed likewise have a positive impact. The EIS states that the do-nothing impact will result in the continued decline of the harbour. The proposal will give rise to c.250 jobs and this will have positive indirect impacts on the local economy. The ability of the harbour to facilitate more and bigger cruise ships will have a positive direct effect on tourism. The proposal will provide a bigger marina jetty, promenades and parks as well as opening up coastal walkways along the Bay. The transformation of the inner harbour area for an exclusive leisure marina will also have direct positive impacts on the area. The proposal will have a direct positive impact in terms of employment generation, amenity and tourism. The construction phase will also have a major positive economic impact.

In terms of the impact on the fishing industry, the impact is deemed to be rather neutral. A small portion of the lobster fishing area within the Bay will be affected (estimated to be less than 1% of the total area). This is not deemed to be significant and will be offset by improved fishing facilities at the new harbour extension. As only positive impacts are envisaged, no mitigation measures are required.

I would conclude that the major socio-economic impacts have been identified in terms of the impact on the local environment. The Board however should note that Chapter 4 of the EIS does not evaluate the wider socio-economic impacts in terms of the potential adverse

economic impact that the expansion could have on other ports in the area, most notably, Shannon/Foynes and Sligo. This is an important consideration particularly in light of the National Port Policy, a key objective of which is “*the continued commercial development of Shannon/Foynes port is a key strategic objective.*” Adverse impacts in terms of amenity (noise, odour, traffic etc.) are assessed under separate chapter headings in the EIS.

#### 9.1.4 *Soils and Dredging Impacts*

The EIS carried out a desktop and intrusive site investigation with regard to soils and these are set in Section 6.3 of the EIS. Submission no. 43 presented at the oral hearing Mr Dan Duggan, and to a lesser extent the submission no. 2 by Mr. Anthony Cawley also deals with these issues. The Board should also refer to the report prepared by Mr Jorgen Fredsoe which assesses marine sedimentation impacts. The key points contained in Mr. Fredsoe’s Report are summarised separately below. The anticipated impacts resulting from the removal and infilling of lagoon areas which make up the reclaimed area together with the drilling and blasting of bedrock and dredging of settlement within the Bay area are identified in the EIS. The major potential impact relates to the release of suspended solids and contaminants associated with the construction and dredging activity. The mitigation measures to counteract potential adverse impacts include the use of turbidity meters to assess sediment suspension. The incorporation of geo-membranes within the lagoon areas will curtail sediment release during the infilling process. Studies carried out (granulometry and chemistry analyses of the soil and sediments in the bay) indicate that there are no reasons to suggest that works carried out will result in the release or mobilisation of deep sediments during the works undertaken.

Other identified impacts relate to the release of dust emissions and hydrogen sulphate during land reclamation works. While the impact of air quality is assessed separately in Chapter 9, it is anticipated that any hydrogen sulphide (H<sub>2</sub>S) odour released during the disturbance of deeper anoxic sediments within the Bay will dissipate quite quickly as sediment aeration takes place. An odour management plan (including treatment within dredging vessels out at sea – refer to cross examination by inspector of Mr. Eugene Mc Keown on Day 1 of Oral Hearing immediately after submission no.4), together with a complaints procedure will be put in place. Where sediments are stored above tidal level, during dry periods dampening will take place to reduce airborne dust.

The increased depth of the approach channels to and from the harbour will greatly reduce the potential for sediment suspension by propeller wash and this is noted as a positive impact in the longer term.

The alteration in current directions due to changes in morphology and bathymetry is unlikely to take place based on the hydro-dynamic modelling which is dealt with in Chapter 8 of the EIS (and the brief of evidence by Mr Anthony Cawley at the oral hearing submission no.3).

There are no anticipated additional impacts over and above those already experienced resulting from sediment re-suspension by maintenance dredging operations.

I am satisfied that the EIS (together with evidence presented at the oral hearing) has adequately identified all major and significant impacts associated with the removal and infilling of soil within the harbour works and that appropriate mitigation measures have been identified to offset any significant impacts. Short-term impacts will inevitably result during the construction phase, but these will be temporary in nature, and mitigation measures are set out to reduce potential impacts. The EIS also identifies the interaction between soil removal and other environmental impacts (see Section 6.12 of the EIS). These conclusions are generally in agreement with the conclusions contained in Mr. Fredsoe's report attached as Appendix 4.

#### 9.1.5 *Flora and Fauna*

The EIS incorporates a very detailed analysis of the existing flora and fauna associated with the site and its surroundings. A separate NIS (including two addenda/errata) was also submitted which specifically evaluates the potential impact of the proposal on the integrity of Natura 2000 Sites in the vicinity. The information contained in the EIS and NIS (together with the addenda and errata) is augmented by the various ecological briefs of evidence submitted at the oral hearing (submission no. 5 - Perennial Stony Banks, Dr. M. Sheehy Skeffington; submission no.6. –Birds, Dr. Tom Gittings; submission no.7 Terrestrial Habitats, Mammals and Birds Dr. Chris Peppiatt: submission no.8 Marine Ecology Dr. Brendan O Connor.

The adequacy of the NIS and other ecological material is the subject of a separate assessment by Mr Daniel Bastreri, Ecological Consultant which is attached to this report as Appendix 2. In the various

submissions received, detail of habitats and flora within the existing environment both in terms of marine habitats within the harbour area and terrestrial habitats within the existing port are set out. The terrestrial habitats are generally deemed to be of low ecological value. The EIS goes on to outline the details of the habitats in the surrounding area and terrestrial habitats which could potentially be adversely affected within the zone of influence of the port. In particular detailed studies were carried out in relation to bathymetry, salinity, turbidity and flora and fauna associated with Lough Atalia and Renmore Lough, both of which are designated as priority habitats within the Natura 2000 Site network.

Intertidal survey and a sub-tidal survey were carried out to identify benthic fauna. Reference is made to two micro fauna surveys in the sub-tidal area in 2004 and 2010. Detailed fish bird and mammal surveys were carried out. Desk studies and historical onsite surveys were used to augment all information presented.

The Chapter notes that the Galway Bay Area is a designated cSAC (Site Code: 00268) and SPA (site code 00431).

In terms of qualifying interests, the following significant habitats were identified within the Bay.

- *Mudflats and sand flats not covered by seawater (1140)*, the area of this habitat located within the application site represents c.0.1% of the total Galway Bay cSAC.
- *Reefs (1170)*: this is an Annex I habitat located within the footprint of the development but is present throughout the cSAC.
- *Coastal Lagoons* Lough Atalia and Renmore Lough. While lagoons are listed as priority habitats in the EU Habitats Directive, the conservation status of Lough Atalia was considered to be unfavourable with problems of Eutrophication and pollution. The diversity of terrestrial habitats within the Lough Atalia is poor and much of the area has been or is still subject to human disturbance.

In terms of flora it is stated that none of the terrestrial plants found in and around the harbour area are listed in the EU Habitats Directive or are of particular conservation significance.

In terms of fauna all marine faunal species recorded at the proposed development are common throughout Ireland and north western European intertidal habitats. None are regarded as rare or sensitive and

none are listed in the EU Habitats Directive. There are no sensitive invertebrate species present and the habitat type can be found throughout Irish inshore waters. The Otter is listed in Annex II and Annex IV of the EU Habitats Directive and the Harbour Seal is listed in Annex II and Annex V of the EU Habitats Directive. No sign of an otter Holt was recorded during the dedicated survey of the area and the potential for the site to be regularly used as a Holt is low. There are no colonies of seals within the harbour itself although seals certainly frequent the harbour area. Further details of seals surveys and activities within the harbour area are set out in the addendum to the NIS.

The EIS sets out a vast array of potential impacts which could arise from the proposed development in terms of its impact on:

- Designated sites
- Terrestrial communities
- Marine communities
- Fish communities, bird's communities and mammal communities.

It also sets out detailed mitigation measures, where appropriate, in relation to the potential impacts and a monitoring regime in order to assess and address potential impacts. On the whole, it is concluded that there is potential for minor short-term disturbance impacts of fish, birds and aquatic mammals during the construction phase, however best practice and specific mitigation measures will avoid permanent significant negative impacts on migratory fish, seal and bird colonies and will also minimise any impact on local populations of biota. No significant impacts on fish and mammals are predicted during the operational phase. No impacts on Annex I birds are predicted. Benthic fauna will recover within 1 year of the completion of any dredging at the harbour.

The removal of the proposed reclaimed area (c.24 ha) of feeding and foraging for two qualifying interests associated with the SAC namely the otter and the harbour seal is described as being “permanent” and “indeterminate” therefore applying the precautionary principle this impact is regarded as “significant”. A similar conclusion is reached with regard to the loss of area associated with the inner Galway Bay SPA.

In terms of the impact of the proposal on qualifying habitats associated with the Galway Bay cSAC, the EIS states that a direct and irreplaceable loss of habitat (5.93 ha) for marine plants and invertebrates. This includes the loss of fucoid dominated reef and an inter-tidal habitat comprising of mudflats and sandflats not covered by

water, both of which are listed as a qualifying interest of the cSAC. It will not be possible to mitigate for the loss of this sub tidal habitat.

Chapter 7 goes on to evaluate the potential impact of the proposed development on each individual conservation objective set out in the NPWS report for the Galway Bay complex cSAC. The potential impacts are assessed against the various targets and attributes set out in Section 2 of the NPWS report. The potential impacts are set out in tabular form. Finally in Section 7.10 of the chapter on flora and fauna sets out details of construction and operation mitigation measures.

The initial assessment of the application before the Board concluded that the flora and fauna section of the EIS and the information and conclusions in the NIS were not necessarily supportive in all aspects of evaluation and this was reflected in the additional information request issued by the Board in May 2014. The further information submitted in the form of an EIS errata/addenda together with the information submitted at the oral hearing results in a more comprehensive and robust analysis of the potential impact of the proposal on the receiving environment. I am therefore satisfied that the EIS comprehensively addresses issues regarding the potential ecological impact of the proposed development. Again this conclusion sits comfortably with the overall conclusions contained in Mr. Bastreri's report that, in relation to marine ecology, *'Chapter 7 of the EIS provides an adequate characterisation of the receiving environment below the MHWS<sup>9</sup> level'* and that *'all the relevant drivers of biophysical changes attributable to the project that are likely to affect valued ecological features, resources, conservation objectives and qualifying nature conservation features have been adequately described'*.

#### 9.1.6 Hydrology

The section describes the water movement and water quality within the Bay. In terms of water quality the EIS notes that there have been some breaches in bacteriological water quality. But the numbers of breaches has been low and are generally attributed to the discharges from the Mutton Island wastewater treatment plant.

Hydrodynamic and sediment modelling of the proposed development was carried out to assess and quantify the potential impacts on tidal circulation, water quality, sedimentation and salinity within the Galway Bay Area and also within Lough Atalia and Renmore Lough. The Board

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<sup>9</sup> Mean High Water Spring Level

are referred to the separate report prepared by Mr. Jorgen Fredsoe (Appendix 4) which specifically deals with the hydrodynamic marine environment. Hydrodynamic simulations of the flows of the River Corrib were carried out during both spring and neap tides. The overall conclusion in the EIS is that the proposed harbour extension configuration will not have any significant impact on the critical bed shear (erosive properties) along the shoreline of the Bay. In fact the configuration of the harbour will reduce deposition on the new approach channel and the proposal will not result in any erosion elsewhere in the Bay. In terms of sediment deposition, the simulation model with the development indicates a reduction generally of between 40 – 60% fine sediment loads east of the proposed development.

The EIS goes on to model salinity levels at different depths during the various tidal regimes (over a 16.5 day cycle) together with the various river flow rates within the River Corrib (1 %ile, 10 %ile, 50 %ile, 90 %ile and 99 %ile flows). The simulations predict that the proposal will result in a slight lowered of salinity concentrations within Lough Atalia (c.1.29 parts per 1,000 – ‘ppt’). This is deemed to be negligible in terms of ecological impact.

In terms of the impact of effluent discharge from Mutton Island WWTP, the dispersion plume for the south-easterly discharge point will in no way be affected. Slight changes in the plume of the discharge closer to Mutton Island will occur as a result of changes in water velocity resulting from the proposed harbour extension. The EIS also assesses the in-combination effects of the Mutton Island causeway on hydrodynamics and salinity within the Bay.

Two models were used to predict any changes in wave climate resulting from the harbour extension. On the whole the modelling indicates that the maximum heights of waves are not anticipated to change significantly (generally in the order of 0.1 metres) on lands to the west of Nimmo’s Pier). The model also indicates that there will be a significant reduction in the wave climate on the approach to the City between Nimmo’s Pier and the existing commercial dock area.

Chapter 8 also incorporates a flood risk assessment to assess the impact on adjoining flood susceptible areas (Spanish Arch, Claddagh Quay). The major flooding risk arises from tidal inundation particularly where it occurs with fluvial flooding. The proposed extension in the bay will be set at a minimal level of 4.7 metres AOD. A climate change allowance of 300 mm was also factored into the design levels on the

proposed reclaimed area. Four separate scenarios were modelled (see page 8-180) and it was concluded that the port development extension will not affect the maximum high water tide and combined fluvial flood levels within the study area specifically upstream of Nimmo's Pier.

The EIS sets out a summary of impacts and mitigation measures in Table 8.5.1 (page 8- 213). This section of the EIS summarises the potential impact together with the anticipated residual impacts in the areas of

- Impact on salinity levels within the bay
- Impact on current velocities in the bay and the potential impact on erosion within the bay
- Alterations in current directions and potential impact on sediment deposition
- Release of contaminants from construction sites and constructed vessels (including bulge from vessels, sewerage, diesel, other oils and grey water. Impacts from maintenance dredging
- Changes in wave climate
- Potential impacts on flooding.

In relation to the water environment I consider that the EIS has identified and addressed all potential significant impacts direct, indirect and cumulative arising from the development in relation to the water environment. The potential magnitude of the impacts has been identified and a description of the main measures to avoid, reduce and if possible offset the major adverse impacts where applicable, have been identified and detailed. Again this conclusion sits comfortably with the conclusions set out in Mr. Fredsoe's Report attached.

#### 9.1.7 *Air Quality*

The main potential impacts identified and described in the EIS in relation to air quality, include changes to ambient dust and particulate matter and the potential for increased odour arising from the construction works and the operation of the port activity. The brief of evidence submitted by Mr Eugene McKweon (submission no.4) at the oral hearing should also be read in relation to air quality.

Existing baseline air quality and odours associated with the harbour are detailed. A dust modelling methodology to anticipate future air pollution arising from the works is also set out. The impact of dust emissions from

the construction aspect of the development is considered to be minor. In terms of odour, increased hydrogen sulphide (H<sub>2</sub>S) levels are likely to result from dredging activities. Should significant odour issues arise, treatment facilities can be deployed to address this problem. The potential impact is deemed to be minor to moderate and will be the subject of monitoring and, if necessary, controlled. During the operational phase, any emissions would be the subject of a separate licence and all dust related activities will take place within an enclosed environment.

Other potential air emissions include emissions from the cargo handling, cargo vapour emissions and emissions for ships. The emissions from ships are indicated under various growth scenarios (see Appendix 9.1 of the EIS). The overall impact of the expanded port operations in terms of air quality are deemed to be negligible to minor and the various mitigation measures set out in Section 9.9 of the EIS. These include a suite of measures to prevent and reduce air emissions through various management programmes on dust and odour containment. It is concluded that the proposal will not impact on the existing air quality status of Galway which has been designated as “Good” (EPA data).

Again I consider the chapter has assessed, in an objective and comprehensive manner, the potential impact of the proposed development on air quality during both the construction and operational phases. Based on the information presented, I would concur with the main conclusions that, with the inclusion of mitigation measures as set out in the EIS, the development is unlikely to have a significant impact on existing air quality.

#### 9.1.8 *Noise and Vibration*

Noise levels are examined in the EIS in terms of both air-borne and water-borne noise generation resulting from the development. Submission no. 3at the oral hearing also assesses air-borne and underwater noise arising from the proposal. In terms of airborne noise, port related traffic and railway noise are the major contributors to noise generation. It is stated that traffic generation is a major source of noise generation during the day while port related traffic is the dominant noise source at night time.

In terms of construction noise the main impacts identified are

- The construction of the various lagoons.
- The dredging works both suction hopper and backhoe.
- Key wall construction including pile driving.
- Construction traffic.

Noise maps have been prepared for each of the above construction activities. These are indicated on figures 10.4.1 to 10.4.7 of the EIS. The noise impacts are deemed to be acceptable with the exception of night time pile driving.

A similar type assessment was carried out during the operational phase and similar noise isobar contour maps have been prepared. The impact of additional traffic to and from the port as a result of the expansion is considered to be negligible (in the order of 1dB). Rail noise resulting from new railway spur is likely to give rise to noise levels within acceptable limits. During port operations, noise impacts at the nearest noise sensitive locations are deemed to be within acceptable limits with the overall impact described as negligible. In fact the relocation of the port activities to a point further out in the Bay will have an overall positive impact on the nearest noise sensitive locations at Mellows Park and Claddagh Quay.

In terms of underwater noise, it is stated in the EIS that salmon and eels are most likely to be effected during the operational phase and marine mammals are most likely to be effected during the construction phase. The model for underground noise propagation indicates that pile driving will require an exclusion zone of 64 metres for marine mammals. For dredging and exclusion zone of 128 metres is required and an exclusion zone of up to 1 kilometre is required for blasting.

In relation to assessing the noise and vibration chapter of the EIS, there were in my view, a number of short-comings associated with the original documentation submitted. A question arises as to why the EIS estimates the  $L_{den}$  for construction works when these are to take place during daytime and not evening and night time. It is not altogether clear whether the noise model used in the EIS specifically takes into consideration that the noise in question is propagating over a water medium (as opposed to a medium with greater absorption qualities). It is interesting to note that in calculating the noise standards, the EIS states that “as traffic noise is dominant during the day time the noise due to unloading bulk cargo is not considered”. I would consider it important that noise associated from the port should be factored into noise calculation measurement as fluctuating noise levels associated

with the port could have significant impacts on  $L_{Aeq}$  levels. It also appears that the EIS estimates sound propagation based on a point source as opposed to a line source. It is questioned whether or not this is appropriate having regard to the fact that the dredgers will not be operating on a fixed point but will be moving up and down a dedicated alignment. It was also noted that the EIS does not assess the cumulative impact particularly resulting from construction activities where various construction works are operating simultaneous on site.

These points were raised as part of the additional information request, and in my view were adequately addressed in the information submitted by the applicant (see sections 3.1 to 3.7 of Folder entitled 'Response to Request for Further Information' pp17-26). The information submitted will be evaluated further in Section 9.10.1.1 to 9.10.1.4 of my assessment below.

In terms of vibration, the EIS identifies two potential sources - heavy vehicular traffic and blasting. I note that there is no reference to pile driving as a source of vibration. Pile driving could potentially give rise to vibrations. The sensitive receptor in terms of blasting is deemed to be bitumen and fuel storage tank farms as well as ground nesting birds and commercial shell fishing. Mitigation measures to reduce the impact of vibration include delayed detonation and permitting blasting at other certain times of the year so as not to impact on wildlife. Best practice blasting techniques adopted by Canadian Authorities, American Authorities and BS 5607 will be employed as mitigation measures.

#### 9.1.9 *Climate Change*

The EIS considered that the proposed development will not have any impact on climate on a macro scale. The information contained in the EIS was augmented by two submissions in the oral hearing by Antony Cawley at the oral hearing (submissions No.'s 2 and 21). Again having regard to the nature and extent of the development this is a reasonable conclusion in my view.

#### 9.1.10 *Landscape and Visual*

Sixteen daytime and four night time photomontages have been produced as part of the EIS depicting the visual impact from the proposed development. The landscape character of the area is described and the proposal is assessed against the various landscape characteristics in the Galway Bay, which have been identified. The

impact is described in the EIS as being generally “permanent slight negative impact”. The impact on the ‘Urban Waterfront Landscape’ is deemed to be a moderate to significant negative impact. Various visual receptions in the wider area are also identified and the degree of visual impact is evaluated. Eighteen receptor points are identified in the EIS and the visual impact on these receptor points are considered to be slight to moderate.

The conclusions reached in the EIS were augmented and the conclusions somewhat altered as a result of the brief of evidence submitted by Ms Margaret Egan at the oral hearing (submission no. 46) which concluded that the impact would be somewhat worse than that originally anticipated particularly as a result of a removal of a hedge near Mellows Park to the east of the development. The overall impact in the brief of evidence is described as moderate to significant and permanent.

The night time visual impact is also assessed. Ships and light pollution are identified as being the biggest contributors to night time visual impact. The EIS also separately assesses the visual impact arising from construction. Overall mitigation measures include landscaping, the use of colour and cowled lighting within the harbour area. It is also stated that placing the marina element on the city side of the development will help filter and create a soft edge to the overall port development and deflect away from the industrial nature of the activities. Details of landscaping proposals are also set out. It is my considered opinion that the EIS adequately describes, depicts and evaluates the potential impacts of the proposal in the visual amenity and landscape. The issue of visual impact is discussed further on in this assessment.

#### *9.2.11 Material Assets*

##### *Cultural Heritage*

The first section of chapter 13 assesses the cultural loss to the city arising from the proposed development. Again two briefs of evidence presented in the oral hearing augment this section of the EIS (submissions no. 47 and no.48) The location of shipping so close to the city centre is described as unique in comparison to other cities. The maritime use within the existing harbour area will be maintained however any loss of industrial activity should be balanced against the need to secure port activities in Galway. It is concluded that the cultural loss cannot be measured in any objective way.

The works involved in lowering the road at Lough Atalia Bridge are also assessed. The visual impact is deemed to be slightly negative however this is counterbalanced by improvements in road safety arising from the works carried out.

### *Archaeology*

The archaeology section sets out a history in the city and its hinterland from pre-historic times to the present day. Potential archaeological features from historical maps are identified and underwater archaeological investigations were carried out as part of the EIA process. Five shipwrecks have been identified in and around the proposed development. Extensive geo-physical and dive surveys of the proposed extension area discovered no definitive archaeological features associated with the shipwrecks however, the EIS acknowledges that there could be some archaeological remains in the deep sediment. The archaeological impact of each of the aspects of the proposed work is undertaken and assessed in the statement. The potential impact from works to be undertaken at the road excavation at Lough Atalia Bridge is described as having a moderate impact. Excavations close to the bridge will have to be carefully monitored. All other impacts from a terrestrial archaeological perspective are deemed to be slight, neutral or imperceptible.

The EIS acknowledges that there could be archaeological remains very deep within the underlying sediments subjacent to the sea floor. These will be removed as part of the ground preparation works for the development. The impact classification in terms of any such removal is deemed to be significant, profound, permanent and irreversible. The main mitigation measures include various archaeological monitoring which will take place during the construction time frame. Any artefacts found will go on public display. Again I am satisfied that the EIS has carried out appropriate investigations in order to ascertain the potential significant effects of the proposed development in terms of archaeology both in terms of terrestrial archaeology and marine archaeology. Where archaeological features are removed, the EIS acknowledges these impacts will be significant profound and irreversible. The mitigation measures include archaeological monitoring and, where archaeological features are encountered, if appropriate, such artefacts will go on public display.

### *Transport and Traffic*

Chapter 13.3 specifically relates to the role of which rail operations will play in the development of the port. Rail transported freight to and from the port will be provided “as soon as viable freight tonnage warrants the expenditure” (page 13.3.1). Due to current operational restrictions, the Galway-Athenry line has only three possible windows available to accommodate freight transport from the harbour area outside operating freight transport during the night time. It is envisaged that only a fraction of the freight tonnage will be transported via rail. The new rail system could potentially impact on existing passenger services and signal arrangements. Mitigation measures are provided in order to avoid the adverse impacts. The extension of the railway line particularly along the elevated embankment at the northern end will have a visual impact and will also have noise implications. These aspects of the rail proposal are assessed and evaluated under other chapters in the report.

The most significant potential impact in terms of material assets is identified as being increase in traffic levels during both the construction and operation of the port facility. This section of the EIS has been updated and augmented by the brief of evidence by Mr. T Cannon at the oral hearing, submission no.44. Evidence presented at the oral hearing indicated that since the publication of the EIS in January 2014 a new Galway City base traffic model (2012 base year) has recently been made available. However a comparison of the figures contained in the two models at a key junction (the Moneenageisha junction) demonstrates that the 2011 modelling used in the EIS is still applicable and valid for the purposes of the analysis. The section on road traffic suggests that future growth scenarios contained in the model are optimistic in that they over predict future traffic volumes under various scenarios and do not include all envisaged road improvement schemes which are likely to take place within the city up to and including the design year of 2031. As such the traffic modelling undertaken in the EIS represents a worst case scenario. 15 key junctions have been identified and modelled for the purposes of the traffic assessment. A number of large scale committed developments in the city centre and outer suburbs have also been included for the purposes of estimating future trip generation within the city. The Galway City outer bypass which is envisaged to be constructed before 2020 has not been included in the modelling (thus traffic which is likely to be removed from the city centre as a result of the construction of the outer bypass has not been factored into the forecast models). The chapter on traffic outlines the trip

generation for the various land uses proposed and these are primarily based on the TRICS database (Table 13.4.1 to Table 13.4.27 in the EIS). It appears from the information contained in the EIS that the future HGV traffic associated with the port was calculated on a specific land-use trip generation basis as there is no reference to harbours/ports as a specific land use in the TRICS database. Reference is made to the trip generation from the individual land uses which will make up the harbour development (marinas, industrial uses etc.) The trip generation for construction activity associated with the work is also included in the modelling. The SATURN model was used for the purposes of forecasting future trip generation. Various modelling scenarios were tested for the base year (2011).

Various scenarios were modelled for each year including:

- The “do nothing” scenario with baseline traffic (2011, 2016, 2022, 2031 both am peak and pm peak).
- 2011 am peak and pm peak with the development.
- 2016 am peak and pm peak with the development.
- 2021 am peak and pm peak with the development.
- 2031 am peak and pm peak with the development and 2031 am peak and pm peak with the development at a high sensitivity test (i.e. with the inclusion of the proposed new harbour based on a high tonnage growth scenario).

A junction analysis under the various scenarios was carried out for all 15 key junctions specified in the EIS. The analysis indicates that at least one, or in many cases a number of arms of the junction will operate at over-capacity (a volume to capacity ratio in excess of 1.00) however the analysis also shows that these junctions are likely to operate at over capacity in the absence of the development going ahead. The EIS also indicates that it is proposed to designate certain haulage routes for HGV traffic in order to reduce the impact on roads which are generally considered unsuitable to accommodate traffic. Other mitigation measures are proposed. These include general traffic management measures and road improvement works which will improve the flow of traffic to and from the harbour.

In general I am satisfied that the EIS has attempted to ascertain the significant traffic impacts arising from the proposed development and assesses future traffic volumes arising from the development in the context of other developments which will occur in Galway city. The future volumes of traffic along with the various trip assignments along

the local road network have been modelled under various growth scenarios. I consider that the EIS attempts to predict a reasonable and accurate picture of traffic flows within the city resulting from the proposed development (based on TRICS data) in the context of other developments. The information presented in the EIS appears to represent a fair, accurate and honest portrayal of traffic impact in the city under future possible growth scenarios. Mitigation measures in relation to general traffic management measures for haulage routes a network upgrades as well as road safety issues concerning vehicles, pedestrians and cyclists are also set out in the section on traffic.

The next section of the EIS sets out details of a proposed mobility management framework to be developed with all users of the development. This information has again been augmented by additional information submitted at the oral hearing by Mr. T Cannon (submission no.44). Mobility management measures are to be implemented as part of the construction management plan are to be developed by the appointed contractor. The final two sections of Chapter 13 relate to health and safety aspects and a risk assessment associated with the development.

#### *9.1.12 General Conclusions in relation to the EIS*

I have assessed the content of the EIS and all associated material submitted as part of the application (particularly the information submitted in the form of briefs of evidence in the oral hearing). In undertaking and compiling the EIS I consider that the applicant has identified and described adequately the direct and, where appropriate, the indirect effects on the environment and has also endeavoured to set out in adequate detail, a description of the main measures to avoid, reduce and where possible offset the major adverse effects arising from the proposed development both during the construction and operational phases. I therefore conclude that the EIS submitted complies with the requirements of Article 94 & 111 of the Planning and Development Acts 2000 (as amended)

Notwithstanding the above conclusions contained in the EIS, it is both necessary and imperative for the Board in both carrying out EIA and in determining the application before it, re-assess and scrutinise the information submitted with the application, including the information contained in the EIS, particularly in light of the observations received, in order to determine if the proposed development is in accordance with

the proper planning and sustainable development of the area. These issues are addressed more comprehensively below.

## **9.2 Strategic Considerations**

### **9.2.1 *Compliance with EU Policy on Port Development and Shipping Policy***

By its very nature EU Policy is over-arching and broad in relation to shipping and port-related issues. It is not prescriptive in terms of providing any level of detail on the strategic development of ports in Ireland. It is sufficient to note that Galway Port is not listed as a one of the five key ports in Ireland designated under the TEN-T programme for port development. It is also of note that Shannon/Foynes, the only Port shortlisted in the EIS, is designated as a 'Core Port' under the TEN-T programme. While shortlisted in the EIS, the applicants, both in the EIS and at the oral hearing proceedings, have stated that they do not consider Shannon Foynes as a viable or feasible alternative to the development of Galway. This conclusion is not accepted by either Shannon Foynes Port Company (SFPC) or a number of other observers at the oral hearing.

It can be reasonable concluded, based on port hierarchy, that Shannon/Foynes, being designated as one of the 329 key ports under the TEN-T programme, would be favoured and prioritised in terms of expansion and development over and above regional or non-designated TEN-T ports such as Galway in terms of EU Policy for port development. It is also worth noting that Shannon/Foynes would attract specific funding for developing supporting infrastructure under the TEN-T funding programme. Such funding, it would appear, would not be available to Galway Port. This may be a particularly important consideration, specifically in relation to developing road and rail links in and around the port areas. Likewise it would appear that Galway, not being designated as a key port under the TEN-T programme, may not be able to avail of initiatives available to raise the environmental profile of the port which could be made available under the TEN-T programme. Such funding may be available in the case of Shannon/Foynes. This could be very important consideration having regard to the fact that both ports lie within and contiguous to, environmentally sensitive areas. This latter issue is dealt in more detail below.

## 9.2.2 Compliance with National Ports Policy

The National Ports Policy (NPP) was prepared by the Department of Transport, Tourism and Sport in 2013. Prior to its adoption Port Companies were encouraged to compete commercially and no differentiation was made between ports of national significance and those of regional significance. Subsequent to the adoption of the national ports policy a clear categorisation of Tier 1, Tier 2 and Tier 3 ports have been adopted. Tier 1 ports are deemed to be of national significance and these are Dublin, Cork and Shannon/Foynes.

Tier 2 ports are deemed to be secondary ports of significance and these include Waterford and Rosslare. Tier 3 ports which are essentially regional ports include Galway, Drogheda, Dun Laoghaire, New Ross, Wicklow and all other ports that handle commercial freight.

It is interesting to note that all Tier 1 & 2 ports are located at or to the south of a geographic line between Dublin and Limerick. This leaves a significant portion of the country particularly in the north-west, without a designated port of national significance. The extent to which the NPP contributes to balanced economic development as envisaged under the National Spatial Strategy for example, is a moot point in my opinion, and also in the opinion of observers and public representatives in their submissions at the oral hearing. It was pointed out that there is no designated port between Limerick and Derry on the west coast and this will have adverse economic ramifications for the west and north-west of the country.

Notwithstanding these reservations, it is my view, imperative, that the Board in deliberating on this application pay significant attention and place particular weight and gravity to the policies and provision in the NPP as is required and specified under Key Principle No.1 of the recently published DoECLG Planning Policy Statement 2015; in that *'planning must be plan-led and evidence based'*. Therefore any misgivings that the Board may have regarding the geographical designation of ports within the island of Ireland should be set aside in considering this application, as the port status within the Island has already been determined.

The importance of the proposal in the context of the National Port Policy was highlighted during the pre-application consultations with the Board, with the Board emphasising that compliance with the NPP is an important consideration in the assessment of the harbour extension and

an important consideration in the evaluation in the assessment of alternatives (see minutes of meeting dated 24<sup>th</sup> April 2013).

The development of Shannon/Foynes and its place in the hierarchy as a Tier 1 port is a critically important consideration in my view. As this Tier 1 Port was the shortlisted as the only potentially viable alternative to Galway (although subsequently rejected as not being feasible by the applicant in the EIS and in the oral hearing). It should therefore be evaluated very carefully as a potential alternative to Galway Port in the context of the provisions of the National Ports Policy and arguments set out by various observers (including SFPC).

The National Policy notes that port traffic has increasingly gravitated towards larger ports particularly those that can handle containerised traffic. However the document is not specifically prescriptive in stating whether or not the expansion of Tier 3 regional ports is envisaged or indeed encouraged in order to cater for this increased portion of trade. It is however clear that Tier 1 ports are actively encouraged to develop and expand under the strategy. In fact the expansion Tier 1 port is a *“key objective of the National Ports Policy”* (Page 25).

It is also clear from the policy document that the Tier 3 ports are essentially seen as facilitating trade for the regional hinterland. The national policy sees regional ports as just that – ports which facilitate maritime trade at a regional rather than national level. The national ports policy does note that Galway is an important strategic hub for petroleum importation, storage and distribution. However, *“the longer term development of these ports is best placed within the regional and local communities”* (Page 30). Furthermore with specific regard to the expansion of Galway Port, the document states that the Department in conjunction with other agencies are *“currently giving detailed consideration to the plan to relocate commercial port activities to a new site on reclaimed land”*. While this statement does not rule out future expansion of the port facility, it cannot in my view be seen unequivocal endorsement of the expansion and the size and scale proposed.

A key decision which the Board must undertake in assessing the application is whether the expansion of the port on the size and scale proposed is at variance to the hierarchy set in the National Ports Policy. That is to say, if granted permission would Galway be over-stepping its role in terms of the future road-map for port development? Or would it merely be facilitating an enhanced regional role for the north and north-west within the envisaged hierarchy. The applicants have consistently

argued that the size and scale of the expansion is in line with regional development and this is supported by the location of the various industries and enterprises which rely on the Port for trade as indicated on the map contained in Mr Raymond Burkes submission at the oral hearing (submission no.38 p. 6). This map clearly indicates that the location of the Port of Galway's customer base is located within or contiguous to the County of Galway. This suggests that Galway currently plays a regional role only.

The key question which arises is if Galway were to expand as proposed would it still continue to play a regional role or would it upset the hierarchy set out in the National Ports Policy? SFPC clearly argue that the latter scenario would occur. In this regard reference is made to a Table presented in the submission on behalf of SFPC at the oral hearing (submission no.77 p.2). The critical elements contained in the Table 4 are distilled below:

**Table 4: Tonnage of Existing Ports 2013**

<b>Port</b>	<b>Tonnage 2013</b>
Dublin (Tier 1)	19,865,000
Cork (Tier 1)	8,983,000
Shannon Foynes (Tier 1)	10,290,000
Waterford (Tier 2)	1,348,000
Rosslare (Tier 2)	1,940,000
Galway (Tier 3) (Current)	521,000
Galway (Proposed 2024)	1,932,000*

\* Baseline Scenario

It is clear from the above figures that the 3 national tier 1 ports are significantly ahead in terms of tonnage handled with c. 9m to c. 19m tonnes handled per annum. The tier 2 ports are significantly further back at c. 1.3m to c. 1.9m tonnes per annum. Galway if permitted to expand on the size and scale proposed would be handling volumes typical to that associated with of a 'Tier 2' Port at present. Although it was pointed out during the questions and cross-examination of SFPC that tier 2 ports (Waterford and Rosslare) in 2024 will most likely be handling higher volumes than that presently.

Another point worth considering is that Galway, if permitted to expand under the currently application would be significantly larger than the

other regional ports designated in the NPP<sup>10</sup>. The current volume of traffic and trade associated with the other ports are set out in the Table below:

**Table 5 Tonnage of the Various Tier 3 Regional Ports in 2011<sup>11</sup>**

Port	Tonnage '000's
Castletownbere	26
Drogheda	489
Dundalk*	107
Dun Laoghaire	12
Greenore	362
Killybegs	37
Kinsale	111
New Ross	357
Sligo	46
Tralee (Fenit)	19
Wicklow	99
Youghal	82

\* As of July 2011 the Port of Dundalk was dissolved and its functions were transferred to the Dublin Port Company

I can only conclude based on the figures above, that Galway, if permitted to develop would be significantly larger than other regional ports, in some cases between 10 and 50 times larger, even allowing for some expansion in the above ports up to 2024. Galway currently is and is likely to remain one of the larger regional ports in the country, however I am not convinced that the proposed expansion of Galway Port on the size and scale proposed is similar to that conceived under the policies as set out under the NNP, and that the development and expansion of Tier 1 and Tier 2 ports including Shannon/Foynes would be prioritised above that of Galway at national level. Furthermore as suggested by the SFPC in its observations to the Board, the expansion of Galway of the size and scale proposed could undermine and compete with the future expansion of a designated Tier 1 port, *'where the continued commercial development of Shannon Foynes Company is a key Strategic objective of the National Ports Policy'*.

If Galway were to commercially compete with a Tier 1 Port, this would in my view be also contrary to the NPP especially as both ports are

<sup>10</sup> The major exception to this would be Bantry Bay which as a designated Regional Port in the NPP handled c.1.403 m tonnes in 2011. However Bantry Bay harbour Co. was incorporated into the Port of Cork in January 2014 and therefore is no longer operating as an independent harbour company. Oil importation accounted for 100% of trade at Bantry.

<sup>11</sup> As per Table 2.8 of the NNP

fighting for the same market in terms of petroleum importation and marine renewable energy infrastructure.

The NPP goes on to state that *'To provide clarity in the national port sector, National Port Policy recognises a third category of Ports: **Ports of Regional Significance**...(NNP Emphasis)...In the context of long term international trends these ports are limited in their future potential as centres of commercial shipping'*. Thus if a straight choice had to be made between developing and expanding one of these ports, Shannon/Foynes would be the favoured option under the National Ports Strategy.

I do however consider that a comprehensive and robust business case has been made for the development of Galway Port and I will elaborate on these arguments further below in my assessment. And setting aside any qualitative safeguards required under the Habitats Directive, I have been convinced that the expansion of the Port could provide significant regional growth and tourism potential for the city while opening up the Inner Dock Area to great urban regeneration potential. Notwithstanding this view, it appears to me that the future vision under the NPP is for the expansion of commercial shipping to be directed to Tier 1 and Tier 2 ports and that the size and scale proposed for Galway under the current application is beyond that conceived for a regional port under the plan, having particular regard to the current trade volumes for both Tier 2 and Tier 3 ports and indicated in the Tables above. It should also be borne in mind that any further expansion of Galway could undermine investment in Shannon/ Foynes which by extension could undermine the National Port Policy. Thus it is my overall conclusion that the proposal is contrary to National Policy and that the Board should place specific weight and emphasis on national policy having regard to the first key principle of the National Planning Policy Statement 2015.

Finally in relation to the National Port Policy, it is worth noting that the Department intends to *"instigate a more formalised approach towards capacity forecasting through independent analysis at regular intervals from 2018 onwards"*. This could suggest that any large scale expansion of Galway Port could be considered premature in the absence of any such capacity forecasting and the fact that an existing hierarchy has been established under the Ports Strategy. Thus perhaps whether or not any such expansion would be contrary to the envisaged hierarchy set out in the NPP can only reasonably be ascertained when a more formalised approach to capacity forecasting is undertaken post 2018, as envisaged under the strategy.

### 9.2.3 *Compliance with the Policy Provisions of the IPORES Report*

The report on the Irish Ports Offshore Renewable Energy Services (IPORES) prepared by the Irish Maritime Development Office which sets out a review of the ability of Irish ports to cater for and support Offshore Renewable Energy, acknowledges the opportunities of Galway Harbour to support the expansion of this growth sector. However it should also be borne in mind that the same report acknowledges that similar opportunities exist for Dublin Port, Shannon/Foynes, the Port of Cork, Killybegs and Belfast Harbour. There can be no doubt from the information contained in the EIS and the oral submissions at the oral hearing that Galway Harbour Company considers that business opportunities will exist in terms of catering for the marine renewable energy sector as well as offshore oil and gas. It is also hoped that the Galway Harbour Enterprise Park would become a hub for ocean technology companies and this was eloquently elaborated upon in the presentation to the oral hearing by Mike Devane submission no.74D entitled 'Harvesting Our Ocean Wealth'. The IPORES report notes that the Galway Harbour company presently has limited facilities to offer offshore renewable energy. The commercial potential to take advantages of opportunities in marine renewable energy developments is very much dependent on the expansion of the port taking place. For this reason Galway Harbour has been given a Category 'B' rating in terms of the IPORE's assessment. It is however likely that if the proposal were developed any existing capacity constraints within the port would be addressed and an upgrade to Category 'A' status would be forthcoming in any future reassessment. The current Category 'B' Status for Galway compares with a Category 'A' rating for the Shannon/Foynes facility.

The report considers that Category 'B' ports have an important role to play in servicing future offshore demand but would probably not have the same scope to handle in the short-term, a large scale investment given the natural hinterland and other constraints. Whereas Category 'A' status ports are considered to be in a position to meet almost all the criteria for which large foreign investors are likely to seek in terms of assembly and service.

Therefore if a concise comparison were to be made between Galway and Shannon/Foynes in terms of both port's to cater for and support Offshore Renewable Energy, it is clear that the IPORES report would favour Shannon/Foynes over Galway. This again is an important consideration for the Board, as offshore renewable energy is an

important basis on which Galway Port intends to build upon. Notwithstanding this Shannon/Foynes appears to be currently better equipped in terms of existing supporting infrastructure.

#### 9.2.4 *Compliance with Regional and Local Policy*

In terms of regional policy, the expansion of the Port of Galway is not listed as a future investment priority in section 1.5.3 of the Regional Planning Guidelines. Notwithstanding this, Section 5.2.3 acknowledges the role that port development can play in the wider economic development of the region. In this regard specific reference is made to the relocation and extension of Galway Harbour and the contribution it can make to the economic and tourism potential of the Region. In fact the Guidelines go further in stating that the port expansion is 'critical' to the region. Objective IO 21 specifically supports the expansion of Galway Harbour and acknowledges its key role in the development of the western region. It is also recognised that the development could have implications on Natura 2000 Sites. The NNP is a national and more recently published document and as such it can be reasonably argued that it could take precedent over the RPG's for the West Region. There can however be no doubt that the Regional Planning Guidelines are fully supportive of the expansion and redevelopment of Galway Harbour.

The City Development Plan likewise is fully supportive of the port expansion and notes that any such proposal will open up new opportunities including water related leisure uses. Again reference is made in policy 4.4 to the need to adhere to the requirements of Article 6 of the Habitats Directive. As in the case of the Regional Planning Guidelines the City Development Plan is unambiguous in its support for the redevelopment and expansion of the Port of Galway.

The submissions from Galway City Council both in terms of the original written submission to the Board and the oral hearing gave a somewhat more qualified endorsement – accepting the proposal would be beneficial to the city in principle subject to some qualitative safeguards.

### **9.3 Ecological Impact arising from the Proposal (Appropriate Assessment).**

#### *9.3.1 Introduction*

The Board appointed a consultant ecologist with specialist expertise in marine ecology to assist the Inspector and the Board in assessing the application. In this regard Mr. Daniel Bastreri of Thompson Ecology, A UK based consultancy firm, was employed by the Board. Mr Bastreri was requested to consult with all information submitted with the application which related to his area of expertise and was also present at Module 1 of the oral hearing. His full report is attached as Appendix 3 to this report. Mr. Bastreri's brief is summarised below:

- To assess the adequacy of the ecology section of the EIS (including all addenda and errata) in terms of; (a) describing the existing environment (b) assessing the direct, indirect and cumulative impacts (c) setting out adequate mitigation measures to reduce or avoid potential impacts (d) identifying adverse residual impact post mitigation.
  
- Assess the impact of the proposed development on marine ecology arising from the development during both the construction and operational phases. Particular reference should be made to the issues of habitat loss, habitat disturbance reduction in foraging areas.
  
- Assess the adequacy of the NIS (including all addenda and errata), including the identification of all designated sites which could be impacted upon and all the qualifying interests which could be adversely affected by the proposed development. The report should form a conclusion based on the above analysis whether or not the proposed development is likely to affect the integrity of a European Site having particular regard to EU Guidance on the matter.
  
- Finally the consultant was requested to briefly comment on any conclusions reached in the Natura Impact Report prepared for the Shannon Foynes Master Plan 2041.

#### *9.3.2 Adequacy of EIS*

The Board should note that much of the information contain in the EIS is also contained in the NIS and for this reason in carrying out the Appropriate Assessment, Mr Bastreri's report makes reference in some instances to information contained in the EIS as opposed to the NIS.

Mr Bastreri's report concludes that the EIS is generally satisfactory in terms of describing the receiving environment and that a substantial effort has been made on behalf of the applicant to collate and summarise environmental data and information on the marine environment and biological communities in Galway Bay. Sensitive receptors in the receiving environment have been appropriately identified including inter-tidal and sub-tidal habitats, biota and water and sediment quality.

The report states however that ecologically- important habitats for mobile marine fish were not included in the EIS, despite that the presence of many of these species and fisheries are mentioned in Section 7.5.5 of the EIS. It is noted that Galway Bay is part of wider nursery areas for juveniles and some species of marine fish (the particular species are listed in p15 of the report). The priority habitats of Lough Atalia and Renmore Lough are adequately described in the EIS in term of bathymetry, salinity and biological populations.

The report also notes however that due to the diverse sources of data and information used and the significant periods of time between the acquisitions of different data sets, the EIS cannot be considered as a valid baseline for the purpose of monitoring the impacts of the proposed development. However the additional monitoring in the EIS (7.7.9) gives assurance that qualitative and quantitative information will be acquired pre-construction. I would point out that such information may legally be required by the Board prior to granting development consent in this instance. In support of this view I would refer the Board to ECJ Case C-315/06. Any mitigation measures which may be required to offset any adverse impacts could well be predicated on robust and comprehensive baseline surveys. In accordance with the above judgement, as subsequent Ministerial Circular issued on foot of this Judgement, mitigation measures must be presented at assessment stage and cannot be addressed by way of condition or post consent agreement.

The potential environmental impact arising from the proposed port expansion during both the construction and the operational phase are adequately assessed in the EIS. All the relevant drivers of biophysical changes attributable to the project that are likely to affect valued ecological features, resources etc. were considered. The impacts assessed included

- Habitat Loss
- Underwater sound and vibration

- Disturbance due to shipping traffic
- Re-suspension of seabed sediments
- Chemical Contamination
- Modification of shoreline
- Localised changes in salinity.

The report attached also suggests that the EIS could have been more focused, screening out minor potential impacts.

### 9.3.3. *Potential Ecological Impacts Arising from the Proposal*

#### 9.3.3.1 *Construction Phase Impacts:*

##### Impacts on Marine Communities

The EIS states that the 'Do-Nothing Scenario' would have a 'slight positive impact' this is presumably based on the notion that in not being constructed, the non-expansion of the port will not result in the reduction of marine communities or habitats. This according to the report, is erroneous on the grounds that, in assessing impacts, the do-nothing impact should only be considered in the case of developments which themselves are designed to address or alleviate environmental or infrastructural problems. In this scenario the 'do nothing impact' would be neutral.

In relation to loss of inter-tidal habitat, the EIS states that the proposal will result in the loss 29.79 ha; and while this represents c. 0.16% of the marine habitat of the European site, this figure is of much less relevance in assessment of the loss in the context of the habitat. The proportion of the intertidal furoid-dominated reef community which is a qualifying interest of the cSAC is estimated to be in the region of 0.48%.

The EIS suggests that the intertidal habitats that would be lost to the development would be poor quality. However this judgement does not appear to be supported by the evidence. The intertidal reef communities are typical of hard substrata in intertidal estuarine and coastal areas of the west of Ireland. They may have low diversity values but biomass production is very high and constitutes an important food resource for juvenile fish and birds. **The permanent and irreversible loss of intertidal area due to the proposed development will have a negative effect on the integrity of the ecosystem and for this**

**reason the report states that “the impact of this habitat loss will be an ecologically significant adverse effect”.**

Furthermore the proposal to provide artificial habitats (by way of a new quay wall and rock armouring) is according to EU Guidance, is a compensatory measure as opposed to a mitigation measure as suggested in the EIS and NIS. Notwithstanding the fact that the newly created artificial areas will lead to rapid colonisation by marine flora and fauna, these clearly represent a deviation from baseline natural conditions, and as such must be considered an adverse impact. It is acknowledged that the manmade artificial habitats will provide compensatory measures and is therefore likely to be moderate and adverse, but may not be ecologically significant.

In terms of the impact as a result of capital dredging, it is noted that this will affect an areas of 46.8 ha's. It will result in the loss of benthic flora and fauna. However re-colonisation of the benthic communities will take place over a period of six to eight years. There is no possible mitigation of this impact. The impact on the sub-tidal benthic community is considered to be moderate adverse and not ecologically significant.

#### Impact on Marine Communities from Noise and Vibration

Impacts in terms of underwater noise and vibration are supported by a comprehensive review of available literature on the effects of construction operation on marine life. The review is suitably focused on noise and vibration effects on marine communities in shallow water. With the exception of marine fish, all sensitive receptors within the area of influence are identified. The methodology used in identifying the magnitude of potential impacts is adequate and follows established practice and guidance. A comprehensive series of mitigation measures are set out in the EIS and are in line with recommended guidance. Considering the temporary nature of the noise, the sensitivity of the marine species in the receiving environment and the mitigation measures proposed, the potential impact of rock-blasting on marine mammals fish and birds in the Bay area is likely to be moderate adverse and not likely to be ecologically significant. The percussive impact from pile driving in the proposed development is relatively modest when compared with the construction of on-shore windfarms. The use of MMO's and the incorporation of the 'soft start-up method' are appropriate and in line with current guidance and for this reason the

impact from pile driving is considered to be moderate adverse but not ecologically significant.

The noise impacts from capital dredging are normally of less intensity than that produced by percussive piling. The mitigation measures included completing all dredging works between August and March to avoid critical periods for migratory fish, the impact therefore, also considered to be moderate adverse and not likely to be ecologically significant.

Noise impact from shipping traffic is described in the EIS as being “permanent neutral or imperceptible negative impact”. This definition or impact hypothesis is not in line with available guidance, according to the ecologist’s report. The report does suggest however that the impact is not considered to be ecologically significant.

#### Impacts from Sediment Re-suspension

The potential impacts on marine biota from sediment re-suspension due to capital dredging include smothering biological seabed communities affect respiration in fish and marine mammals and can result in the release of toxic substances. It concluded that the impact will be localised and will be moderately adverse, it will not be ecologically significant.

Standard construction industry environmental management plans will minimise the potential for accidental spills of fuels, oils, chemicals or concrete. Provided an effective plan is put in place, there is unlikely to be a significant adverse impact.

#### 9.3.3.2 *Operational Impacts*

The alteration in the flow of freshwater discharge from the River Corrib resulting from the build-out to sea will result in a higher velocity of flow and this in turn could create potential changes in particle size and distribution in seabed sediments (see section 9.6 below on marine hydrology for further details). This in turn can potentially change the distribution and abundance of benthic infauna and epifauna. These changes will however be limited to a confined area but will nonetheless be permanent and irreversible. The report concludes that these impacts will be moderate adverse and **may** not be ecologically significant.

With regard to the impact of the development on the salinity regime (with slightly higher levels of salinity to the east of the development and slightly lower levels in salinity to the west of the new harbour area, this small changes (1-3 ppt), are very unlikely to cause a significant change in the community structure of sub-tidal habitats in this area, since the benthic species present are well adapted to wide variations in salinity. Based on the predictions set out in the EIS, it is likewise concluded in the consultant's report that the changes in salinity in Renmore Lough and Lough Atalia arising from the proposed development will be immaterial. The impact is therefore deemed to be negligible. There will be no discernible impact on effluent plumes from the Mutton Island WWTP hence there will be no consequential impacts on sub-tidal benthic communities.

#### Potential impacts of disturbance caused by increased shipping

There will be a significant increase in shipping arising from the proposal, particularly in relation to recreational and leisure craft. The only potential mitigation measure available is the reduction of speed vessels on approach. It is considered that the predicted impacts as stated in the EIS are somewhat unclear, and in the case of the potential impact on fish, the conclusions are contradictory. The 'no likely impact' hypothesis, particularly in relation to birds as suggested in the EIS, has not been proven beyond reasonable scientific doubt. It can only be concluded therefore that the impact of disturbance on marine birds is likely to be moderate adverse but may not be ecologically significant.

#### *Cumulative Impacts*

The cumulative impacts of habitat loss should be considered in combination with the 8.58 ha of inter-tidal habitat which was previously lost during the construction of the Galway Harbour Enterprise Park. The cumulative loss of this inter-tidal habitat is considered to be an ecologically significant adverse impact. If WWTP's which are discharging into the Bay are meeting their licence conditions and the relevant water quality standards are being met, then the impacts are not considered to be of a relevant magnitude to have cumulative impacts. In terms of cumulative noise impacts arising from the construction and operational phase, the report notes that while there is potential for some overlapping of these activities during construction, it is unlikely that all of them will take place simultaneously over significant periods of time. Considering the scale and nature of these activities, and provided that the proposed mitigation measures are implemented effectively, the

cumulative impact of underwater sound and vibration due to rock blasting, pile driving, capital dredging and increase in shipping noise during construction is likely to be moderate adverse and not ecologically significant.

#### 9.3.4 *Natura 2000 Statement*

The NIS together with the addenda and errata adequately identify the designated sites in the vicinity of the proposed development that could potentially be affected by the proposed development. These are:

- The Galway Bay Complex cSAC
- The Inner Galway Bay SPA
- And Lough Corrib SAC.

Each of these Natura 2000 sites is described in the consultant's report. The main impact on the Galway Bay cSAC will be the permanent loss of 5.93 ha of intertidal Annex I habitat and this will be a **significant adverse impact**. Underwater noise and vibration during construction and disturbance caused by an increase in shipping traffic will have a moderate adverse impact on the Annex II species – the Harbour or Common Seal.

Three Annex II species which are qualifying interest of the Lough Corrib SAC can potentially be affected by the proposed extension of Galway Harbour these are; the Sea Lamprey, the Atlantic salmon and the Otter. Based on the information contained in the NIS/EIS it is considered that under water noise and vibration during construction and shipping traffic during operation are likely to have a moderate adverse impact on these Annex II species.

In terms of the impact on the Inner Galway Bay SPA, under water noise and vibration and disturbance during construction as well as shipping traffic during operation is likely to have a moderate adverse impact on some of the bird species that are qualifying interests of the SPA.

Overall therefore having regard to the guidance regarding favourable conservation status and the definition set out in Article 1 of the Habitats Directive namely:

- Their range and area must be stable or increasing
- The species structure and functions necessary for long term maintenance exist and are likely to continue to exist for the foreseeable future, and

- The status of the typical species is considered to be favourable  
There has to be a 'lasting preservation' of the characteristics of the site connected to the feature for which the site was designated.

The NIS describes the reef habitat that would be permanently destroyed by the extension as being of 'poor quality'. However this is not supported by the information provided in the EIS and the NIS. Furthermore, a description or comparison with furoid-dominated reef habitat in other areas of the SAC has not been made. The direct and permanent loss of furoid – dominated reef habitat, and mud and sand flat habitat 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 perennial vegetation on stony banks is a qualifying interest of the Galway Bay cSAC, and the conservation objective for this habitat is to maintain its favourable condition. The presence of the new harbour will lead to changes in the hydrodynamic regime at local level, sheltering the stony bank that forms the south boundary of Renmore Lough. This in turn will prevent storm and wave surges from accessing the stony banks, leading to increased colonisation of terrestrial vegetation, such as heath grassland and grassland communities. This process is likely to lead to the loss of the perennial vegetation that benefits from the periodical disturbance of the shingle by the sea and, in consequence, it has been correctly assessed in the NIS Addenda to be a significant adverse impact.

#### 9.3.5 *Overall Conclusions in relation to Ecological Impact and the Impact on the Integrity of European Sites*

The documentation submitted with the application, and in particular the NIS and NIS addendum, together with the submissions from the NPWS and the report from Mr Bastreri the Consultant Ecologists employed on behalf of the Board, have all concluded that the development if carried out (together with previous development within the harbour subsequent to Natura 2000 site designation), will result in:

- A permanent loss of c.5.93 ha of intertidal mudflats and sandflats and furoid-dominated intertidal reef complex which are qualifying interests of the Galway Bay cSAC. Mr. Bastreri's report concludes that this aspect

of the development will result in an adverse effect on the integrity of the site.

- A greater level of protection of perennial vegetation of stony banks and annual vegetation of drift lines which is considered to impact and change this qualifying interest of the Galway Bay cSAC. Evidence submitted in the NIS addendum and the submission from Dr. M. Sheehy Skeffington (submission No. 5) indicates that the perennial stony bank habitat and plant life associated with this habitat is likely to permanently change as a result of the protection afforded to it from wave over-topping and disturbance arising from the proposal. When asked by the inspector in the oral hearing if this was likely to impact on this qualifying interest of the SAC, she responded in the affirmative.

- The loss of shallow sub-tidal habitat for foraging for the Otter and the Harbour Seal (albeit during a number of years during the construction phase), both of which are Annex II species and qualifying interests of the Galway Bay cSAC.

- The impacts of disturbance due to increased shipping traffic during operation on biological receptors in the site – especially marine birds – have not been fully assessed. While the impact may not be ecologically significant, based on the precautionary principle adverse impacts on the qualifying interests and conservation objectives of the Inner Galway Bay cannot be ruled out.

The applicant essentially concludes, based on the various documentation submitted to the Board during the course of the application and the oral hearing, that the overall impact is in general 'indeterminate' however but based on the precautionary principle that the impact must necessarily be described as 'permanent' and 'significant'. Although not specifically stated in the NIS or NIS addendum, the conclusions reached would imply that adverse impacts on the integrity of a European Site cannot definitely be ruled out in the event of the proposal proceeding.

Based on all the evidence presented, it is my considered opinion that:

(a) The proposal will adversely impact on the qualifying interests and conservation objectives associated with the Galway Bay Complex cSAC with the loss of Annex 1 habitat and the alteration of Annex 1 habitat and that

(b) Based on the precautionary principle, impacts on the qualifying interests and the conservation objectives associated with the Inner Galway Bay SPA cannot be ruled out beyond reasonable scientific doubt.

#### **9.4 Legal Implications of Impacting on the Integrity of a European Site.**

##### *9.4.1 Sites Hosting Priority Habitats*

Coastal Lagoons (1150) are designated as a 'priority habitats' under the Habitats Directive. Two of these priority habitats are located within the Galway Bay Complex cSAC, namely Lough Atalia and Renmore Lough. Detailed studies carried on Lough Atalia which is referred to in the EIS concluded that Lough Atalia, despite being designated as a priority habitat, is of little ecological conservation value. Furthermore all parties are in general agreement that the proposed port extension will in no way impact on either Lough Atalia or Renmore Lough. The only potential impact which could arise from the proposal is changes in salinity due to changes in freshwater flow from the Corrib River. This potential impact has been modelled (see section 9.6 on Marine Hydrology below) and it was found that impacts in terms of changes in salinity levels would be negligible.

The legislation regarding European Sites hosting priority habitats as transposed in to Irish law under the provisions of section 177AA (4) states the following:

*In relation to a European site that hosts a priority natural habitat type or priority species, the only imperative reasons of overriding public interest that may be considered are those relating to—*

*(a) Human health,*

*(b) Public safety,*

*(c) Beneficial consequences of primary importance to the environment, or*

*(d) Subject to subsection (7), having obtained an opinion from the European Commission other imperative reasons of overriding public interest.*

Two points are particularly noteworthy in relation to the above provisions. Firstly, according to the legislation, where are site hosts a priority habitat, the imperative reasons of overriding public interest may not include those of a social or economic nature, unless it is

subject to the opinion of the European Commission and can only include the criteria set out in (a)-(d) above.

Secondly, the legislation refers to a situation whereby a European site merely has to host a priority habitat (as opposed to adversely affect a priority habitat) for the purposes of excluding reasons of a social or economic nature in the context of considering IROPI procedures. Thus if one were to strictly apply the provisions of S177AA in this instance, the economic arguments put forward by the applicant for permitting the development (i.e. invoking IROPI) in the case where it is found that the development may adversely impact on the integrity of a European Site, would have to be set aside. Hence no reasonable case could be brought forward for granting planning permission for the proposal where negative impacts on a Natura 2000 site arise.

All parties are in general agreement that the proposal will not adversely affect the priority habitats in question<sup>12</sup> and therefore the stricter or narrower criteria for sites hosting a priority habitat should not be applied in this instance, and economic and social considerations should be included for the purposes of considering IROPI. The legislation is clear however, and should the Board decide to take economic and social considerations into consideration, it would in my view, have to seek an opinion from the Commission regarding same. I consider a reasonable economic case could be made, on the grounds that priority habitats would remain unaffected by the proposal. In the same way that the Board in considering alternatives, only consider alternatives which are feasible, notwithstanding the fact that this is not expressly stated in the legislation.

#### 9.4.2 *Impacting on Natura 2000 Sites' Conservation Objectives*

Advice from the EU Commission<sup>13</sup> sets out guidance on the concept of the 'integrity' of the site (see section 4.6.3 of the document). The guidance makes it very clear that the integrity of a site relates to the sites 'conservation objectives'. The Guidance goes on to state that 'the meaning of 'integrity' *can be considered as a quality or condition of*

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<sup>12</sup> Although the Submission by Dr. Yvonne Leahy on behalf of the NPWS (submission no. 18) suggested that the proposal as presented does not meet the conservation objective of restoring the conservation status of Lough Atalia.

<sup>13</sup> European Commission 'Managing Natura 2000 Sites: The Provisions of Article 6 of the 'Habitats' Directive 92/43/EEC

*being whole or complete*'. A permanent loss of c.5.93 ha of intertidal mudflats and sandflats and fucoid-dominated intertidal reef complex which is included in the conservation objectives for the Galway Bay cSAC, in the context of the above definition, would not result in the that habitat being 'whole' or 'complete'. The capacity for self-repair or self-renewal, another stated characteristic of 'integrity', as set out in the EC Guidance Document, would not be available or applicable to habitat which would be permanently filled-in as a result of the reclamation involved.

Furthermore it is pointed out in Mr Basterri's report (p.39) and also pointed out in the brief of evidence by Mr. David Lyons on behalf of the NPWS (see submission no. 19) that in relation to the Annex 1 Habitats '*Mudflats and Sandflats not covered by seawater at low tides,*' that the primary conservation objective target is that "*the permanent habitat area is stable or increasing, subject to natural processes*".

Favourable conservation status is also referred to in the ECJ **case C-258/2011** where reference is made in paragraph 37 that:

*"The conservation status of a natural habitat is taken as 'favourable' when, in particular, its natural range and area it covers within that range are stable or increasing and the specific structure and functions which are necessary for its long term maintenance exist and are likely to continue to exist for the foreseeable future"*.

Paragraph 39 goes on to state "*that in order for **the integrity of a site as a natural habitat not to be adversely affected** for the purposes of the second sentence of Article 6(3) of the Habitats Directive **the site needs to be preserved at 'favourable' conservation status***" (my emphasis) and that "*the lasting preservation of the constitutive characteristics of the site concerned that are connected to the presence of a natural habitat type whose preservation was the objective justifying the designation of that site in the list of SCI's in accordance with the Directive*"

Finally in relation to this issue I would again refer the Board to the legal case C-258/11 which concerns the interpretation of Article 6 of the Habitats Directive. The concluding paragraph of the opinion states;

*'in order to establish whether a plan or project to which Article 6(3) of the Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora applies has an adverse*

*effect on the integrity of a site, it is necessary to determine whether that plan or project will have a negative effect on the constitutive elements of the site concerned, having regard to the reasons for which the site was designated and their associated conservation objectives. An effect which is permanent or long lasting must be regarded as an adverse one. In reaching such a determination the precautionary principle will apply’.*

As highlighted above the impact of the proposed extension and reclamation of land which will have a permanent and irreversible impact on conservation objectives associated with Galway Bay Complex cSAC, as such it can only be concluded in my view that the proposal will have an adverse impact on the integrity of the European Site in question.

It is clear that the removal of 5.93 ha of Annex 1 habitats in the form of mudflats, sandflats and reefs will not result in a permanent habitat that is ‘stable or increasing’ and will not result in the habitat being maintained as ‘favourable’. Thus the criteria set out in the EC Guidance, the NPWS ‘Inner Galway Bay SAC Conservation Objectives Supporting Documentation (March 2013)’, and the Case Law referred to above clearly are not met under the current proposal.

Likewise changes in the perennial stony banks will result in the alteration of a habitat which will not result in the ‘preservation of the constitutive characteristics’ of the natural habitat and will therefore have adverse impacts on the conservation objectives associated with the qualifying interests of the site and must, in my view therefore, adversely impact on the integrity of the site.

#### **9.4.3 Reasonable Scientific Doubt**

The implications on the remaining qualifying interests are somewhat unclear and there appears to be an element of dispute between the various parties, particularly the NPWS and the applicants as to what the potential impacts are likely to be on the various qualifying interests and conservation objectives associated with the cSAC and SPA. The NPWS through its original submissions and the various submissions made at the oral hearing are still of the view, that there are still significant gaps in the data in terms of the actual impacts of the proposal on the qualifying interests and key conservation targets and attributes associated with those qualifying interests. The NPWS also consider that conclusions set out in the NIS could be clearer and more concise in terms of conclusions relating to the overall impact, and that a reasonable scientific doubt remains as to the overall impacts of the proposed

development on the conservation objectives and qualifying interests associated with the Natura 2000 sites in question.

Mr Bastreri's report also argues that the disturbance due to increased shipping traffic on sensitive biological receptors within the Inner Galway Bay SPA has not been fully assessed. Thus a reasonable scientific doubt arises as to the nature of the overall impacts.

In this context it can be reasonably concluded based on a precautionary approach as required under the Waddenzee Judgement (Case C-127/02 [2004]) that adverse impacts on the other qualifying interests associated with a European Site (In this case the Inner Galway Bay SPA) cannot be ruled out in this particular case. The Waddenzee Judgement is particularly relevant in informing a view on the issue of reasonable scientific doubt. In fact J. Finley Geoghegan in the Judgement IEHC 400 [2014] Kelly v An Bord Pleanála, which primarily dealt with issues surrounding appropriate assessment, relied heavily on the principles set out under Waddenzee.

In particular I refer to Paragraph 61 of the Waddensee Judgement where it is stated:

*The competent national authorities, taking account of the appropriate assessment of the implications of mechanical cockle fishing for the site concerned in the light of the site's conservation objectives, are to authorise such an activity only if they have made certain that it will not adversely affect the integrity of that site. **That is the case where no reasonable scientific doubt remains as to the absence of such effects.***" (My emphasis).

The Waddensee judgment goes on (in paragraph 100) to state that '*An assessment made under Article 6(3) of the Habitats Directive cannot be regarded as appropriate if it contains gaps and lack complete, precise and definitive findings and **conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed***'. (My emphasis).

The applicant has in my view, endeavoured to carry out extensive research and data collection in an attempt to ascertain the potential impact on the conservation objectives of the cSAC and SPA (particularly in the case of the latter, in my opinion). This point has been acknowledged by the NPWS. Notwithstanding this, it is clear from the submissions by the NPWS and the report by Mr Bastreri, both of who obviously have considerable expertise in the area of appropriate assessment, that some scientific doubts remain as to the impact on the proposal on the various conservation objectives associated

with the Natura 2000 sites in question.

Overall therefore I would conclude that the proposal if permitted to proceed, will permanently damage at least two of the qualifying interests associated with the Galway Bay cSAC (a loss of c.5.93 ha of intertidal mudflats and sandflats and furoid-dominated intertidal reef complex and a permanent alteration to perennial vegetation of stony banks). Furthermore I consider that reasonable scientific doubt remains as to whether or not adverse impacts arise in relation to other qualifying interests associated with the Natura 2000 sites in question, particularly potential impacts on bird populations which form qualifying interests of the Inner Galway Bay SPA.

On the basis of the information provided with the application, including the Natura Impact Statement, and in light of the assessment carried out above, I am not satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of the European sites referred to, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval.'

## 9.5 Consideration of Alternatives

### 9.5.1 Legal Requirement to Assess Alternatives

On foot of with the conclusions reached above, the Board (being the competent authority), can only grant consent, **in the absence of alternative solutions** (my emphasis), for the proposed development for imperative reasons of overriding public interest (IROPI). Thus prior to exploring the IROPI option the Board must, pursuant to the provisions of the Act, satisfy itself that alternative solutions do not exist.

The legislation states that the Board can only grant consent 'in the absence of alternative solutions', as in the case of the reference to priority habitats, it is suggested that the Board take a pragmatic view on this and therefore only give consideration to what it considers to be reasonable or feasible alternatives<sup>14</sup>. For example the port of Larne in Northern Ireland provides an alternative, but due to the geographic location of the port in relation to Galway, and the fact that it operates in a different jurisdiction, would in my view rule it out as being a feasible alternative.

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<sup>14</sup> Although the word 'feasible' or 'reasonable' in relation to alternatives is not referred to in either Art.6(3) of the Directive or 177AA of the P&D Act 2000 as amended.

In terms of evaluating alternatives under the provisions of the Habitats Directive, the most fundamental and profound consideration is the ecological impact of any proposed development. Ecological impacts form the basis of any over-riding considerations. Any assessment in relation to alternative solutions should be made against the European Site's conservation objectives. Again this is borne out in S.5.3.1 of the EC Guidance. It states that '*The first step of the competent authorities is to examine the possibility of resorting to alternative solutions which better respect the integrity of the site*'. Thus if the Board conclude that feasible alternative solutions exist to the current development proposal which would have no impact, or a lesser impact, on the integrity of a European Site, it must in my opinion, refuse the development and reject arguments that imperative reasons of overriding public interest be invoked in this instance. Alternatives are explored in more detail below.

#### 9.5.2 *Potential Alternatives within the Bay*

The original EIS submitted provided a cursory examination of developing port facilities at Mutton Ireland and Tawin Island as an alternative to Galway Harbour. Both locations were rightly discounted in my view, as they offered none of the locational advantages and infrastructure currently available at Galway City and any development at these locations are likely to give rise to the same or similar impacts on designated Natura 2000 site in the Bay area.

The additional information submitted on foot of the Boards request, and at the oral hearing teased out the issue of Rossaveel as a viable alternative in more detail<sup>15</sup>. Any evaluation of Rossaveel as an alternative should also make reference to the submission by Victor Crockett at the oral hearing on behalf of the Coiste Tacaiochta Calaphort Rosamhil, (Rossaveel Port Supporters Committee) (see submission no. 59). In essence the submission suggested that while Galway provided a natural destination for the cruise and leisure boat industry, Rossaveel was better suited to handle the commercial aspects associated with a regional port for the hinterland.

The submission suggests that the Port should have been included as a viable alternative to the expansion of Galway harbour. In support of its case, the report prepared by Wallingford Consultants<sup>16</sup> outlines the positive attributes and the potential weaknesses associated with any

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<sup>15</sup> See Appendix RFI – 'Consideration of Development in Context of Article 6[4] of the Habitats Directive as Transposed into Irish Law' (p11-12) in Folder entitled 'Appendices to Response to Request for Further Information' (Oct 2014).

<sup>16</sup> See report attached to the original submission from Rossaveel.

future port expansion. In the context of the current application before the Board it is worth noting that Rossaveel Port is not constrained by any Natura 2000 designations and it also incorporates a deep natural harbour. However it is a relatively small harbour primarily facilitating fishing vessels and trips to and from the Aran Islands. The port is currently not capable of facilitating vessels of over 2000 tonnes and the quay length is insufficient to accommodate multiple vessels simultaneously. The site is remote and transport links including the road network supporting the area including the road to Galway City are weak. No rail connection exists. Supporting quayside infrastructure is poor with little or no industrial base and limited facilities for petroleum storage. The provision of such infrastructure (tank farms etc.) to the west of Galway City could significantly increase HGV movements through the City and is likely to lead to greater distribution costs at end destinations. Harbour infrastructure including quay frontage is modest. There is no possibility for a rail head either. Finally the Board will note that Rossaveel is not a designated port for development in the National Ports Policy. I therefore do not consider that Rossaveel offers a viable alternative to Galway Port.

### *9.5.3 Alternative Locations outside the Bay*

The development of other ports on the Island of Ireland may offer alternative solutions, however they would not serve the same hinterland as Galway Port currently serves and it is reasonable in my opinion to discount ports on the Eastern and Southern coasts as not feasible for this reason.

I note that one of the objectors to the proposed development suggested that due to the significant advances and upgrades in the motorway system throughout the Island of Ireland, Dublin Port could cater for the needs of the north and north-west adequately without any need of further expansion in Galway Port. Over reliance on one port in terms of trade could have significant implications for regional development within the state, and would be contrary to the stated objectives of the National Ports Policy and the National Development Plan. It would also have significant implications in terms of longer haulage routes, CO<sub>2</sub> emissions and exacerbated traffic congestion in and around Dublin City. It would also be contrary one of the overriding principles of European Shipping policy to move freight traffic away from road based transportation.

The EIS correctly in my view acknowledges that Shannon/Foynes Port is the only shortlisted Port which could potentially offer an alternative to the expansion of Galway. Other ports on the west coast such as Sligo and Killybegs suffer similar constraints to Rossaveel in terms of size. Sligo Port is also affected by Natura 2000 designation in and around the existing port area<sup>17</sup>.

### 9.5.3 *Shannon Foynes Port*

#### 9.5.3.1 Introduction

European Commission Guidance, advises that in assessing alternatives, the primary criteria relates to whether or not an alternative will have no impact or a lesser impact on conservation objectives of a Natura 2000 site. However prior to addressing this question Board must, in my view determine whether or not the alternative put forward constitutes a reasonable alternative. The first part of this section of my assessment therefore assessed the viability of Shannon Foynes as an alternative to the development of Galway Port. The latter part of this section specifically attempts to assess both developments in the context of their potential impact on Natura 2000 Sites.

Shannon /Foynes Port could, according to some observations on file provide a potentially feasible alternative to Galway, although this is rejected by the applicant in both the EIS and the additional information submitted in October 2014 and in the various submissions in the oral hearing. Shannon Foynes Port Company (submission No. 77) and other observers including Atlantic Fuel Supplies (submission No.57) offer detailed arguments in favour of development the latter port as an alternative to Galway and for this reason it is evaluated in more detail as an alternative. It will be evaluated under the following criteria:

- Strategic Considerations
- Land availability
- Proximity
- Transport Infrastructure (including transport cost and CO<sub>2</sub> emissions)
- Tourism Spin-Off
- And most importantly the potential impact on the qualifying interests of Natura 2000 sites.

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<sup>17</sup> Cummeen Strand and Drumcliff Bay SAC and Cummeen Strand SPA

### 9.5.3.2 Strategic Considerations:

The Strategic considerations have already been addressed in section 9.2 in this assessment (see above). It appears from the policy statements contained in the National Ports Policy that Shannon/Foynes, being a Tier 1 Port, would be prioritised along with Dublin and Cork for future development over and above that of Galway. While the expansion of Galway Port is not ruled out under the national policy, its role is viewed as a regional port and not a Key European Port as envisaged under the TEN-T programme. Shannon/Foynes will also attract additional European funding for capital and infrastructural works associated with future expansion, which it would appear, would not be available to Galway under the TEN-T programme. On balance therefore, while it can be argued that national policy would not rule out any expansion of Galway Port, it can be reasonably concluded in my view, that national policy would favour the future expansion of Shannon/Foynes Port over and above that of Galway Port.

The National Spatial Strategy also designates Shannon/Foynes as a “strategic international access point” within Ireland’s transport system. No such designation is afforded to Galway Port.

The Board should also bear in mind that both Shannon/Foynes and Galway are both seeking to expand into, and handle the same types of product namely, fuel storage and distribution, off-shore renewable infrastructure and waste and recycling produce. In relation to the marine based off-shore renewable energy industry, it would appear under the criteria set out in the IPORES Report, Shannon/Foynes, which is designated as a ‘Category ‘A’ port would again be favoured over Galway Port which is designated as a ‘Category B’ port. Although it would appear that Galway, if permitted to expand and develop could possibly be re-designated as a ‘Category A’, as size appeared to be the major impediment for Galway in attracting category A Status.

### 9.5.4.3 Land Availability:

This is a very important consideration in my view particularly in the context of assessing the potential expansion of any port on, adjacent or contiguous Natura 2000 sites. As in the case of Dublin Port and perhaps to a lesser extent Cork Port, Galway is historically hemmed-in and constrained by the growth of the contiguous urban area, which severely restricts expansion options without having to introduce incompatible port related and industrial-type activity adjacent to city centre land-uses or

having to reclaim land from the sea. As in the case of both Dublin and Cork, Galway Port's only feasible in-situ option is to reclaim lands adjacent to the shore line for future expansion. This, as already concluded based on the documentation submitted, will result in a permanent and irreversible loss of Annex 1 habitat which forms a qualifying interest of the SAC.

Shannon/Foynes is also covered by Natura 2000 designations, the River Shannon and River Fergus SPA (Site Code: 0004077) and the Lower River Shannon SAC (Site Code 0002165). Critically however, much of this Natura 2000 designation is confined to the Coastal and estuarine waters of the River Shannon and it does not extend to any great extent onto the land banks on either side of the Lower Shannon. This provides greater opportunities to develop greenfield lands adjacent to existing port lands outside designated Natura 2000 sites. The fact that port development expansion can take place outside the designated Natura 2000 site, does not necessarily imply that the Natura 2000 site will remain unaffected, but a prima facie analysis suggests that development of port related activity can take place without building upon designated Annex 1 habitat, as is the case in the current application. However it is stressed that in the absence of any detailed project description for the expansion of Shannon Foynes, it cannot be determined what impact might arise on the qualifying interests associated with Natura 2000 sites in the Shannon Estuary. This issue is dealt with in more detail below in sections 9.5.4.7 and 9.5.4.8.

Shannon/Foynes comprises of a number of separate entities, namely Foynes Harbour (where the majority of freight is handled), Tarbert, Moneypoint<sup>18</sup>, Aughinish and Limerick Docks. The Shannon/Foynes 2041 Master Plan seeks to substantially increase throughput specifically through Foynes (plans are being formulated for the creation of an energy ocean hub to be located at Foynes – similar to that envisaged for Galway). Limerick Dock will remain operational but it is not envisaged that any significant expansion will take place at Limerick<sup>19</sup>. Tarbert, Moneypoint and Aughinish will remain as docking areas for fuel and raw materials associated with the energy plants and aluminium industry located in these areas.

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<sup>18</sup> A Pre-application consultation has taken place regarding the development of a Shannon Container Transshipment Facility, at Moneypoint near Kilrush County Clare (Reg. 03. PC0153). This pre-application consultation with the Board appears to be in abeyance with the only meeting occurring in February 2013. The development will be further assessed in the context of the SIFP for the Shannon Estuary according to a letter contained on file (dated Nov 20<sup>th</sup> 2013).

<sup>19</sup> This point was somewhat disputed at the oral hearing, by Mr John Carlton on behalf of SFPC, indicated that no decision had been made not to continue to expand Limerick Docks (proceedings of OH Day 7 afternoon).

Any expansion of port activity over the next 30 year period will be focused on Foynes and thus land requirements will be centred around the existing port. The 2041 Master Plan envisages, that under a high growth scenario Foynes Port will require an additional 127 ha of land by 2041 (Foynes currently has a port area of 53.31 ha – approximately 10 ha of which is undeveloped). I estimate that c.100 ha of land (including the existing port) has been zoned for port and industrial related development in the current Limerick County development plan. Furthermore additional undeveloped greenfield sites are located contiguously to the existing zoned land which could facilitate future expansion in the longer term if required (subject to compliance with planning policy). In terms of future zoning potential, it is also worth noting that the Shannon Foynes Masterplan forms part of the Integrated Framework Plan for the Shannon Estuary 2013-2020. This is an inter-jurisdictional plan involving contiguous local authorities to the Lower Shannon with the aim of guiding future development and promoting investment in this region. SFPC is seen as a major driver of investment in this region.

#### 9.5.5.4 Proximity to Hinterland and Catchment Areas:

The applicant argues that no other port can be reasonably expected to service the natural hinterland of Galway. Galway is particularly important in servicing the western and north-western region particularly for products such as petroleum. Obviously Galway is better geographically placed to serve the north-west than any of the aforementioned ports including Shannon Foynes. Shannon Foynes is located c.130 kilometres from Galway. It is worth noting that, unlike the other ports evaluated in the EIS and Appendix RFI - 1; Shannon Foynes was not ruled out on the grounds of proximity but was rather ruled out on the grounds of not having an operational rail connection (see section 9.5.4.5 below). This suggests that Shannon Foynes is acceptable in terms of the proximity criteria<sup>20</sup> (albeit marginally). Connections and travel times will only improve with the upgrade of the N69 (Foynes- Limerick) National Secondary Route and the extension of the N-18 from (Gort – Claremorris). The issue of transport is dealt with in more detail in section 9.5.4.5 below. There can be no doubt that export/import businesses in Connaught would be better served in terms of proximity by an expanded port at Galway, however it should be noted that the Shannon Foynes

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<sup>20</sup> Stated in the documentation as being within 1.5.hrs or 150km of the customer / Region; see oral hearing submission no. 41 for further details.

Vision 2041 clearly indicates (see map on p.2) that the catchment area of Shannon Foynes extends to an area North of Sligo Town and therefore encompasses the whole of the Connaught Region.

Furthermore I would reiterate that Shannon Foynes was the only port of the western coast that was designated as a TEN-T port. This suggests that it is envisaged that Shannon Foynes will be expanded as a national port, to serve the west region and to serve the western seaboard as a whole. It is also reiterated that the National Ports Policy envisages Galway as a Tier 3 Port, to primarily fulfil its function as a regional port.

It is also worth noting, that based on the evidence submitted at the oral hearing, it appears that current Galway currently serves a very local catchment area, centred on Galway City and County. The major customers associated with the port are indicated on a map submitted by Mr. Raymond Burke (submission No. 38 p.6) and with the exception of 2 listed enterprises (Mc Grath's Quarry and Murray Timber Group)<sup>21</sup>; all other enterprises are based in Galway City or County. It would appear therefore rather than serving the north-west region as a whole, Galway currently essentially serves the businesses within the local hinterland. If one compares the map in Mr. Burkes submission to the map submitted to Figure 1 of the submission on behalf of SFPC (submission no. 77) – which relates to the destination of imports from Foynes Port, it is immediately clear the latter port has a national catchment area which includes the north-west (Castlebar, Claremorris, Boyle, Ballina, Tobercurry and Enniskillen are all listed, as well as Galway City, Athenry, Tuam, Gort and Loughrea in Galway). This in my view undermines Galway Port's suggestion that it is best-placed, and in fact is the only feasible port available to serve the north-west region. While Galway port maybe geographically better placed to serve the north-west region, it appears that currently Shannon Foynes has greater penetration in the north-west at present and thus it is difficult to convincingly argue that the Tier 1 port cannot serve the north-west.

In terms of proximity to off-shore renewable energy sites, I consider that both ports, being located on the west coast, are equally well positioned to take advantage of this new emerging sector.

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<sup>21</sup> Both these enterprises are located just outside the boundaries of Galway County.

#### 9.5.4.5 Transport: - Rail

As referred to above, a perceived major constraint of Shannon Foynes port, in the applicant's evaluation of alternatives, was the lack of rail connection with the Port of Foynes and the national rail network.

Access to the rail network is a very important consideration in my view and offers a more sustainable transport option than total reliance on road based transport. Access to the rail network form an important consideration in the Boards refusal on the original Port of Cork application (Reg. Ref. PA 0003). This fact was referred to in the An Taisce submission at the oral hearing. In its reason and considerations for Reg. Ref. PA 0003 the Board stated that:

*“The proposed development entails the relocation of commercial freight activities of the Port of Cork from its existing location at Tivoli Docks, which is served by a railway line and has reasonably direct access to the national rail network, to a location to the south-east of Cork City at Ringaskiddy which is not connected to the national rail system and would be totally reliant on road-based transport.”*

Access to a rail network, particularly over the longer-term, is a critically important alternative to road based transport. It is clear from the current application that Galway Port intends to incorporate a rail link with the Port area. The rail link will be extended to the quay and port terminus area which will make the transfer and transport of goods by rail from the port area both easier and more accessible. The EIS does make it clear that rail-based transport of goods will only be availed of where the opportunity arises. The Port Company sees the responsibility for the provision of any rail freight service and rolling stock to be that of a third party, and not the Port Authority. It is also acknowledged in the EIS that presently, there is limited opportunity to transport goods by rail due to the operation of the main Dublin – Galway inter-city service and the Galway –Athenry commuter service. Having regard to the hinterland served by Galway Port the use of rail in moving port freight maybe somewhat limited at present, having regard to EC White Paper entitled *‘Roadmap to a Single European Transport Area – Towards a Competitive and Resource Efficient Transport System*, which acknowledges in relation to port-related rail freight, that freight movements over the short and medium distances (below 300km) will to a considerable extent remain on trucks.

Notwithstanding the conclusions reached in the EIS and additional information submitted in relation to feasible alternatives, it is apparent from the 2041 Vision Document that Shannon Foynes port intends to re-establish an obsolete rail connection between the port and Limerick Junction, thereby providing access to the national rail network. No specific time frame has been put in place to resurrect the rail link which was closed as recently as 2000. However the incorporation of the rail link forms a core objective of the overall Master Plan. As in the case of the proposal at Galway, the rail line extends all the way to the eastern and western Jetties and it is an objective in the Limerick County Development Plan and Mid-West Regional Plan to safeguard the route from encroachment with the aim of re-establishing the link with the port. The 2041 vision also indicates that the line can be re-instated at minimal cost. In fact the document goes on to state that the port link to Foynes has an added advantage in that:

*“The Port of Foynes.....links to the National Rail network at a point where existing line flows are low and where rail freight could be readily introduced without disruption to passenger rail timetable and for a modest cost. The rail freight link to the Port of Foynes also connects with the entire National Rail Network, enabling goods from throughout the country to be transported to the Port by rail”.*

The European Commission have also issued a press release entitled ‘*Trans-European Transport Network, Connecting Ireland*’ which lists the rail connection between Foynes and Limerick as a key transport node on the European Network which could receive funding under the “Connecting Europe Facility (CEF)”.

Foynes may also have the advantage of availing of the rail network to a greater extent on the grounds that (a) its overall freight volumes are greater than Galway, thereby offering greater opportunities of transporting goods by rail and (b) it, as a designated national port penetrates a much greater catchment area which in turn offers greater scope and opportunities to move goods via the existing rail infrastructure.

Having regard to the above assessment, I do not consider that Galway has any inherent or material advantage over Shannon Foynes regarding the provision of a rail. Both ports in my view could to take advantage of rail freight infrastructure should the opportunities arise. If anything Foynes could well be at an advantage in terms of potential funding available under the TEN-T programme to providing an efficient rail link that dove-tails into the national network and it offers better potential to

move goods by rail having regard to the wider catchment area it serves and the fact that it handles a greater volume of goods.

### Transport – Road

The road infrastructure and traffic issues relating to the port of Galway are dealt with as a separate issue under section 9.11 below in my assessment. This section merely sets out a comparative analysis between the road networks serving both ports. As already stated Galway Port is somewhat hemmed in by Galway City Centre and this can give rise to traffic issues and at times traffic congestion. Port traffic has to share the road network with general urban generated traffic associated with the city and its environs. Notwithstanding this fact, the Dock Road (which directly serves the port) is located in relative close proximity to the national road network, being c.2.5 km away from the N6 National Primary Route and less than 10 km from the M6 motorway.

Foynes has direct access on the N69 national secondary route. The N69 is a single lane carriageway and the quality of the alignment varies along the 26 mile route to Limerick. The width of the road varies and the presence of a hard shoulder is intermittent. According to NRA data the N69 carries about 5,500 vehicles per day, 7.2% of which are HGV's. It is envisaged that a number of upgrades are likely to take place, and a greater opportunity arises for TEN-T ports as a total European budget of €26 billion will be made available for transport infrastructure associated with such ports. Presently however there appears to be no plans for a significant upgrade of the entire route.

Shannon Foynes can also avail of the advantage that there is a designated motorway/dual carriageway route around and through the city of Limerick which allows dedicated, high speed and segregated access on the M7 to the east, M20 to the south and N18 to the north and west. Again therefore in terms of road access and infrastructure Foynes port is in my view, every bit as accessible as Galway Port and benefits greatly from having a high quality segregated motorway/dual carriage road network both through and around Limerick City.

131 km separate the two ports on the road network. The applicant suggests that this amounts to 2 hours journey time which is the outer limit of what is considered to be acceptable according to the criteria set down by the applicant. According to the AA route planner website the journey between Galway Port and Shannon Foynes takes 1 hr. 44 mins. It was suggested in the submission by Deputy O Cuiv, that Cork port

was in fact closer by road to Foynes than Galway. Again on consultation of the AA route planner website, Tivoli in Cork (where the port is located) was slightly further by road at 135 km and a travel time of 1.hr 55 mins was cited on the website.

#### CO<sub>2</sub> from Transport Emissions

The brief of evidence by John Lawlor on behalf of the applicant (submission no.39) undertook an analysis of the environmental benefits in terms of reduced CO<sub>2</sub> emissions arising from the increased transportation costs associated with transporting goods from the Galway area to Foynes. It in my opinion convincingly illustrates that the additional cost of diverting road traffic in Galway and surrounding areas to Shannon Foynes were the proposed development not to proceed, would be significant (see pages 6-8 of submission). It is estimated that an additional 353 million tonne km per annum would be generated on Irish Roads if the additional cargo (i.e. c.1.4 million tonnes) was to be transported from Galway to Foynes and therefore an additional 4.3 million litres of fuel per annum would be required. This in my opinion is a significant positive impact which would accrue in the event of the Galway port development materialising.

#### 9.5.4.6 *Tourism Spin-Off*

The information submitted with the application including the EIS and the submissions at the oral hearing, makes it abundantly clear that the extension of the Port of Galway will have significant tourism and general economic spin-offs for the city as a whole. The business / economic case for the proposed development are set out in more detail below in section 9.9 of my assessment. Galway has a lot more to offer in terms of tourism leisure and amenity than Shannon/Foynes. Cruise shipping is not a major component in the in the envisaged expansion of Shannon Foynes and it is unlikely that Foynes would attract cruise ship / tourism visitors in the same numbers as Galway Port. Galway has the added benefit of having a host of tourism attractions on the port's doorstep and thus Galway is more likely to derive benefit from tourism spin-off than any expansion of the port of Foynes. In this regard the Board should note that the National Ports Policy specifically envisages Galway Port to be developed to cater for tourist-related industry.

#### 9.5.4.7 Impact on Natura 2000 Sites

The impact of the proposed Galway Harbour extension in the qualifying interests of the Galway Bay cSAC and SPA are set out above and it is not necessary to reiterate then at this point in the assessment. It is perhaps sufficient to restate based on the arguments set out previously in my assessment, that the development if carried out, could adversely effect on the integrity of the Conservation Objectives associated with Natura 2000 sites in Galway Bay or at the very least, adverse impacts cannot be ruled out.

It is also clear from the EC Guidance on Managing Natura 2000 sites, that when evaluating alternatives, that it rests with the competent authority to assess alternative solutions in the context of their impact on the qualifying interests of the site. EU Guidance<sup>22</sup> highlights that the overriding consideration in assessing alternatives under Article 6(4) centres on ecological interests and qualifying interests of Natura 2000 sites in particular. The guidance states that

*'In conformity with the principle of subsidiarity, it rests with the competent national authorities to assess the relative impact of these alternatives solutions on the site concerned. It should be stressed that the reference parameters for such comparisons deal with aspects concerning the conservation and the maintenance of the integrity of the site and of its ecological functions. In this phase, therefore, other assessment criteria, such as economic criteria, cannot be seen as overruling ecological criteria'* (my emphasis) (p.7)<sup>23</sup>.

What is being examined in this instance is an alternative site, and it seems reasonable in my view that the examination of the potential impact of any expansion of an alternative port, and whether or not it would have no impact, or a lesser impact on European Sites in the vicinity of the alternative port, is a valid comparison.

Shannon/Foynes Port Company (SFPC) have prepared a Natura Impact Report based on the Vision 2041 Master Plan. As already stated, a

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<sup>22</sup> Guidance document on Article 6(4) of the 'Habitats Directive' 92/43/EEC CLARIFICATION OF THE CONCEPTS OF: ALTERNATIVE SOLUTIONS, IMPERATIVE REASONS OF OVERRIDING PUBLIC INTEREST, COMPENSATORY MEASURES, OVERALL COHERENCE, OPINION OF THE COMMISSION. 2007/2012.

<sup>23</sup> The Board should note that there are numerous documents prepared by national member states which provide guidance on the interpretation of Article 6(4). The interpretation on the various concepts regarding alternative solutions, IROPI, compensatory measures etc. differ somewhat. For this reason I have relied heavily on the principle guidance prepared by the European Commission.

great deal of caution is required in drawing any firm conclusions in relation to this document on the grounds that there are no firm or detailed proposals in relation the expansion of the Port of Shannon/Foynes. No planning application has been made in this regard. This point was also highlighted in the applicant's response to the additional information request, it is also highlighted in the NPWS's submission of December 2014 where it is stated that *'it is not feasible to draw conclusions on the information at this point as to which development would have lesser implications for the Conservation Objectives for the European sites'*. The submission by Shannon Foynes Port Company (SFPC) whilst acknowledging that an NIR has been prepared for the Shannon Foynes 2041 Vision document, it likewise warns against drawing comparisons between both documents for the purposes of appropriate assessment. The submission from SFPC notes that the NIR prepared for Shannon Foynes Port is a strategic assessment of the effects for a plan (as distinct from a project) under the 2041 Vision for Shannon Foynes as opposed to a site specific project such as the Galway Port proposal. Thus it is argued that in comparing the two documents 'one is not comparing like with like'.

The NIR prepared on behalf of SFPC is a relatively detailed Assessment of the potential impacts arising from the 2041 Vision document. The 2041 Vision document is a non-statutory document and the proposed development options set out will only materialise should the predicted growth in tonnage be achieved. Technical engineering or detailed design specifications have not been set out in the document and therefore the analysis carried out under the NIR cannot be considered exhaustive or sufficiently prescriptive. The NIR, by its own admission, has been carried out to identify key data gaps, potential impacts and threats which will inform as to which options to pursue at a later stage. The NIR therefore should not be used as a basis for a comparative ecological evaluation of both Ports. The lack of firm detail in Shannon Foynes proposal means that any conclusions drawn in the assessment cannot be considered definitive. With this in mind, it is difficult to come to any robust conclusions, including I might add, that suggested by the applicant, that the development of Shannon Foynes is likely to have a greater impact on the integrity of European Site than the development of Galway Port<sup>24</sup>.

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<sup>24</sup> The applicant primarily bases this contention on the fact that the Bottle Nosed Dolphin is a qualifying interest of the Lower Shannon SAC. This is the only known resident population of this E.U. Habitats Directive Annex II species in Ireland. The population is estimated (in 2006) to be 140 ± 12 individuals.

I would however re-iterate that it is a legal requirement for Board to assess alternatives particularly in light of the potential impact on the Conservation objectives of Natura 2000 sites rather than other criteria such as economic considerations. EU Guidance makes such an undertaking obligatory by a competent authority in assessing whether or not a case for IROPI exists. The Board, in my view is therefore, required to attempt to evaluate the impact of future development at both ports in terms of potential implications on Natura 2000 sites.

While the circumstances presented above does not make it possible to carry out a robust comparative analysis in terms of impact on Natura 2000 sites in the Shannon Estuary and Galway Bay, two points should be highlighted which may assist the Board in determining the extent to which Natura 2000 sites could be affected.

Firstly, the NIR prepared for SFPC Vision 2041 Document states by way of conclusion, the following (p.113-114):

*Following the implementation of the mitigation described in the appropriate assessment, it is expected that the proposed Vision will avoid significant negative impacts to key sensitive receptors and qualifying features of the SAC and SPA both along and in-combination with other elements identified in the report. It is recommended that, following approval of this Appropriate Assessment, the mitigation measures detailed herein are developed further with the National Parks and Wildlife Service and Inland Fisheries Ireland and that finalised measures are included in the contract documents for the proposed scheme.*

***There should therefore be no requirement for Stage 3 (Assessment of Alternative Solutions) and 4 (Assessments Where Adverse Impacts Remain), of the appropriate assessment process. (My emphasis).***

The consultant ecologist employed by the Board was also requested to briefly evaluate the contents of the NIR prepared for the strategic Master Plan for Shannon Foynes Port. It is acknowledged that the NIR is prepared on foot of a strategic vision for the Port rather than a specified project. The consultant's report notes that:

*'The AA examines all possible activities that can potentially cause significant negative impacts on the qualifying features of the Natura 2000 sites. An essential part of this process is the correct identification*

*of the drivers or activities that Galway Harbour Extension Project: Assessment of Ecological Impacts on the Marine Environment can potentially affect these features in a negative way. These include direct habitat loss, direct physical damage of biota caused by blasting and percussive pile driving, direct physical damage to mobile species, indirect disturbance, changes to the hydrodynamic regime and toxic effects of contamination caused by accidental spills and sediment re-suspension during dredging.*

*The conclusion of no likely significant effects on the integrity of the Natura 2000 sites and the sensitive receptors and qualifying features of these is valid, since all the potentially significant impacts have been either eliminated at project level through avoidance and removal of those elements more likely to cause significant effects or mitigated adequately. Crucially, careful selection of sites for the development within the Natura 2000 sites would avoid sensitive features and habitats. This would avoid the loss or disturbance of sensitive habitats, Annex I habitats and species, thus preventing the development from affecting the integrity or conservation objectives of the Natura 2000 sites. The other mitigation measures proposed to minimise or avoid significant impacts on the Natura 2000 sites are also appropriate, and in consequence, the preliminary conclusions in the AA are valid as long as these mitigation measures are effectively implemented'.*

Any such conclusions, for reasons already stated, should be treated with extreme caution because of the lack of prescriptive detail associated with individual elements of the Shannon Foynes expansion. However it could be reasonably concluded, having regard to the statements above, that there is at least a possibility, that the Shannon Foynes Port could possibly be expanded and developed without the need to invoke the IROPI procedure and that such a possibility, based on the information on file, does not exist in the case of Galway Port. Galway Port if it is to expand as proposed, based on the scientific evidence presented, it likely to adversely impact on the integrity of a European Site.

This may not necessarily be the case in relation to any expansion of Shannon Foynes. Thus any expansion of Shannon Foynes **may** have a lesser impact on the integrity of a European Site and thus **may** provide an alternative solution with less or no adverse effects in the integrity of a European Site.

During the proceedings of the oral hearing it was pointed out through the questions and cross-examination of Mr John Carlton (representative of SFPC) that the dredging of the channel to facilitate shipping to and from Limerick Docks has to take place on a very regular basis (c. 3 years) and can involve the dumping of between 30,000 and 120,000 tonnes of dredged material. This it was argued that this has a significant potential to impact on the integrity of the Lower Shannon SAC. Mr Carlton stated that all dumping on the Lower Shannon Estuary is subject to EPA Licence and that SFPC have been licence compliant to date. Having consulted the EPA web site I can confirm that SFPC have been granted a Dumping at Sea Licence for the loading and dumping at sea of a maximum of 1,656,000 tonnes of dredged material and the plough dredging of a maximum of 96,000 tonnes of dredged material from Foynes Port and Limerick Dock (Reg. Ref S0009-02). I further note that the EPA Inspectors Report in relation to the said application state that in relation to the potential impact on the Lower Shannon SAC:

*“An Appropriate Assessment on the likelihood of significant effects of the proposed activities on the European sites was undertaken in accordance with Regulation 42(1) of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I.No. 477 of 2011), which found that the proposed loading and dumping activities will not adversely affect the integrity of the European Sites subject to the mitigation measures proposed in the Appropriate Assessment report.”*

On further point in relation to dredging, The European Commission Document entitled *“Integrating Biodiversity and Nature Protection into Port Development”* states in relation to dredging that *‘an absence of dredging would prevent the port from functioning with all the negative economic consequences this would entail. As a matter of principle, port access maintenance by means of dredging is therefore deemed as a service of economic interest’*. The report goes on to differentiate between capital dredging and maintenance dredging<sup>25</sup>. The differentiation between the two types of dredging is an important consideration because the EC Guidance document states that *‘the environmental effects of maintenance dredging are generally less important than those of capital dredging’*.

In the case of Galway, it is clear that significant amounts of capital dredging will be required (see section 4.5.2.5 of the EIS). The total dredged area will amount to 46.48 ha. I can find no reference to the

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<sup>25</sup> Capital dredging includes the creation of new civil engineering works by means dredging such as harbour basins, canals and the deepening of existing waterways and approach channels. Maintenance dredging is described as works necessary to keep existing water courses, harbour basins etc. at the required nautical and /or hydrological depth by removing siltation.

breakdown as to what proportion of the dredging works will be maintenance dredging and what proportion will be capital dredging in the EIS for Galway Port. It is assumed however that a significant proportion of the dredging in Galway Bay will involve capital dredging as the works associated with the harbour have not heretofore taken place on this part of the seabed and thus would constitute new (capital) works as opposed to maintenance works. This conclusion was confirmed during the course of the oral hearing when Mr Dan Duggan indicated in response to a question by me that the construction phase will involve considerable amounts of capital dredging.

The SFPC Vision 2014 makes it clear (p 108) that there are only two locations where maintenance dredging is required in the Shannon Estuary (Foynes and Limerick). No reference is made to capital dredging being required.

Thus on the face of it, it would appear that in a comparative analysis of dredging requirements at both ports, the maintenance dredging associated with the Shannon Estuary may have a lesser environmental impact than the capital dredging associated with the works envisaged under the current application. However I again reiterate that any firm conclusions regarding dredging impacts can only be made on foot of a more detailed appropriate assessment of any specific proposals for Shannon Foynes.

Finally in relation to potential impacts on Natura 2000 sites, I would refer the Board to a European Commission Document entitled "Integrating Biodiversity and Nature Protection into Port Development" which states (p.8) *"In the field of waterways and ports the EU Ten-T status or other national priorities should help projects to qualify as being of overriding public interest"*.

This is a very important consideration in my view as it suggests that where it is found that both developments would adversely impact on the integrity of Natura 2000 Sites, the port with national status or TEN-T status should qualify ahead of other ports in terms of invoking the IROPI procedure. Under this criteria therefore Shannon Foynes, being a Tier 1 port under the National Plan and being a TEN-T port would be favoured and prioritised above Galway in terms of qualifying for IROPI as I interpret the Guidance.

#### 9.5.4.8 *Conclusions Regarding the Potential Impacts on Natura 2000 Sites*

European Commission Guidance<sup>26</sup> states that a decision to go ahead with a plan or project must meet the requirements of Article 6(4). In particular, it must be documented that:

*'The alternative put forward for approval (i.e. Galway Port), 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.*

I do not consider that a definitive conclusion can be reached that the subject application is the least damaging for the integrity of a European Site having regard to the information set out above. Nevertheless as previously stated the Board is required, in accordance with the above legislation, to assess the alternatives in the context primarily on how damaging the proposal will be in the integrity and coherence of Natura 2000 sites.

Based on the prima facie analysis available to the Board in relation to the potential impact of SFPC expansion on Lower Shannon Estuary SAC, it can only be concluded that the potential impacts have not yet been fully determined. But there does remain at the very least a possibility the any proposals may not impact on the integrity of the Lower Shannon Estuary SAC. Hence I cannot conclude with confidence that the proposal put forward for approval (i.e. Galway Port), is the least damaging for habitats, for species and for the integrity of the Natura 2000 site as a whole.

### **9.6 Marine Hydrology Considerations**

#### *9.6.1 Introduction*

As in the case of ecology, the Board appointed a marine hydrologist to specifically assess the proposal and whether or not it would have any impact on the hydrodynamics of the marine environment. Professor Jorgen Fredsoe consultant with Principia North was appointed. He was also present at Module 1 of the oral hearing. His brief and full report is

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<sup>26</sup> Guidance document on Article 6(4) of the 'Habitats Directive' 92/43/EEC CLARIFICATION OF THE CONCEPTS OF: ALTERNATIVE SOLUTIONS, IMPERATIVE REASONS OF OVERRIDING PUBLIC INTEREST, COMPENSATORY MEASURES, OVERALL COHERENCE, OPINION OF THE COMMISSION. 2007/2012

attached (Appendix 3 and 4). In summary the brief required the consultant to assess the following:

- The adequacy of the EIS in terms of; (a) describing the existing environment (b) assessing the direct, indirect and cumulative impacts (c) setting out adequate mitigation measures (d) identifying adverse residual impact - post mitigation.
- Whether the proposal will exacerbate flood risk within the coastal area.
- Assess the modelling simulations of anticipated water movements within Galway Bay.
- Any changes in sedimentation, erosion and deposition on the sea floor arising from the development including dredging arising from the development.
- Any impacts on salinity levels in both Lough Atalia and Renmore Lough arising from the development
- Any impact on the dispersion of discharges from the Mutton Island WWTP
- Potential impacts of wave climate within the Bay.

I do not propose to summarize the consultant's report; however the main conclusions in relation to the above issues together with any further comments I may have are set out below.

#### 9.6.2 *Adequacy of EIS*

I note that the consultant's report generally expresses satisfaction with quality and content of the EIS. The nature of the receiving environment has been adequately set out, as have mitigation measures. All impacts have been satisfactorily set out and have been satisfactorily explained. Some minor issues have been raised; in particular the report suggests that (a) Field data could have been better used to inform the model predictions especially in the case of wave height prediction in the vicinity of the harbour. (b) Whether or not the accumulation of sediment has occurred to the west of Mutton Island, as a result of the construction of the causeway requires greater clarification. (c) Wind impact from strong winds from the SSW and SW should have been incorporated into the modelling to assess its effect on the near harbour area. Critically

however it is stated that these omissions will not change the main conclusions that the EIS adequately assesses the impact of the development. These conclusions concur with my conclusions set out in Section 9.1.6 above.

## 9.6 *Flooding Issues*

Section 5 of Professor Fredsoe's report deals with issues relating to flooding. With regard to in potential increase in water levels due to tidal flow, river flow and storm surge, it is stated that the modelling indicates that virtually no change occurs at 6 selected locations in or near the harbour area. At high tide virtually no changes can be detected. At low tide the impact is slightly greater; however the low tide scenario does not represent a flooding risk. It is also considered, based on the figures contained in the EIS, that within the areas exposed to flood risk, the peak levels produced by tidal surge will be virtually the same regardless of the magnitude of the flow of the River Corrib. Thus flood risk to the Spanish Arch and docks area can be attributed to tidal storm events rather than flows to the River Corrib.

In terms of increased flooding due to wave height, it is noted that the only predicted increase in wave height is the middle of Nimmo's Pier and a short section of the south park and this maximum increase is predicted to be in the region of 15 cm (6 inches). The impact is somewhat compensated by a reduction in wave height to the east of Nimmo's Pier as a result of the extension sheltering the harbour entrance from the winds from the SSE and SE.

The modelling undertaken in relation to impact on wave roughness is also assessed. Increased levels of bed roughness will increase the flow resistance thereby decreasing flow velocities which can result in increased water levels which in turn exacerbates the potential for flooding. Different levels of wave roughness are simulated in the model. The key finding is that wave action in the channel actually becomes smaller after the construction of the extension thus the level of wave roughness will decrease which will in turn lower the risk of flooding.

While a number of short-comings in the modelling techniques employed are identified, it is stated that these shortcomings in no way undermine the overall assessment undertaken by the applicant, which is considered to be 'accurate and sound'. It is also noted that the modelling package used is of a high international standard. The approximations and data input behind the modelling are reasonable as

is geographic area of the model. It is considered that no mitigation measures are needed in relation to flooding.

#### 9.6.4 *Changes in Sedimentation and Erosion on the Sea Floor*

It is noted that the proposed extension will result in a changed wave and flow pattern which will in-turn, alter sediment patterns within the Bay. Sediment from the River Corrib is considered to be fine silt-type sediment (finer than 0.06 mm). It is noted however that no grain size distribution curves are provided, so grain size transport evaluations cannot be determined. The annual supply of fluvial sediment, based on EPA data is estimated annually to be between 5,000-10,000 tonnes. Because of the fine nature of the fluvial sediment it is estimated that over 50% would be transported beyond the harbour area.

Detailed bathymetric surveys for the existing navigation channel exist from 2012 to 2014. It is noted that the channel is relatively self-cleansing in the Dock area while sedimentation occurs further out within the Bay. Outside the confines of the harbour wind waves play an important role in stirring up seabed sediment which is transported via tidal currents within the Bay. This causes eastward long-shore littoral drift. No estimate of the quantity sediment is set out in the EIS or the additional information submitted however the Mutton Island causeway could be expected to trap most of the eastward drift of sediment.

The proposed development changes the current by deflecting the flow of the River Corrib in a more westerly direction. This will result in an increase in velocity of freshwater flow which in-turn will assist in the natural flushing of the navigation channel to the Inner Dock. Some increased levels of sedimentation from the River Corrib may be deposited at the entrance to the new Marina facility. It is noted that this potential issue has not been discussed in the EIS. Other than this issue, Professor Fredsoe's report considers that the changes in the sediment pattern and the associated erosion / deposition pattern have been properly investigated using numerical modelling, "*the only weak point being the verification of the sediment transport model*" (p.18 of report).

It is considered that changes in sedimentation on the seafloor arising in the vicinity of the new channel serving the new commercial berthing area will be negligible. It is concluded that no mitigation measures are required in relation to natural sedimentation processes arising from the development.

### 9.6.5 *Sedimentation from Capital Dredging During the Construction Phase*

A total of 1.815 m<sup>3</sup> of material will be dredged from the sea floor during the construction phase of the development. This will be a mixture of hard rock (c 24,000 m<sup>3</sup>) and soft sands and silts. The latter will be dredged using a Trailer Suction Hopper and this method has the greatest potential to release increased concentrations of suspended sediment onto the sea floor. However the pumping of dredge material straight to lagoon no's 1 and 2 will eliminate any overspill from the settlement chamber within the Suction Hopper on the sea bed and this will significantly reduce the potential for the release of suspended material into the sea water and onto the seabed.

In the case of the latter lagoon construction, where the dredged sediment is not piped directly to the lagoon area, plume dispersion modelling is employed to ascertain the potential effects. The modelling employs a worst case scenario and is considered to be quite conservative. The overall impact is deemed to be quite low; the thickness of the layer of deposited spill does not reach more than a few mm during the 12 months of operation. The modelling also indicates that the finer sediment can be brought into Lough Atalia during flood tide. In order to counteract this, the report suggests that the Board should consider only allowing dredging to take place at ebb flow only.

It is considered that capital dredging further out to sea at the turning circle and the navigational channel will be much more localised due to lower flow velocities at this location.

In relation to general dredging, there should be a requirement that sediment concentration should be limited to 6000 mg/l. In this regard turbidity meters should be installed at dredge sites in order to monitor dredging operations.

### 9.6.6 *Maintenance Dredging*

Maintenance dredging occurs on average once a decade<sup>27</sup>. However in the case of the new port facility, maintenance dredging is likely to be required less frequently as the access channel to the commercial port will be exposed to less sedimentation by currents due to greater water depth. Notwithstanding this conclusion, Mr Fredsoe's report points out that in the event of more frequent storms, which can contribute to faster

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<sup>27</sup> Evidence submitted by Capt. Brian Sheridan at the Oral hearing indicates that in more recent years it has occurred less frequently, approximately once every 12 or 13 years.

sedimentation on the seafloor, maintenance dredging may be required a little more frequently than suggested in the EIS.

#### 9.6.7 *Changes in Salinity*

The mixing of freshwater from the River Corrib with the salt water from the Inner Bay will result in horizontal stratification of the water, with the denser salty water gravitating towards the seabed and the less dense freshwater remaining near the surface. A number of studies and investigations in relation to salinity in the Bay and in Lough Atalia have been carried out to date. The impact of the proposal on salinity levels were modelled in the EIS using a 3D-flow model under 5 different simulations. It is suggested in Prof. Fredsoe's report that the model slightly under-predicts the salinity levels at low salinities and over-predicts high salinity values. It is also suggested that the model should have incorporated more than 5 separate sub-layers; however this is not a critical issue. Generally the numerical assessment and the number of model runs are appropriate to investigate the hydrodynamic environments. The modelling indicates that salinity levels will increase in the area to the east of the proposed extension because the extension will act as a barrier to the mixing of fresh waters and saline waters. The increase in saline concentrations are deemed to be in the order of 2-6 ppt. Saline concentrations in the water to the west of the proposed extension will decrease slightly. To the south of Nimmo's Pier, the decrease is estimated to be in the order of 1.5 to 2 ppt.

In terms of the impact of Lough Atalia the mean salinity will be slightly reduced (by 1.3 ppt). Renmore Lough is hydraulically connected to Lough Atalia only, (there is no direct connection to the seawater in the Bay). Inflow from Lough Atalia occurs only at water levels above 1.77m O.D. Other than rainwater, the inflow from Lough Atalia is the only source of water feeding Renmore Lough. Thus changes in salinity in Renmore Lough are dictated by salinity levels in Lough Atalia.

The overall changes in salinity are deemed to be modest and are not likely to impact on the ecology of the lake (also see S.5.2.7 of Ecologists Report p.33). The only practical measure available to equalize salinity concentrations to the east and west of the proposed extension is to consider developing a culvert or passage through the proposed extension. However it is doubtful whether such a passage would alter salinity concentration on either side of the extension to any appreciable extent.

### 9.6.8 *Effluent Dispersion Studies*

The effluent released from the Mutton Island outfall and the proposed Galway East outfall (located c.2.4 km to the south east of the Mutton Island outfall), will be dispersed around the Bay by tidal and wind induced current. The key question is whether or not the proposed development will result in any variations to the current dispersion plume and more crucially, whether or not it may result in a larger concentration on the near shore areas of the mouth of the River Corrib due to a funnel effect by the proposed extension.

The modelling indicates that the proposed extension will cause an increase in the concentration of effluent to the west of the marina breakwater and a consequential decrease further east at Ballyloughaun Beach. The increases in effluent concentrations to the west of the extension, around the mouth of the Corrib and Lough Atalia are minimal, c.0.1%.

In terms of the Galway East outfall, the modelling predicts a general improvement in effluent concentrations at the mouth of the Corrib. Although figure 4.5.53 in the EIS is questioned, as it predicts a localised impact from the proposed extension at the Galway East outfall, during a prevailing south-westerly wind. Overall however the dispersion modelling undertaken to ascertain the potential effects arising from the proposed development on the effluent dispersion from the existing Mutton Island treatment plant and the proposed Galway East outfall, is considered to be a high standard numerical study which has been properly selected to cover a worst case scenario. Because the consequential impacts are so small, no mitigation measures are considered necessary.

### 9.6.9 *Overall Conclusions on Marine Hydrology Issues*

The review undertaken by Professor Fredsoe agrees with the main conclusions reached in the EIS, namely that the proposed development will not give rise to any significant impacts with regard to flooding, sediment transport, wave impact, sewerage dispersion or salinity. Furthermore it is considered that no mitigation is required in these areas either in the short term or the long term. With regard to the impact arising from capital dredging, it is stated that the impact is short term and can be minimised by implementing best practice.<sup>28</sup> I consider the overall conclusions contained in the marine hydrology report to be

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<sup>28</sup> By avoiding dredging along the proposed marina breakwater during the incoming tidal flow.

objective and reasonable based on the information contained in the EIS and the information obtained in the oral hearing. As in the case of the separate report prepared by Mr. Bastreri I have no reason to doubt the veracity, reasoning or conclusions arrived at in relation to the marine hydrologists report.

## **9.7 Impact on Fishing**

The submission from the Galway Bay Inshore Fisherman's' Association expresses concern that the Inner Bay produces a significant volume of annual shrimp and lobster and that the area is also a nursery for juvenile shrimp. The conclusion arrived at in the EIS, that levels of encroachment on fishing areas as a result of the proposed development will be negligible, is hotly disputed by the Inshore Fisherman's' Association.

The proposal will involve the reclamation of approximately 24 hectares of sea bed which will in turn, result in the direct loss of habitat associated with this sea bed. Furthermore additional habitats may be lost, at least on a temporary basis, as a result of increased sedimentation arising from construction works generally, and also from periodic dredging which will occur along the approach channel to the new harbour. In total therefore an area in excess of 83 hectares could be affected by the proposed development, having regard to the fact that deposition of sediment is likely to occur outside the footprint of the overall development and dredging channel. However it should also be noted that dredging currently takes place along the approach channel to the Inner Dock area on a regular basis and thus increased levels of sedimentation in the surrounding area occurs on such a periodic basis and this appears to be somewhat compatible with the existing inshore fishing. I further note that that both the marine hydrologists report and the marine ecologists report indicates that the ecological impact as a result of sediment re-suspension resulting from dredging is deemed to be low.

In assessing the impact of the proposed development on inshore fishing the Board should have particular regard to a report produced in May, 2010 by the Marine Institute in association with BIM entitled "*The Crustacean Fisheries of Inner Galway Bay*". A copy of this report is contained in Appendix 5.1 of the EIS. The report notes that the inland commercial fishing within the Bay has in recent years been confined to pot fisheries for crustaceans with limited fishery for clams and scallops. The fishing area is confined to shallow water depths of approximately 20

metres along the northern, southern and eastern peripheral areas of the bay. While the total inner Bay has an estimated area of 216 square kilometres (216,000 ha), the area is suitable for inshore fishing for shrimps and other crustaceans is only a proportion of the overall Bay area. The report estimates that currently there are approximately 26 potting vessels operating in the Bay and these are most small vessels.

In assessing the potential impact of the proposed development on the fishing areas, I would refer the Board to Figures 8 and 9 of the BIM Report (pages 17 and 18) which gives an accurate indication of the areas currently fished by the individual boats. Figure 8 relates to shrimp fishing while Figure 9 relates to lobster/velvet crab fishing. It is clear from these figures that the area fished is quite extensive, particularly along the northern shore of the Bay where the area extends out as far as Inveran and Rossaveel Regional Airport. The most extensively fished area is the north-eastern part of the Bay (i.e. Oranmore Bay) between Barna and Tawin Island. The area along the northern coast is also intensely fished particularly for shrimp. Extensive areas of the southern shoreline of the Inner Bay is also fished for lobster and velvet crab. Based on these figures I estimate that the grounds within the Bay are suitable for shrimp fishing amounts to some 9,000 hectares. In the case of lobster fishing the area is slightly larger amounting to c.10, 000 hectares.

The lobster fishing area appears to be concentrated to the south of Mutton Island and Hare Island and therefore will not be directly affected as a result of loss of habitat from the proposed reclamation works.

However the dredging of the approach channel will undoubtedly impact on fishing grounds albeit on a temporary basis. Some of the shrimp fishing areas appear to be located in closer proximity to the existing harbour area and it appears that some of these areas will be permanently affected by the proposed harbour extension. It was pointed out at the oral hearing that much of the juvenile beds are located in this area. More areas will be temporarily affected as a result of the dredging activities which occur on the approach channel to the new port. It is difficult to state with any degree of accuracy as to what extent shrimp and lobster fishing areas will be affected by the proposed works however if one were to take a worst case scenario and assume that c.100 hectares of the fishing area was to be permanently lost as a result of the proposed development (the Board will note that this is unlikely as the vast majority of this area would be affected through dredging activity which would only result in a temporary loss of fishing grounds). I would

still estimate that 1.1% of the area suitable for shrimp fishing would be lost and c.1% of the area suitable for lobster fishing would be lost. I can therefore only agree with the conclusions contained in the EIS that the impact of the proposed development would be negligible in the context of the existing shrimp and lobster grounds available to fish in the Inner Galway Bay area. Furthermore any such small potential impact on the fishing industry within the Inner Galway Bay area has to be considered relatively minor and must be balanced against the wider commercial and economic needs of the port in general.

I further note the submission from the Inland Fisheries Ireland which notes that the two outer markers of the Galway fishery seem to have been lost or removed during previous developments undertaken within Galway Bay. Inland Fisheries Ireland is anxious to have the markers associated with the Galway fishery area replaced. The applicant at the oral hearing has acceded to this request. If the Board are minded to grant planning permission in this instance (subject to concluding that the proposal will not impact on the integrity and coherence of the Natura 2000 network and subject to compliance with all IROPI protocols set out in the legislation as per S.177AA to S.177AD of the Act) I consider that this issue could be adequately dealt with by way of condition. The IFI would also recommend that public access to the pier be permitted to allow for recreational angling along the pier and promenade. Again I would have no objection to this proposal in accordance with suitable management measures (signage etc.). This again can be addressed by way of condition should the Board consider it appropriate.

The IFI also raised concerns that the development will encroach into the zone which is legally an integral part of the Galway Fishery, the fishing rights of which are vested in the IFI. If this is the case, and if the development were to go ahead, it is suggested that a legal agreement would have to be reached between the parties concerned and that fishing rights would be vested in some other part of the Bay as a quid pro quo measure. The applicant at the oral hearing indicated that monetary compensation can be agreed if the development were to proceed.

## **9.8 Potential for Non-Native Invasive Species**

A number of submissions, including the IFI submission noted that aquatic invasive species such as fish parasites, crustaceans and diseases can be readily transferred as a result of an escalation in

marine traffic associated with the harbour extension. In particular reference is made to the increase in the volumes of ballast water being discharged into Galway Bay from marine traffic. This will increase the risk of introducing non-native species into the Bay or the Corrib Estuary which could cause extensive ecological and economic damage to the aquatic system. Invasive species can also adversely impact on the recreational amenity use of infested watercourses. Section 7.7 of the EIS sets out potential impacts arising from the proposed development and includes mitigation measures to counteract potential impacts. In this regard, specific reference is made to impacts on marine species during the operational phase due to increased potential for risk of introduction of invasive alien species by shipping. In response to this the Harbour Company will implement an environmental management plan and policy regarding the handling of invasive alien species. Appendix 4.2 of the EIS sets out an environmental management framework. Section 5.9 relates to ecological monitoring. Details of monitoring are set out for intertidal benthos, sub-tidal benthos, marine chemistry and marine mammals. During the operational phase monitoring will take place on an annual basis. Such ecological monitoring should be made conditional of any grant of permission and address any concerns in relation to the monitoring of alien invasive species.

Submission no.22 on behalf of the applicant presented at the oral hearing also addressed the issue of non-native invasive species. It is noted (p.1 of submission) that only 1 recent non-native species to Galway Bay was recorded at an oyster farm near Kilcogan in the south east of the Bay. There are no records of non-native species in the vicinity of the Galway Docks.

Furthermore the applicant has also indicated that the Harbour Master will introduce a bye law requiring all trans-nation commercial vessels to discharge ballast waters 20km off the shore thereby ensuring that non-native species will not be able to colonise substrates around the area of the Galway Harbour Extension site. It is also noted that there is no method to control non-native species that attach to the hulls of vessels.

## **9.9 Economic Arguments regarding Tourism Business and Trade**

### *9.9.1 Existing Port Constraints*

The existing port constraints have been set out in various documentations submitted with the application and these constraints have already been summarised in section 3.2 of this report. Therefore is

not proposed to reiterate them in this assessment. It is sufficient to state in my view that the existing constraints associated with the current port operations are accepted as being an obstacle to both economic trade and cruise tourism expansion. The insufficient channel depth results in a 4-hour window over a 24 hour period to accept larger vessels and this is not conducive to enabling and facilitating on-going trade. If improvements are not carried out with regard to access to the port, it is inevitable that trade will be lost to other ports, particularly in light of trends towards larger vessels. The tight geometry associated with the inner dock area together with limited berthing facilities and modest water depths within the inner dock will also militate against attracting on-going trade. In fact the evidence presented at the oral hearing by Capt. Brian Sheridan, Harbour Master, and (submission no. 37) has indicated that current operations at the port pose a danger as ships cannot access in the inner dock in the case of an emergency, due to insufficient depths outside high tide. The problem of gated access has, according to evidence presented at the oral hearing, also posed dangers to ships and smaller craft trying to access the harbour particularly during periods of inclement weather.

The inherent problems with the existing port operations are very apparent in my view and should form a significant deliberation in the Boards assessment of the overall application. It could contribute to a case being made for IROPI in a situation where the Board were disposed towards granting planning permission in this instance. However I would also suggest that other alternative designs could be considered which may prove to be more acceptable and appropriate in the context of the National Ports Strategy and the constraints imposed under the Habitats Directive which would address the constraints of the existing Port.

## 9.6 *Recreation Amenity and Tourism*

Galway City and environs possesses a very important tourism industry which is critically important to the local economy in terms of employment and has a wider significance in terms of national tourism as a whole. The city, with its historical buildings and medieval street pattern and its scenic hinterland is an important destination for international and domestic tourists. The city has a particular association with maritime tourism hosting a modest number of cruise ships on an annual basis and providing a stop-over area for the Volvo Ocean Race on two separate occasions. Maritime history is also strongly associated with the

City. The Bay is also very important for boating and sailing activities and a number of local sailing clubs spoke in support of the proposed development at the oral hearing. The scenic natural environment surrounding Galway, including Connemara, Lough Corrib and North Clare makes the sub-region a premier destination in terms of Irish Tourism.

#### 9.9.2.1 The Cruise Industry

The provision of a larger extended port facility which can accommodate larger and more frequent cruise ships will undoubtedly facilitate increased levels of tourism in and around the port and will assist in the expansion of the tourism base associated with the City. The problems associated with cruise shipping and the harbours inability to facilitate same is set out in various chapters of the EIS and the various oral presentations made to the hearing. A larger deeper harbour would attract more cruise ships and would provide for more convenient berthing of Cruise Ships. The cruise business is driven by the particular attractions of Galway City and the surrounding region. It also appears from the business case put forward by Mr. Raymond Burke (see submission no.38) that the annual growth rate is c.7% and the business has trebled in the last decade. In 2013 Ireland hosted 285 cruise ships, only 8 of which stopped at Galway. Evidence presented in his submission suggests that visitors from cruise ships have a high spend and this offers a significant boost to the local economy.

Based on the evidence presented in the EIS and at the oral hearing Galway is in my view in a prime position, due to its location on the western seaboard and its surrounding amenities including a historic medieval city on its doorstep, to take significant advantage in terms of the cruise industry. The proposed expansion and provision of a deep-water berthing facility will greatly enhance its development potential in this market. It is again noted that the National Ports Policy specifically *“notes the return of cruise tourist traffic to Galway harbour in 2012, and supports the company’s efforts to develop this business”*. (p.32). The redevelopment of the port which primarily focussed on the tourism and cruise industry (subject to compliance with the requirements of Habitats Directive) would in my view be more in keeping with the policies and vision set out in the NPP and would be commensurate with the expansion envisaged for the Regional Tier 3 Port.

### 9.9.2.2 New Marina Facility and the Regeneration of the Inner Dock

The provision of a larger and more accessible marina facility with over 200 berths will increase the recreational potential for cruiser boats and yachts within the harbour area. This will have a positive effect on the amenity potential within the proposed extended port, attracting sailors and other general visitors to the new port area.

The inner dock area could be transformed with the relocation of the main port area into the Bay. The greater emphasis on recreational maritime commercial activities proposed within the Inner Dock area will have beneficial effects on contiguous land uses in and around the old commercial port and will create a more vibrant and aesthetically appealing urban waterfront. The port area will also provide additional coastal promenades in the harbour/port area and this will provide pedestrian linkages around the wider coastal area associated with the City. The Renmore Promenade along the western perimeter of the reclaimed area will provide good linkages to existing walkways in the eastern environs of the City. Galway City Council argues that there is a somewhat missed opportunity not including Renmore Beach and environs into the overall planned amenity area. It appears however that Renmore Beach and environment is located outside the applicant's control.

Adjacent to the Renmore Promenade it is proposed to provide a new nautical slipway which would provide access for water sports and leisure pursuits including boating. The more sheltered environment on the leese side created by the proposed extension will also provide a higher degree of safety for water sports and leisure pursuits.

The only potential adverse impacts arising from the proposed development in my view is the physical removal of c.24 hectares of open sea which is currently available for recreational and tourism activities. However the removal of this area is considered to be negligible in the context in the overall Bay area available for maritime activities. A greater potential for accidents could arise as a result of a larger and more intensely used facility being located in close proximity to sailing and other maritime based recreational pursuits. However proper management of all port related activity both commercial and recreational should ensure that no major health and safety issues arise in this regard. In conclusion therefore I consider that the benefits offered from the proposed development would greatly outweigh the

disadvantages associated with the proposed extension from a recreational, amenity and tourism perspective.

### *9.9.3 Impact on Galway Business and Trade*

#### *9.9.3.1 General Business*

There is little doubt that the proposed development would have a significant positive impact on businesses and commercial activity generally in and around Galway City. This is borne out by the number of submissions received both in written form and by way of oral submissions in the hearing which argued in favour of the proposed development. The Board should note that the submission from Galway Chamber of Commerce at the hearing was made on behalf of a significant number of businesses within the City. The positive impact in terms of tourism has already been outlined above. In addition, I agree that the development of the port as proposed will facilitate the expansion of a vast array of businesses, particularly those involved in the importing and exporting materials and produce through the port. A constant theme throughout the various submissions in support of the development is that enterprises using Galway Port are either haemorrhaging business to other ports due to the existing constraints at the port, not least of which is ship size which is limited to 5,000 tonnes, or are forsaking further growth because of the existing port constraints.

Some businesses argue that their very survival is predicated on the port expansion. While others (including Cold Chon, Murray Timber, Mc Grath's Limestone and Tynagh Mines) argue that significant employment opportunities would result directly from the port expansion. In the case of Cold Chon, a major bitumen importer, it was stated that planning permission has been secured for an extension for the bitumen storage facility at the Galway Enterprise Park. This extension however will only go ahead if the Galway Harbour Extension is realised. The expansion of the Cold Chon facility would directly result in 50 extra jobs.

Many of the public representatives (all but one representative were in favour of the proposal in principal) argued that the extension was vital for the very survival of Galway Port, particularly as there is an increasing trend towards maritime trade utilising larger ships and thus ports accommodating larger ships. If not permitted to expand, it would appear that Galway Port will lose existing trade to larger ports.

### 9.9.3.2 *Marine Research and the Smart Ocean Economy*

The loss of trade and opportunities in terms of ‘the Blue Economy’ and the ‘Smart Ocean Economy’ were constant concerns expressed in the written submissions and oral presentations at the hearing. In fact it was argued constantly throughout the hearing that Galway is excellently poised to take advantage of, and harness opportunities in terms of Ocean Research, Marine related enterprise and cutting-edge marine technology. The fact that NUIG, GMIT, the Marine Institute and the Ryan Institute are all located within the City and all these research institutes are heavily involved in marine related research and technology is a significant advantage for Galway. This inherent advantage that Galway has cannot in my view be matched by any other port on the west coast including Shannon Foynes. Galway offers the best advantages to wed the 3<sup>rd</sup> level R&D with ocean related enterprises. There is little doubt in my mind, that were the development allowed to proceed, marine related research and technology would flourish and expand in Galway and this would be a major economic catalyst for the city and region as a whole. Research and innovation in ocean exploration, technology and renewable energy is an area of significant economic growth into the future and if developed, could be a significant driver and catalyst in accentuating such economic growth.

The EIS (including appendix 2.2.1), the additional information submission and the oral submissions at the hearing all make a coherent business case for the development in terms of its direct economic positive impacts in terms of increasing trade, increasing employment (including that during the construction phase) and increasing tourism spend. This will obviously lead to indirect spin-offs through the multiplier effect on the local economy.

The proposed development in my view, based on the evidence presented, would undoubtedly provide enhanced regional growth. There can be little doubt that direct investment in port expansion will have positive knock-on effects for the Galway area and beyond. The west north-west and border regions are among the most disadvantaged areas of the country and this proposal would, I suggest, assist to some extent in bolstering regional growth and help address economic imbalances nationally. As such it would be in accordance with the broader objectives of the NPD and Regional Strategies, particularly the strategy for the west region. The fact that, not only that the Galway City Chamber of Commerce, but the IDA and IBEC have activity supported the proposal to the extent of making written submissions and detailed

oral presentations at the hearing highlights the importance in which these development organisations view a positive decision in relation to the proposal. The North-Western Regional Assembly, according to a number of submissions at the oral hearing, has unanimously endorsed the proposed port expansion. The positive economic arguments put forward in terms of facilitating trade and tourism are in my view, the strongest arguments in favour of the proposal and are considerations that the Board must take very seriously in determining the application.

#### *9.9.4 Concluding Comments on Economic Considerations*

In conclusion there can be little doubt that the proposal is wholly beneficial in economic terms for the local and regional economy. However this alone in my view may not be sufficient to grant permission in my view, having regard to (a) the hierarchy of ports set out in the NPP, and Galway Port's position within this hierarchy, (b) the requirements under the Habitats Directive would set impediments to automatically grant permission based on business/economic arguments alone, and these arguments are set out elsewhere in my report.

If the Board however form a conclusion that the proposal does not contravene National Ports Policy and there are no acceptable alternatives which are less damaging on habitats to the expansion of the port as required to be considered under the provisions of the Directive and S.177AA of the P&D Act 2000 as amended, it must then consider the case for invoking IROPI. Relying on my arguments set out in more detail below, it is my reasoned consideration that a case for IROPI could not apply in this instance based on the guidance available. As already mentioned Commission Guidance set out criteria and tests (see section 9.15 on the 'Case for IROPI', below) as to whether or not a case for IROPI exists. While local and regional economic gain would accrue from the development this does not equate to the development being 'indispensable' in accordance with the guidance in my view.

### **9.10. Impact on Amenity**

#### **9.10.1 Noise and Vibration**

When assessing the impact of noise, it is necessary in accordance with the requirements under EIA to assess the potential impact in terms of construction impacts and operational impacts. Having regard to the nature of activities which will be required to be undertaken during the

construction phase, i.e. drilling, blasting, pile driving, backfilling, and capital dredging, together with the length of the construction phase (c.96 months), it is likely that noise impacts during the construction phase are likely to be a more significant in terms of elevated sound power ( $L_{WA}$ ) than noise associated with the operational phase of the development.

#### 9.10.1.1 *Baseline Surveys*

According to the information contained in the EIS, background noise surveys have been conducted in the vicinity of the site and have been carried out over the previous decade at 5 locations in the vicinity of the site (see figure 10.2.1). Three of the survey locations N1 (Mellows Park), N4 (Dock Street near the existing Marina in the Inner Dock), and N5 (Grattan Road – Frenchville) correspond with the nearest residential noise sensitive locations in the vicinity of the proposed development.

The surveys carried out (2004, 2007, 2011, and 2013) indicate noise levels typically associated with an urban environment. Grattan Road, along the western boundary of Claddagh Park, on average experienced the highest ambient noise levels with daytime levels ranging from 57 to 70 dB(A)  $L_{Aeq}$ . As the crow flies, Grattan Road is the furthest survey location from the harbour area. This suggests that noise generated from the port is not having a significant impact over and above more general noise levels associated with urban areas i.e. mainly traffic. Noise levels at the existing Dock area and indeed in the Harbour Enterprise Area, is on the whole, somewhat lower than noise levels experienced at Grattan Park, ranging from 53 to 62 dB(A)  $L_{Aeq}$ . Mellows Park adjacent to Renmore Lough, to the east of the Galway Enterprise Park, experiences lower ambient noise levels that are generally below 55 dB(A)  $L_{Aeq}$  during the day.

The EIS notes that during the day traffic is the dominant noise, however at night-time traffic noise dissipates and port related activity begins to dominate. It is noted for example that in the survey conducted in 2004, night-time levels were in fact higher than day-time levels at the Enterprise Park.

The applicant has confirmed that the noise model included a ground absorption value factor of 'zero' in the model assumptions. This is considered appropriate for noise propagation across hard ground or water, and as such represents a worse-case scenario.

### 9.10.1.2. Construction Airborne Noise

The only published construction noise limits in Ireland are those published by the NRA<sup>29</sup> and relate to the construction of National Road Schemes. A noise limit of 70 dB (A)  $L_{Aeq}$  is permitted at the façade of a dwelling house under these Guidelines. The Board should bear in mind that the construction phase is to last 8 years, so the potential impacts arising from construction noise will last for a significant period, beyond that normally envisaged for a section of roadway, and thus noise generated during the construction phase alone could have a profound effect on surrounding residential amenity.

The EIS details the potential impact of the proposed construction activities to be carried out as part of the harbour development. Details in relation to the machinery to be used and the sound power ( $L_{WA}$ ) associated with this machinery<sup>30</sup> is set out in the response to the additional information. The main sources of construction noise are

- Lagoon Construction
- Dredging Works (both Trailer Suction Hopper Dredging and Backhoe Dredging)
- Quay Wall Construction including Pile-Driving and
- Traffic.

The EIS models individually each of the above activities and predicts that in the case of each of the activities, that noise levels at each of the noise sensitive locations referred to above (N1,N4,N5), are estimated to be in the order 45 dB(A) to 50dB(A). I deem this to be generally acceptable, particularly for construction activity. Furthermore the noise levels generated by construction activity are in the case of Grattan Road area for example, in most instances more than 10dB(A) below the ambient or residual noise levels currently experienced in this area through traffic etc. The impact from construction noise in the western area of the city will therefore be negligible according to the model. The impact on Mellows Park, particularly in relation to pile driving and backhoe dredging maybe more significant having regard to existing ambient noise levels in the this area. Nevertheless the noise model predicts under a worse-case scenario that noise levels at this location will not exceed 50 dB(A) during the construction phase which is again within acceptable limits.

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<sup>29</sup> Guidelines for the Treatment of Noise and vibration in National Road Schemes

<sup>30</sup> Based on BS 5228-1:2009 Code of Practice

The Board should also note that the applicant was requested, as part of the additional information, to comment on the use of  $L_{den}$  for assessment purposes for construction activity when the vast majority of this activity (with the exception of dredging) will take place during the daytime hours. The response states that the use of  $L_{den}$  was predicated on an absolute worse-case scenario, and this results in an over-prediction of c. 6dB(A). It can reasonably be concluded therefore that the actual impact is likely to be less than that set out in the EIS.

The applicant was also requested to comment on the possible cumulative impacts arising from simultaneous construction activities taking place on site, (i.e. construction traffic and lagoon construction and dredging etc. operating at the same time). In response the applicant states that different construction activities will be taking place at different stages (for exact details see section 4.5.2.1 of the EIS) and therefore in general, such activities will not be occurring in tandem. Furthermore, where two activities are occurring, for example dredging, which is ongoing throughout the process, construction works will be separated geographically from the dredging activity. As noise dissipates considerably over distance (a 6 dB reduction over a doubling of distance from a point source) it is likely, having regard to the overall area in which the development is to take place, that noise will dissipate significantly particularly as noise sensitive receptors will be located between 500 m and 2 km from the main body of the construction activity. At any given point therefore differences of 10 dB between sound power levels ( $L_{WA}$ ) are likely. Where such differences in noise levels occur, cumulative noise impacts will not arise. Finally in relation to this point, noise monitoring will take place throughout the course of construction (see section 5.6.2.1 of Appendix 4.2 of the EIS for further details) at the nearest noise sensitive locations. Where excessive noise levels occur which can be directly attributed to cumulative impacts, corrective measures will be employed such as reducing operational times or the de-coupling of construction activities etc. If it was deemed appropriate the Board could also condition (subject to compliance with all IROPI protocols set out in the legislation as per S.177AA to S.177AD of the Act) that where and when required, temporary noise barriers could be erected at specific noise sensitive locations.

A significant factor in the attenuation of noise is the fact that much of the works will be taking place at points further out in the Bay than the existing operations and therefore away from the existing noise sensitive locations. Nevertheless pile-driving and backhoe dredging, because of the noise levels associated with these activities could give rise to some

disturbance particularly if they are being undertaken outside normal daytime hours. It is proposed that dredging would take place over a 24 hour period while pile driving would be limited to daylight hours (i.e. 7am to 11pm – see section 10.7.2 of EIS). Where the Board considers that the development should proceed (subject to compliance with all IROPI protocols, if considered to be applicable), I would recommended that pile driving should be restricted to a 12 hour period between 8 am and 8 pm in order to protect residential amenity and that dredging should not take place within 300m (or some other such distance that the Board deem to be acceptable) of the shore line between hours of 8 pm and 8 am during the construction period for the same reason.

In terms of construction traffic, it is anticipated that traffic levels associated with the construction activities of the port will not significantly contribute to noise levels having regard to existing traffic levels with the city and the fact that traffic is already the significant contributor to ambient noise levels in the area. The model predicts that noise levels will only be affected on roads in the vicinity of the port and this impact will be in the order of 1 to 2 dB(A). Such an impact will be imperceptible. The fact that the vast majority of fill will be derived from the sea bed and will not be imported via HGVs will significantly reduce trip generation with a commensurate reduction noise levels associated with construction traffic.

#### 9.10.1.3 Operational Airborne Noise

The main potential impacts from the operation of the port in terms of airborne noise relate to

- Increase traffic arising from the port expansion
- Increased shipping to and from the port
- Increased loading and unloading of materials at the quaysides.
- Increased noise from rail.

In relation to traffic noise, three scenarios were modelled in relation to port operations with the development in 2016 and 2031 and also port operations under a do nothing scenario. The noise contour maps produced on foot of these modelling scenarios, indicate that the increase in noise levels as a result of the increased traffic associated with the port development would be negligible. An increase in the order of 1 d(B) (which is imperceptible) is anticipated in relation to traffic on roads in the vicinity of the port for both 2016 and 2031. Increases in noise levels at the noise sensitive locations beyond the immediate

environs of the port (referred to in the above sub-section on construction noise) will likewise be imperceptible.

Noise generated from operational shipping can be expected to increase due to the frequency of manoeuvres and the increase in the size of the ships, however this will be off-set by the relocation of the berthing, loading and unloading facilities further away from the existing noise sensitive locations. The overall impact is therefore deemed to be positive. The reduction in noise levels at the nearest noise sensitive locations as a result of the relocation of the port area are indicated in the noise contour maps in figures 10.4.13 and 10.4.14 of the EIS.

A similar positive impact can be expected in relation to loading and unloading of materials. The fact that such activities will take place c. 800m out into the Bay area will have a major positive impact in terms of reducing noise levels in and around the existing inner dock area and hence reducing noise levels at the nearest noise sensitive locations.

Port operations will no longer be dictated by tidal constraints and will therefore primarily be restricted to daytime operations where noise level tolerance will be higher at noise sensitive locations.

Noise generated by the railway spur will be localised and will be confined to the reclaimed area and within the vicinity of the existing railway line and the proposed railway spur. It is not anticipated that rail freight, especially in the short to medium term, will be a significant form of transporting goods to and from the port and as such it is not anticipated rail will contribute significantly to noise levels at noise sensitive locations.

Finally in relation to operational noise, the applicant has indicated that third octave analysis was carried out as part of the base line survey and no significant tonal components were identified during the analysis. It is expected that impulsive noise will be a characteristic of both construction and operation of the port, however it is not considered that the impulsive nature of the noise will not significantly impact on amenity, having regard to the separation distances between works carried out and the noise sensitive locations.

#### *9.10.1.4 Vibration*

The EIS indicates that vibration is likely to be derived from two sources during the construction phase only, namely blasting and construction

traffic. Pile driving in my view, could also be a potentially significant source of vibration. However the appendices to the EIS (see S 5.5.1 of Appendix 4.2) indicate that pile driving is unlikely to affect the structural integrity of building unless the pile driving is located within 20 meters of the structure. This scenario will not arise in the case of the current application.

Vibration could adversely impact on the integrity of structures (particularly petroleum structures) or more likely in my view adversely impact on ground nesting sites or commercial shell fishing areas. The impact of noise and vibration on the marine benthos is addressed in section 5.1.2 of Mr. Bastreri's report.

The key issue in relation to vibration is mitigation through design and operational practices. The EIS indicates that delayed detonation blasting techniques will be employed and a Peak Particle Velocity (PPV) of 12 mm/sec will not be exceeded. This is fully in accordance with the Boards standards when conditioning vibration limits.

The EIS also indicates that the distance between the area in which the works are to be undertaken and the shell fish farming area within the Bay is considerable (the shell fish are concentrated in inlets along the southern part of the Bay) and therefore the impact is considered to be negligible. Section 10.7.2 of the EIS and section 5.5 of Appendix 4.2 of the EIS set out very comprehensive mitigation, monitoring and reporting measures so as to ensure that the effects of vibration is minimised to an acceptable level so as not to impact on the integrity of structures or habitats in the vicinity of the site. I am therefore satisfied that with the appropriate mitigation and monitoring, that the proposed construction of the port extension will not have an unacceptable impact in terms of vibration.

## **9.10.2 Landscape and Visual Impact**

### *9.10.2.1 Visual Impacts during Construction Phase*

The visual impact arising from construction activities will be dynamic and will change over the various phases of the development. The visual impact is likely to become more acute as the development extends and progresses into the Bay. The main impact will be derived from construction machinery and activities which will take place during the progressive reclamation of the new Port Area. This is likely to result in

the provisions of cranes together with marine barges and vessels involved in the loading and unloading of materials and pile driving rigs, bulldozers, excavators, dump trucks and the provision of a contractor's compound. The location of these activities within the Bay area will change over the course of construction. The visual impacts arising from this construction will be temporary (albeit between 5 and 8 years) and will in my view be relatively incongruous having regard to the industrial and port related activity which currently takes place adjacent to the harbour and within the Harbour Enterprise Park.

#### *9.10.2.1 Visual Impact during the Operational Phase*

I have carried out a number of site inspections which have included walkabouts for the main harbour area, The Enterprise Park, Nimmo's Pier, Mutton Island, Renmore Lough and Roscam Beach and Tawin Island further south along the Bay. I also undertook a visual inspection of the proposed harbour extension from a boat within the Bay.

The existing receiving environment is characterised by port related maritime industries in close proximity to more urban related land uses including a multi-storey car park and residential and office development adjacent to the inner dock area. The railway embankment and Lough Atalia Bridge form a strong visual reference point which defines the northern boundary of the site. Views of the harbour to the north and north-east of this railway embankment in the vicinity of Lough Atalia, the Moneenageisha Roundabout and the R338 as far as the Regional Technical College, are very much obscured by the railway line embankment and suburban development in and around the Mervue/ Renmore/ Area. In essence the proposed reclaimed area will not be visible to any significant extent from the area immediately north of the railway line. Mellows park which is located on the southern side of the railway line will be most affected by the proposed harbour in terms of visual impact. The evidence of Ms M. Egan (See Submission No. 46) suggests that vantage points in this area will experience permanent negative impacts arising from the development.

The development will involve the reclamation of approximately 24 hectares of land from the sea. The area can be defined currently as open seascape. The transition of this area from open sea to reclaimed land can be described as a profound change. The area of the Inner Bay which will be subject to this change is readily visible from vantage points to the east and west along the coastline particularly views along promenades at Salthill, Nimmo's Pier, the Causeway to Mutton Island,

Claddagh Park and South Park and also to the east along Renmore Lough and Roscam Beach. Views across the proposed reclaimed area will also be prominent from the railway line but not, as already stated views to the north of, but in the vicinity of the railway line. Other than the railway line there are no significantly elevated lands in the vicinity of the site. Furthermore because of the built-up nature of the city side of the port, views of the port area and the proposed reclaimed area will be virtually non-existent from vantage points within the city centre. As the photomontages submitted with the EIS indicate, it is only at vantage points 3 to 4 kilometres to the north-west of the port area between the N59 and the Leitriff Road is the land sufficiently elevated to afford views of the port area. The port will be visible from the Circular Road which is a listed view in the City Development Plan. However the proposed port extension at such distances becomes enmeshed in the wider urban fabric and to some extent, the port becomes indiscernible from the wider panoramic views of the city.

The sea front on either side of the proposed extension is of high public amenity value providing promenades, parks and walkways which are heavily utilised by the public for recreational purposes. The proposed reclaimed area will be most visible from coastline vantage points to the east and west of the harbour. Views across the Bay which heretofore have comprised of open water will dramatically shift to industrial/port related uses. Such an impact can only be considered significant, negative and permanent in my view.

However there are a number of mitigated factors, which in my opinion, will significantly alleviate the impact of the proposed development from vantage points along the coastline. Firstly the reclaimed land will form part of an extension of port related activity which is already apparent in the area. While the overall size and scale of the harbour will be increased, it can be argued in my view that the relocation of port activities away from the inner dock area will have a profoundly positive effect on the existing port related lands surrounding and contiguous to the inner dock area which currently hosts port related activities. As pointed out in the EIS and in a number of submissions which support the development, the relocation of heavy industrial related uses to the reclaimed area provides an opportunity to create a more visually pleasing urban waterfront landscape within the city centre which will contribute to the revitalisation of lands adjacent to Eyre Square and the main shopping streets associated with Galway City. Urban regeneration opportunities will be presented around the inner dock area as a result of the proposed port extension.

Secondly the incorporation of a breakwater and associated marina will help screen and soften the visual impact of the proposal from vantage points to the west (Nimmo's Pier, South Park, Mutton Island Promenade and Salthill Promenade) and to a lesser extent from views along the Claddagh Quay and Wolfe Tone Bridge in the city centre. The incorporation of a marina provides a sense of public amenity which is such an inherent characteristic of the existing coastal area at present. It could be reasonably argued that the provision of a new and extended marina area with associated promenades and walkways will consolidate and extend the existing coastal amenity areas associated with Galway City seafront and this could represent a significant planning gain. The provision of a breakwater and a mooring facility for small boats and yachts on the western side of the port extension will contribute to the softening and filtering of the port uses located adjacent.

The incorporation of an amenity slipway and the fishing pier on the eastern side of the harbour extension area may also improve views and prospects towards the development from the eastern environs of the city albeit to a lesser extent.

#### 9.10.2.3 *Landscaping Proposals*

Landscaping measures, in particular soft landscaping associated with the amenity areas, promenades and walkways within the new port extension will assist in the softening of the visual impact. Details of the landscaping proposals are set out in some detail in Section 12.18 of the EIS. Landscaping is a very important consideration in achieving the desired visible and amenity impact associated with the development. It is critical that landscaping takes hold and that hardy, robust salt and wind tolerant species are planted in order to soften the visible impact and to provide viable and enticing amenity areas. A submission from Galway City Council (submission no.80) challenges the proposed landscaping plan and argues *"that attempting to establish on top of the reclaimed lands will be very difficult, certainly to establish the woodland type proposed will be impossible given the extreme exposure levels that will be encountered and over-topping of waves during storms"*.

If the development were to proceed, I would recommend that a very detailed landscaping plan be agreed and that any conditions relating to landscaping incorporate a requirement for replacement landscaping where planting does not succeed in the first, second or third instance.

#### 9.10.2.4 *Visual Impact from Ships Berthing at the New Port Area*

A significant impact arising from the development will be the ability of the port to facilitate more and larger ships. If the proposed development were to proceed, ships could increase in size from a current limit of c.5,000 tonnes (with a length of less than 100 metres) to ships in excess of 20,000 tonnes which can be in excess of 150 metres in length and in excess of 10 meters in height. In the case of cruise ships the height of the ship can provide a very dominant feature within the port area. The photomontages submitted as part of the EIS give a good indication as to how a large ship could be perceived in the context of the port extension.

The presence of large ships at a port harbour cannot in my view be considered incongruous or inappropriate. While ships may form a dominant feature within the port area, they would I submit, be generally deemed to be acceptable in the context of the port related activities. In fact it can be reasonably argued particularly in the case of cruise liners, that the mooring of such vessels at the port could have a positive impact on the vibrancy, vitality and aesthetic amenity of the area.

It again should be highlighted that the ship would berth further out in the Bay, than is currently the case and this would somewhat reduce the size, scale and dominance of the ships when viewed from vantage points in and around the central area of Galway.

#### 9.10.2.5 *Night-time Impact and Light Pollution*

The major impact arising from the development outside daylight hours could be the extensive use of artificial lighting within the port area. According to the information contained in the EIS, lamp standards of between 6 and 25 metres in height will be used within the port and will be similar in terms of light intensity to the existing street lighting within Galway City Centre. Lighting associated with ships in dock will also be noticeable. While the proposal will result in the extension of a built up area into the Bay which previously would have had no artificial lighting, the reclaimed area would nonetheless form a logical extension to the existing built environment and no discernible contrast would exist between existing city centre lighting and lighting associated with the port. As such I do not consider that the proposed development would have an unacceptable impact in terms of light pollution. As a mitigation measure it is proposed to cowl and baffle potential light spillage which will help reduce light pollution.

#### 9.10.2.6 *Conclusions in Relation to Visual Impact*

Arising from my assessment above, I consider that the proposed change from open seascape to one of port related activity will be profound. The overall impact is described in the brief of evidence by Ms Margaret Egan (submission no. 46) as being 'permanent, moderate to significant and negative, with a slight positive impact on Lough Atalia Bridge. This assessment is slightly more negative than the conclusion set out in Chapter 12 of the EIS. However the proposal provides significant opportunities principally in terms of freeing-up existing port related uses within the inner dock area in order to provide more appropriate land-uses associated with an urban waterfront which supports and enhances existing city centre land-uses. Furthermore the incorporation of a large and extended marina area as part of the proposal together with the provision of more amenity walkway areas will also have added benefits in visual terms. Overall therefore I consider that the proposed development would be acceptable from a visual amenity point of view.

### **9.11 Traffic and Transport Issues**

#### *9.11.1 Introduction*

Numerous submissions have expressed concerns that the proposed development will give rise to unacceptable levels of traffic and traffic congestion within Galway City. Furthermore a number of submissions from Prescribed Bodies, particularly concerned with transport matters, while generally supportive of the proposed development, and have highlighted a number of specific issues which should be addressed in the granting of any development consent. Galway City Council has also requested that the Board to give detailed consideration to the special financial contributions required particularly in relation to transportation matters resulting from the development. The first part of this assessment sets out a general evaluation of traffic and transportation issues while the second part addresses some of the specific concerns raised in the various submissions. The existing trip assignment arrangements to and from the port area has already been set out in Section 4.3 of my report and is not reiterated for the purposes of this evaluation.

### 9.11.2 *Proposed Changes and Access Arrangements to the New Port*

In terms of traffic, the significant changes proposed to the existing road network are set out below.

- (a) The creation of a priority junction at the existing Lough Atalia /Dock Road. Details of the layout of the new priority junction including cycle-ways and a pedestrian crossing are set out in Drawing No. 2139-2165.
- (b) The provision of a new rail link to the newly extended port area from the existing Dublin – Galway rail line. This will require the construction of a new railway bridge over the existing GHEP Road which currently provides access to the CIE Bus Park.
- (c) The lowering of Lough Atalia Road in order to allow for the more convenient transport of port traffic by providing height clearance of just above 5 metres from the carriageway to the invert level of the bridge. This will require a reduction in the road level by just less than 1 metre. This aspect of the development has been the subject of a Part 8 process and is likely to take place regardless of whether or not the port development proceeds<sup>31</sup>.
- (d) In the more medium to long term it is envisaged that various junction improvements will take place at a number of key junctions which will facilitate port traffic. These improvements will not be carried out as part of the development but will have implications in terms of traffic impact over the medium to long term as the port develops.

### 9.11.3 *Construction Traffic*

The fact that the vast majority of dredged material from the sea bed will be used for the infilling of lagoon areas in the reclamation works to be carried out, will significantly reduce trip generation during the construction period, in both terms of exporting dredged material off-site and importing stone or other material on-site. In addition the EIS states that rock armour and breakwater material will be transported to the site by sea. Notwithstanding this, the EIS still estimates that approximately 350 truck movements per day will be involved in the initial phase of

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<sup>31</sup> Recent Newspaper Articles (February 2015) have indicated that funding has been secured for the proposed improvements at Lough Atalia Bridge.

construction. This would equate to approximately 28 trips (both in and out) during the peak hour period. After the initial construction phase HGV trips will decrease to approximately 105 movements per day and this will equate to approximately 10 HGV trips (both in and out) during the peak hour. It should also be borne in mind that the highest levels of construction traffic will coincide with the lowest levels of operational traffic associated with the port. In addition to HGV movements, it is estimated that approximately 150 construction workers will be employed on site at any given period during the construction timeframe. The construction hours are estimated to be between 0700 hours to 2000 hours. Arrival and departure times are anticipated to be somewhat staggered and therefore will not necessarily coincide with peak hour traffic.

I note that the EIS in evaluating the proposed development does not specifically differentiate between construction generated traffic and operational generated traffic as there is a large degree of overlap between both. The EIS assesses the overall trip generation. While construction traffic volumes are identified, the overall impact of construction traffic is assessed in the context of the overall traffic generated by the port together with other traffic generation in the wider area.

#### **9.11.4**      *Assumptions and Methodology in Assessing Traffic Impact*

The traffic modelling undertaken as part of the analysis incorporates a number of assumptions which presents, in my opinion, a worst case scenario or potential over estimate of traffic volumes on the road network for the design years 2016, 2021 and 2031. The assumptions include the following:

- That the Galway Outer Bypass will not be in place for any of the design years up to and including 2031. (The EIS indicates that a planning application to An Bord Pleanála for a new alignment of the Galway Outer Bypass is likely to be lodged with the Board in 2015 and the alignment could be in place by 2019).
- The assumptions also include a large number of committed and planned developments which will give rise to additional traffic generation in and around the port area. These developments are listed in Section 13.4.2.4 of the EIS and incorporate large retail developments and urban regeneration schemes within the city.

The EIS estimates the trip generation for the operational phase based on total projected tonnage values of the following:

2016 – 1,417,500 tonnes

2021 – 1,697,500 tonnes

2031 – 2,102,000 tonnes (a sensitivity analysis also included a high growth scenario of 2,630,000 tonnes).

Additional trips generated by the proposal are estimated for the a.m. peak and p.m. peak for the various elements and land uses proposed as part of the development. The projections are based on the TRICS database for each of the proposed land uses. The traffic levels are predicted for the years 2016, 2021 and 2031. The projected trip generations based on the TRICS database is made up of the following land use elements.

- HGV/haulage related additional trips associated with the port.
- Car and LGV trips associated with the haulage related activities within the port.
- Car and LGV trips associated with the Galway Enterprise Park.
- Trips associated with the marina development.
- Trips associated with the cruiser liner element.

The various predicted trip generation for each of these land uses for the above years are presented in Tables 13.4.1 to 13.4.14 of the EIS. The overall trip generation for the am and pm peak is summarised in the table below:

**Table 6: Total Generated Traffic from All Sources in and around the Port Area 2016 -2031**

	AM		PM	
	Arr.	Dep.	Arr.	Dep.
<b>2016</b>				
Galway Harbour Extension	115	56	53	112
Other Anticipated/ Committed Development <sup>32</sup>	982	717	2295	2364

<sup>32</sup> The anticipated/committed developments referred to in the EIS are: Galway Harbour Village, Ceannnt Station Quarter, Galway Shopping Centre and Crown Development. Galway Shopping Centre is

<b>2021</b>				
Galway Harbour Extension	119	57	61	115
Other Anticipated/Committed Development	1137	895	2522	2564
<b>2031</b>				
Galway Harbour Extension	124	63	65	118
Other Anticipated/Committed Development	1137	895	2522	2564

The SATURN model was employed for the purposes of forecasting future traffic volumes including that from the port to the National Road Network. The model was assessed on 15 key junctions in the city (see Figures 13.4.2, page 13.4.9 of the EIS). Taking into consideration all the traffic generated by the proposed development, committed and planned development in the City together with the existing traffic volumes and growth figures associated with the routes in question, the SATURN model analysed the road network for the following scenarios for the years 2011, 2016, 2021 and 2031.

- The do nothing scenario (future traffic volumes and junction capacities in the event of the harbour not being developed).
- Do harbour development (i.e. background traffic growth with the inclusion of a proposed new harbour).
- Do harbour with committed and planned development.
- Do harbour with committed development under a high tonnage scenario (i.e. handling a total of 2.63 million tonnes in 2031 as opposed to 2.102 million tonnes in 2031). It is not proposed to evaluate the conclusions reached in the EIS in relation to the 15 junctions assessed. There are a number of critical junctions in my view that need to be assessed in detail by the Board and these are set below.

#### 9.11.5 *Assessment of the Traffic Impact Arising from the Port Development*

##### Junction No. 1 Harbour Access

As stated previously this junction is to be redesigned and signalised. The model indicates that this junction will operate below capacity

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projected to be the biggest trip generator of all the anticipated developments. Details of the anticipated trips are set out in Table 13.4.27 in p.13.4-28 of the EIS.

and will continue to do so up to and including the design year of 2031. The SATURN results indicate that traffic on the Lough Atalia Road during the afternoon peak from 2016 onwards under 'do nothing scenario' will operate slightly above capacity with the volume to capacity value (V/C value) of 0.88-0.89. However with the incorporation of a signalised junction, the model indicates that the V/C value will remain below 0.85 in 2016 and beyond. It is noted that should the Galway Harbour Village Development be granted planning permission (this development is only at design stage at present), The existing three-arm junction will become a four-arm junction and this may result in two arms of the junction operating slightly above the desired V/C value of 0.85 after 2016 (V/C value of 0.86 -0.88). However the junction will nevertheless operate within capacity (a V/C of < 1.00).

#### Junction No. 2 Lough Atalia Road and Fairgreen Road

The modelling again indicates that under the various scenarios with the development and other planned developments that traffic on the Lough Atalia Road will operate above the desired V/C value of 0.85 but will operate within the capacity including the design year of 2031. It should be noted however that particularly in the case of Arm C of the junction (i.e. travelling from Lough Atalia Road towards Fairgreen/College Road) would operate above the desired V/C value even under a 'do nothing scenario' also – particularly in the am peak. Arm C of this junction is the critical arm in terms of capacity constraint. The model however also indicates that the impact of the proposed development in terms of its contribution to existing traffic flows along this road would be small. The EIS also notes that it is Galway City Council's intention to extend the urban traffic management control system (UTMC's) to this junction which will facilitate an improvement in junction efficiency which should assist in the operation of the junction. According to the EIS this upgrade is to take place in 2014.

#### Junction 3 The Moneenageisha Junction

This junction has recently been redesigned from a roundabout to a controlled four-armed signalised junction. Presently the junction operates above capacity with all arms experiencing capacity issues in both the a.m. and p.m. peak. The SATURN model indicates that the proposed development will have a minimal impact on the existing Moneenageisha Junction which will continue to operate

above capacity, up and including the design year of 2031 with or without the development. The SATURN model indicates that the proposed development will generate less than 2% additional traffic movements through the Moneenageisha Junction in the a.m. peak hour and just less than 4% of traffic movements during the p.m. peak hour compared to existing volumes. Since the completion of the SATURN analysis presented in the EIS, it is stated that the Urban Traffic Management Control system which has been implemented along the Dublin Road corridor has resulted in a significant increase in traffic throughput at the Moneenageisha Junction (5.2% in the a.m. peak and 22.3% in the p.m. peak). It is suggested that if the new traffic count data undertaken subsequent to the UTMC system being introduced this would have a significantly positive impact and adjust the V/C value of the roundabout so that each of the arms of the junction would operate at less than 1.0 V/C for 2016.

Mr. Tom Cannon, traffic consultant on behalf of the applicant, in his submission at the oral hearing (submission no.44), indicated that figures contained in the EIS have been superseded by new figures and traffic data which have been more recently published by Galway City Council. However it was argued that these newer figures in no way invalidate the conclusions reached in the EIS. The conclusions reached in the EIS are still accurate and offer a robust and accurate assessment of the potential impact of the proposal in traffic terms. I note that Galway City Council did not dispute this assertion during the course of the oral hearing.

#### Other Junctions

The other junctions analysed as part of the traffic impact assessment are located further away from the port area and it is considered that port traffic will be somewhat dissipated and diluted when using these junctions. The impact of the port development traffic would therefore be negligible in the context of the capacity of these junctions, primarily because these junctions located to the west of the City and do not cater for large volumes of port traffic. These junctions include the Wolfe Tone Bridge/Claddagh Quay/Father Griffin Road junction to the west of the harbour area. These junctions will mainly facilitate traffic heading westwards towards Barna/ Inveran and Rossaveel in south-west Galway and perhaps to a lesser extent traffic along the N59 towards Oughterard, Moycullen and Clifden. (It is more likely however that traffic

travelling towards the N59 would be more likely to do so via the N6 and thus via the Moneenageisha Roundabout). Galway City indicated during the course of the oral hearing that it was proposed to place a weight restriction on Wolf Tone Bridge. This weight restriction<sup>33</sup> would prohibit port-related HGV's from travelling westwards through the City Centre. This would address concerns raised by residents in the Grattan Road/ Claddagh areas about port related HGV movements travelling through these residential areas.

Junctions 7, 8, 10, 11, 12 and 15 all related to large roundabout type junctions located on the N6. These junctions accommodate large volumes of traffic. They accommodate a mixture of local commuter-type traffic along with commercial and strategic traffic associated with Galway and the national road network. It is clear from the modelling analysis undertaken for these junctions that, while many of these junctions operate at or close to capacity, the impact of the proposal on these junctions would be negligible in the context of the overall traffic volumes at these junctions. I refer the Board to the various tables contained in the EIS (Tables 13.4.28 to Table 13.4.46) for further details in relation to their operation. If one compares the capacity of the junctions under the 'do nothing scenario' for 2016, 2021 and 2031 with the capacity of the junction for the same years under a worst case scenario (2031 with the port development under a high sensitivity scenario or with other anticipated/committed development) the impact in terms of V/C is negligible. The analysis undertaken indicates that the impact is not discernible at all, or where it is discernible, it results in an increase in terms of V/C in the order of 0.01 or 0.02.

#### 9.11.6 *Conclusions in relation to Traffic Impact*

In conclusion therefore I am generally satisfied that the applicant in this instance has carried out a reasonable and comprehensive assessment of the impact of the proposed development on the surrounding road network. While the proposed development will have some impact on the junctions in the immediate vicinity of the harbour area - particularly the Moneenageisha Junction and the junctions along the Lough Atalia Road, it is not envisaged that the proposed development will result in significant levels of traffic congestion over and above that currently experienced at the junctions.

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<sup>33</sup> It is proposed to limit vehicle weight to 12 tonnes.

Furthermore I consider that the assumptions made in the transportation model represent worst case scenarios where all permitted and proposed development takes place in the absence of the implementation of any road relief schemes including the Galway City Outer Bypass or any junction improvements. It is likely that with the construction of the Galway City Outer Bypass, significant amounts of through traffic which currently utilise critical junctions along the N6 (Junctions 7, 8, 10, 11, 12, 13, 14 and 15) will be relocated onto the Outer Bypass. I also consider that the traffic analysis has indicated that beyond the Lough Atalia Road and the Moneenageisha Roundabout, port related traffic becomes significantly diluted and does not contribute significantly to the traffic volumes using these critical junctions in the wider area.

There can be no doubt that the proposed port extension will contribute to traffic volumes on the surrounding road network. This will inevitably be the case due to the port location in the context of the city as a whole and the consequential requirement for traffic to use the urban road network to access strategic routes on the northern environs of the city. However it appears from the analysis undertaken in the EIS, that the impact will not be critical in determining the future performance of these junctions having regard to the anticipated traffic levels which will be generated specifically by the port development. I therefore do not consider that the proposed development should be refused permission on the grounds that it will give rise to unacceptable levels of traffic and traffic congestion on the surrounding road network.

## **9.11.7 Other Traffic Issues**

### *9.10.7.1 Proposed Rail Link to Port Terminal*

The proposed rail link to the new port is, according to the EIS, a critical element in the supporting infrastructure. However it will only be utilised when or where it becomes viable. As already referred to earlier in this assessment, the absence of a rail link in the application for the relocation of the Port of Cork out to Ringaskiddy (reg. Ref. PA0003), was a major consideration in the Board's decision to refuse planning permission. The existing inter-city services between Galway and Dublin and commuter services between Galway and Athenry, significantly limits the time window under which freight can be transported during the day time (under current time-tables possibly 3 time-slots exist – although the Irish

Rail submission has not verified that these time slots are available, and details in this regard will have to be agreed with Irish Rail). The capacity could be further restricted if the western rail corridor was extended northwards of Athenry. If more freight services are to be provided during the day-time, a passing loop would have to be incorporated into the line between Galway and Athenry. However ample opportunity exists to run freight services outside existing timetables (22.31 pm to 05.30 am). Irish Rail, in its written submission to the Board states that some of the assumptions made in the EIS in relation to the capacity of the line need to be verified by the company, but there is no objection to the principal of providing a rail link to the harbour. It is noted that CIE have no objection to the proposal also.

Concern was expressed in one of the observations that the proposed embankment leading from the existing train track to the new port incorporated too steep a gradient. The EIS (S.13.3.5.3) sets out details of the proposed construction of the rail spur. The gradient of the embankment will only start reducing after (i.e. to the south of) the over-bridge at the GHEP Road which provides access to the CIE Bus Depot. A full 5.03m clearance will be incorporated into the design to allow access for buses. The EIS goes on to state that the rail links' geometrical requirements have contributed to the design of the layout. This infers that train requirements have dictated the design of the embankment and therefore the design is suitable and adequate to accommodate trains. I note that Irish Rail in its submission has not expressed any concerns in this regard. Issues in relation to noise generated by the rail links, which was raised in at least one observation, have been evaluated in the section of this assessment relating to noise.

#### *9.11.7.2 Bus Arrangements*

Bus Eireann generally welcomes and supports the proposed development. Some concern is expressed in relation to the flooding in the Bus Park, however there is no evidence to suggest that the proposal will in any way exacerbate or accentuate flooding on these lands. Concern is expressed that port-related traffic, particularly during the construction phase, will accentuate congestion on the road network and this could affect bus services. I have already argued above that port-related traffic, based on the traffic modelling contained in the EIS, is unlikely to have a significant impact on the road network, having regard to the existing and projected traffic

levels to be accommodated, particularly through key junctions, on the this network. Details of any changes to Bus assignment routes to and from the Bus Depot can in my opinion be agreed between the parties concerned, in the case where planning permission is granted.

### 9.11.7.3 *Cycling Infrastructure*

The Galway Cycling Campaign submission made a number of comments concerning infrastructure for cyclists as well as commenting on wider transportation issues. It noted that the provision of a port tunnel, similar to that in Dublin would be of a major benefit to cyclists using the City of Galway. While the provision of a dedicated port tunnel, and associated HGV ban for the city centre, would undoubtedly be beneficial for port traffic and traffic in the city centre as a whole, it does not form part of the application before the Board and therefore cannot realistically be considered.

More general concerns for the safety of cyclists in Galway City were expressed, particularly during oral hearing. It was suggested that HGV traffic and more sustainable transport forms such as cycling and walking are incompatible in urban areas. Safety concerns for cyclists are expressed in relation to left-turning HGV traffic at junctions. I would not disagree with any of the above sentiments however in the case of Galway HGV traffic, and port-related traffic will continue to be a part of daily traffic until such time as proposals to address these wider concerns are put forward. Where cycling design forms part of the overall road design proposals, set back lines and advance stacking locations of 5.0 m have been incorporated. This should assist in reducing accidents.

The submission also suggests the prohibition of HGV movements during school travel hours 8.30 to 9.30 am and 3.00 to 5.30 p.m. The applicant has indicated that any new or revised port activity will restrict haulage related activities between 08.00-09.30 and 17.00-18.30. This should assist in reducing potential accidents between pedestrians and cyclists and HGV's.

In the case where permission is granted, it would be recommended that the traffic implications arising from the proposal would be the subject of a comprehensive road safety audit to ensure the highest possible safety standards are adhered to.

It is also suggested that the harbour scheme should include the provision of a two-way cycle track along the coastal edge. The applicant has endeavoured to incorporate extensive cycle tracks within the new road layout associated with the harbour development, and these are indicated on Drawing 2139-2132. Cycle lanes are incorporated on Renmore Promenade Road, Marina Promenade Road, the GHEP Road and the Lough Atalia Road. The cycling proposals in my view provide ample opportunity to link in with any wider city plans or coastal network plans to provide a more comprehensive and strategic road network. It is not the responsibility of the applicant to provide plans for a city-wide cycle network, however adequate facilities have been provided which will allow for the proposed development to link into any city wide network.

I do note that the Galway Cycling submission make reference to 'Existing Escape Gateway' under the Railway Bridge near the CIE Bus Park. It is noted that this archway ties into the natural demand for cycle and walking between Renmore, Mervue and Wellpark. If the Board are minded to grant permission (subject to IROPI provisions) it is recommended that a condition be attached to any permission that cycleway be incorporated into the spur road leading to the escape gateway beneath the railway line.

It is suggested that any improvements to the pedestrian link along the existing Dublin – Galway railway line, as suggested in the submission, is a matter for CIE and not Galway Port. Reference was also made to the 30m wide reservation along the railway line, which was formally demarcated for a busway. This, it was suggested, could be used as a HGV haulage route to and from the Port. Galway City Council pointed out during the hearing that this reserve was removed from the previous development plan and that the current development plan includes for a pedestrian/ cycleway and a public transport train corridor.

Concerns are also expressed that the cycle route design is questionable as it shows footpath-type cycle lanes running along roads with side roads and access points as it encourages 'wrong-way' cycling. I cannot find any evidence on the drawings submitted of any contra-flow cycle paths. This point was acknowledged in the oral hearing.

Finally in relation to pedestrian and cycling facilities generally, the National Transport Authority has expressed in its submission general support for the provision of these facilities as proposed. Furthermore all proposals, if the development commences, will be the subject of a Stage 2 and 3 Road Safety Audit which should identify any potential road safety issues.

#### *9.11.7.4 Impact of the Proposal on Lough Atalia Road*

Concern is expressed that the works to be carried out on Lough Atalia Road which, according to the information contained in the EIS non-technical summary, could last up to 43 months, and that this will have an unacceptable impact on businesses along this section of the Road<sup>34</sup>. No proper mitigation measures are put in place to ensure this impact is minimised. Consideration should be given to limiting works along the road to a night-time period or providing a temporary slip road or floating bridge.

Section 4.5.3.5 deals with the issue of diversion routes during the redevelopment works at Lough Atalia Bridge. It is estimated that the works will take approximately 8 weeks. Inbound traffic to the harbour area will be diverted onto Fairgreen Road, Forster Street, Lower Eyre Square, Victoria Place, Queens Street and Dock Road. Outbound Traffic will be diverted onto Merchants Road, Eyre's Square, Prospect Hill Bothar Ui Eithir and Bother Na Long.

The closure of Lough Atalia Road will be for a period of 2 Month as opposed to 43 months. While the closure will result in diverted traffic, which will inconvenience both drivers and businesses associated with Lough Atalia Road, the works in my view are necessary to cater for traffic, particularly HGV traffic, which currently has to move to the centre of the road alignment to avoid bridge strikes. Due to the nature and necessity of the works, I do not consider it practical or appropriate to restrict operations to night-time only nor is it reasonable to require the applicant to construct a temporary slip road or floating bridge to the south-east of the existing Lough Atalia alignment as suggested in one of the submissions to the Board. Again it is re-iterated that the works to be carried out at Lough Atalia Bridge have been the subject of a part 8

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<sup>34</sup> This observation in which this issue was raised was subsequently withdrawn, the issue raised was nevertheless a valid issue and for the purposes of carrying out a comprehensive assessment it is briefly addressed in this report.

Process to be undertaken by the Planning Authority and can be proceeded with under this process regardless of whether or not the port project is realised.

#### 9.11.7.5 *Financial Contribution Conditions under S.48(2)( C)*

Galway City Council has, in the event of a grant of planning permission, requested that a number of financial contributions be attached under the provisions of S.48(2) (c) in relation to road works which would be required to facilitate the development. These are briefly assessed below:

*- The developer should be required to contribute towards the cost of upgrading the existing Lough Atalia Road/ College Road Junction.*

This is an important junction which facilitates all traffic not just port traffic. In the event of planning permission being granted, it is appropriate in my view that a fraction of the overall cost would be apportioned to the applicants. According to information on file, port related traffic accounts for 10.4% of the overall volumes of traffic using this junction. The cost should be apportioned accordingly. Perhaps the Board could consider increasing the contribution of the applicant to 15% to 20% of the overall cost on the grounds of the high proportion of HVG traffic associated with the port and the additional impact this will have on the general 'wear and tear' of the road surface.

*- The developer should make a financial contribution road strengthening works on the Lough Atalia Road equating to approximately 60% of the total cost.*

While the port related traffic on Lough Atalia road will amount to c.10% of the total traffic using the road, port related HGV traffic amounts to 60% of the total HGV traffic using the road. The wear and tear of the road cannot be solely attributed to HGV traffic, although it is heavier vehicles that will contribute to damage and wear and tear to a greater extent to lighter traffic. With this in mind I consider, in the event of a grant of planning permission I would recommend that the applicant be requested to contribute 40-50% of the overall cost of road strengthening associated with the Lough Atalia Road.

- *The developer shall make a contribution towards the provision of a new Wolf Tone Bridge.*

The applicant argues that as no haulage related traffic will be permitted to use Wolf Tone Bridge, it is not appropriate for the applicant to contribute towards the cost for a new bridge. The proposed weight restriction relates to the existing Wolf Tone Bridge and not, as I understand it, to any new bridge to be constructed. If a new bridge is constructed it would (it is assumed) be open to new port-related traffic. It would therefore appear reasonable in my view that the applicant be requested to contribute toward the cost of construction, as any such construction would be of direct benefit to the port for HGV traffic towards Salthill, Bearna, and Spiddal and beyond. Details of the financial contribution amount can be agreed with the Galway City Council in the event that planning permission is granted.

## **9.12 Impact on Cultural Heritage**

### *9.12.1 Cultural Impact on the City Centre Generally*

On a somewhat subjective level it could be argued that the removal and relocation of the port activities to the reclaimed area, away from the city centre could impact culturally on the historic setting of the city centre. As already stated, it is unusual and somewhat distinct to have a commercial port operating and functioning so close to the commercial heart of the city centre. However the replacement of commercial port activities in the Inner Dock with more recreational maritime activities could benefit the cultural climate of the city centre to a greater extent. Overall the relocation of the heavy / industrial activities associated with the Port to the newly reclaimed area and its replacement with recreational-type maritime activities would have a neutral, if not positive, impact on the cultural heritage of the City Centre.

### *9.12.2 Impact on Architecture*

The vast majority of building works relate to building on newly reclaimed land and as such, there will be no impact on the integrity or the setting of protected structures in the vicinity of the development. The only exception to this relates to the works to be undertaken at Lough Atalia Bridge. The bridge is listed as a protected structure in the Galway City Development Plan (*RPS*

10002 – ‘railways and ancillary buildings including bridges and tracks’). It is not proposed to physically alter the bridge structure, however the lowering of the subjacent roadway beneath the bridge will, to some extent, alter its setting. As the EIS points out (section 13.1.3.1.4) that trial holes confirm that the existing rusticated limestone construction of the bridge abutments extend down to the newly proposed path levels which ensures a consistency of material and finish on the new portion of exposed pier wall. The works to be undertaken will somewhat alter the setting of the bridge, however I consider the impact overall to be acceptable particularly when balanced against positive road safety implications which will be derived from the works to be undertaken. Finally I note that Galway City Council have not raised an objection to the proposed works around Lough Atalia Bridge, notwithstanding its protected status. In fact the City Council has initiated Part 8 proceedings as already referred to above in my assessment.

### 9.12.3 *Impact on Archaeology*

#### 9.12.3.1 Terrestrial Archaeology

It is noted that the vast proportion of the works to be undertaken as part of the development is located outside the zone of archaeological potential for the medieval town of Galway. Furthermore the site does not coincide with or impinge upon any recorded monument listed in the National Monument Service National Data Base. The closest recorded monument which could potentially be affected by the proposal is Forthill Cemetery which is located adjacent to Lough Atalia Road. However no material impacts are envisaged under the works proposed in the application, as all works are physically separated from the cemetery.

#### 9.12.3.2 Underwater and Marine Archaeology

The nature of the proposal which involves reclaiming a portion of sea-bed has a greater potential to impact on underwater archaeology rather than terrestrial archaeology. A relatively detailed study has been undertaken into underwater archaeology as part of the EIS. This study included an inventory of shipwrecks as well as Magnetometer, infra-red and side-scan sonar surveys and dive truthing surveys (see section 13.6 of EIS and submission no. 47 of oral hearing). At least 82 shipwrecks have been recorded in Galway Bay alone, including 6 recorded shipwrecks in or abutting the site.

These will be directly impacted upon by the reclamation works on the seabed. Detailed archaeological monitoring will take place during the construction phase and it is anticipated that numerous maritime artefacts will be recovered from the seabed. It can be reasonably argued in my view that this will result in a positive impact as hitherto unknown artefacts could be recovered from the sea bed. Any potential impact on the underwater archaeology is acceptable in my view and must be balanced against the cultural, tourism and general economic benefits which will accrue from the development.

## **9.13 Health and Safety Issues**

### **9.13.1 Seveso Sites**

There are two existing Seveso sites (referred to in the Seveso Directive as 'established sites',) located within the harbour area. Both are fuel storage depots (Topaz and Leaside). The Cold Chon bitumen storage facility is not classified as an 'established site' under the Seveso Directive. The facilities store kerosene, gasoline, gas oil and diesel. The Topaz site qualifies as a top tier site whereas the Leaside depot qualifies as a lower tier site under the *Control of Major Accident and Hazards Involving Dangerous Substances Regulations (SI 74 of 2006)*<sup>35</sup>. Presently fuel is transferred from ships to bulk tankers on the quayside (via a 250 mm pipes). There is a requirement under the Seveso Directive for each site to prepare accident prevention policies, safety plans and an emergency plan.

Having regard to the harbours proximity to Galway City Centre, there are a number of land-uses in the vicinity of the existing established sites which could be at risk, were a major accident involving dangerous substances to occur. These include the apartment blocks and the Harbour Hotel which are located in closest proximity to the harbour.

The proposed development will facilitate the removal of a significant risk in relocating the transfer of petroleum and other dangerous substances from ships in the existing inner dock area (at Folan's Quay and Dun Aengus Quay North) to a location at the proposed commercial quay, which is further removed from the city of Galway. The transfer of petroleum products and other dangerous substances to a point further away from the City Centre will remove the Seveso

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<sup>35</sup> It is possible that the above classifications could change new the new Seveso III Directive due to be implemented in June 2015

Risk associated with the current port activities. This advantage from a health and safety perspective may influence any Board decision as to whether or not a case could be made for invoking IROPI.

Section 13.6 of the EIS set out a very detailed and comprehensive risk-based health and safety assessment of the proposed development. The risk assessment is based on the HSA Guidelines<sup>36</sup>, it assesses the potential risk arising from a major accident from the two Seveso Sites and the construction of a dedicated pipeline and new jetties for the unloading and transport of fuel, and the associated potential impact on occupied buildings and places proposed as part of the development (Harbour Building, Ferry Terminal, Marina Development etc.). It concludes, based on HSA methodology and criteria, that the HSA would not advise against the placing on such facilities in proximity to such buildings and other industrial uses proposed in the area.

The conclusion reached in the risk assessment contained in the EIS is supported by the contents of the HSA submission to the Board. It states that on the basis of the information submitted, the Authority does “*not advise against the granting of planning permission on the proviso that no Class 1 petroleum products would be offloaded at the new jetty while a cruise ship is in the harbour*”. I would consider this advice to be reasonable. The relocation of off-loading and handling of fuel from ships further away from places where members of the public congregate and further away from city centre land-uses would be a significant planning gain from a health and safety / Seveso perspective. If the Board are minded to grant planning permission (subject to subsequent IROPI procedures), it is recommended that a condition be included prohibiting the unloading of Class 1 petroleum products while cruise ships are landed at the harbour.

#### 9.13.2 *Navigation and Vessel Manoeuvring*

The removal of the gated entrance in to the port, together with the deepening of the navigational channel will greatly aid shipping transit routes to and from the port. The incorporation of larger berthing facility further away from the mouth of the River Corrib will obviate the need for vessels to carry out complicated manoeuvring across the estuary area when the River Corrib is in full spate. The

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<sup>36</sup> ‘Policy and Approach of the Health and Safety Authority to COMAH Risk-based Land-use Planning’ (March 2010)

harbour will be able to accommodate vessels with a draft of up to minus 7.5 m incorporating a safe under keel clearance at all stages of the tidal cycle. Mooring and manoeuvring constraints associated with the inner dock will be removed with the incorporation of a more generous turning circle and greater quay lengths for ships and fishing vessels. Shelter afforded to ships will be adequately addressed with the creation of the southern breakwater.

There can be little doubt that the proposed new harbour would offer significant improvements over and above that associated with the present harbour from a health and safety perspective.

## **9.14 Other Issues**

### **9.14.1 Services**

It appears that there are adequate services in place to cater for the proposed development. Information presented at the oral hearing and in the EIS suggests that there are adequate services available in terms of water supply and drainage, and other utility requirements to serve the new port extension. Galway City Council in its written submission to the Board has not raised any concerns in relation to the adequacy of services available to cater for the proposal.

### **9.14.2 Waste Management**

No specific issues have arisen in relation to waste management issues either in terms of correspondence on file or at the oral hearing. The fact that dredge material will be utilised in the reclamation works will address many of the potential issues and problems which may have arisen from dumping the dredge at sea. The applicants have made it clear in the oral hearing that it is not proposed that any dumping of dredged material will take place as a result of capital dredging which will be undertaken to cater for the development. Whether or not the use of the dredge material as infill for the lagoon will constitute an activity for which a waste licence is required has yet to be fully determined. The EPA's letter to the Board suggests that such an Activity may be exempted under the provisions of the Waste Management Act 1996 as amended. Whether a licence is required under the provisions of the EPA Acts (as amended) is a matter for the EPA and the applicant.

In terms of any waste management required during the operational phase of the development, this issue can be addressed most appropriately by way of condition. In issuing any grant of permission, Galway City Council request that, specifically the applicant address the issue of C&D waste and that the applicant comply with any requirements under the Regional Waste Management Plan for the Connaught Area. I note that appendix 4.1 and 4.2 of the EIS set out details of the Port Waste Management Plan and an Environmental Management Framework respectively. These two documents could form the basis for a waste management framework, which could be implemented by way of condition were the development permitted to proceed.

#### 9.14.3 *Alternative to lowering the Road under Lough Atalia Bridge*

A submission from Mr. PA Mannion suggested that it would be more appropriate to build a slip road to the west of the existing abutment at Lough Atalia Bridge and introduce a one-way system for car and HGVs travelling to and from the Docks area. Any such undertaking, would in my view, require a detailed appropriate assessment having particular regard to the fact that the works undertaken could have a significant impact on an Annex I Priority Habitat. Furthermore it is not altogether clear whether such a proposal would successfully address the problem of bridge strikes. The planning Authority has expressed no concerns in relation to the lowering of the road. It is considered that the works as proposed will have a negligible impact on the integrity and setting of the bridge. Finally the Board will note that approval for the works as proposed has been given under the Part 8 process. The lowering of the road under the Bridge is acceptable in my opinion.

#### 9.14.4 *Lack of Proper Public Consultation*

Some concerns were expressed, particularly by the Galway Bay Inshore Fishermen's Association that proper and meaningful consultation had not occurred during the course of the application. It appears that the applicant in this instance has undertaken a comprehensive consultation exercise prior to lodging the application. The applicant consulted with a wide range of stakeholders and these are set out in Appendix 2.3.7 and 2.3.8 of the EIS and also in Section 2.2 of Mr Waldron's Brief of Evidence (submission no. 35) and Section 3 of Mr. Mc Carthy's Brief of Evidence (submission no.

42). The consultation took place over a 5 year period and, according to the information on file included presentations, open days, and public displays between March 2006 and November 2013. Consultations also took place with various interest groups including resident association, education institutions, business associations and other users within the Galway Bay. With regard to liaison with the Inshore Fishermen's association, the closing statement on behalf of the applicant (see para. 6.1) stated that '*six meetings were held with that association including the chairman of same*'. Based on the information contained on file, I consider that the applicant in this instance has endeavoured to carry out a comprehensive and robust public consultation exercise beyond the requirements set out in the legislation. I therefore have no concerns regarding the lack of proper consultation.

Finally it should be noted that a statutory consultation process is provided under the planning legislation, including in the case of the current application, a public hearing in relation to the proposal.

#### 9.14.5 *Climate Change*

The issue of climate change and the extent to which the proposed development was (a) contributing to climate change and (b) failing to promote ideas to address the issue of climate change was a major tenet of the An Taisce submission. It was argued that the *raison d'être* behind the proposal is fundamentally flawed on the grounds that it will facilitate the importation of fossil fuels which will contribute to global warming.

While this may be the case, the fact still remains, that at least in the short term, Ireland is directly dependent on fossil fuels and will have to import a considerable proportion of its energy requirements in the short to medium term. It should also be borne in mind that the port aims to cater for the expanding renewable energy industry (wind turbines and renewable ocean technology) and this will contribute towards a reduction in reliance on fossil fuels.

It should likewise be highlighted that were the development to proceed, it would obviate the need to transport goods by road from the Galway/Connaught region to other ports in the case where Galway port no longer suited the needs of industries in this region. Again I would refer the Board to the submission by Mr. John Lawlor at the oral hearing (submission no. 39) which assesses the

implications of the development not proceeding in terms of CO<sub>2</sub> emissions. It appears from the analysis undertaken that a reliance on ports which are primarily based on the eastern and southern coastline will give rise to greater transport costs and greater CO<sub>2</sub> emissions as a result of transporting goods greater distances across the Island from the north and north west.

Finally, the environmental benefit of transporting goods, particularly bulky goods, by sea as opposed to overland has been well documented. In fact the EU shipping and ports policy is very much predicated on a modal shift away from roads based transportation of goods to sea, rail and inland waterways where possible. The expansion of ports infrastructure in general, to facilitate this modal shift must be seen as beneficial in environmental and climate change terms. I therefore consider that the development should be viewed as a positive, or at the very least neutral in terms of climate change.

#### **9.15 THE CASE FOR INVOKING PROCEDURES ON THE GROUNDS OF IMPERITIVE REASONS OF OVERRIDING PUBLIC INTEREST (IROPI).**

It is considered appropriate that the Board address the issue of IROPI in the case of the current proposal on the grounds that it was specifically raised as an issue, both that the oral hearing and the documentation contained on file. The applicants have argued that where the Board conclude in the event of the proposal proceeding, that adverse impacts on the integrity of the site(s) cannot be ruled out, a case for IROPI could be invoked in this instance.

Thus if the Board do not accept the arguments set out above and conclude that either, (a) that no viable alternative solution exists other than developing Galway Port, (b) the proposal to expand Galway Port is the least damaging option in terms of impacting on the conservation objectives of Natura 2000 sites or it may examine whether or not the development should go ahead for imperative reasons of overriding public interest.

It is necessary to make clear at this juncture, that the Board, in accordance with the legislation, can only consider examining imperative reasons of over-riding public interest, only subsequent to satisfying itself that it has been demonstrated that alternative

solutions do not exist which would have a less damaging impact on the conservation objectives of a Natura 2000 site.

The legislation states in S177AA (3)&(4) that:

*“(3) In relation to a European site that does not host a priority natural habitat type or priority species, the imperative reasons of overriding public interest may include those of a social or economic nature.*

*(4) In relation to a European site that hosts a priority natural habitat type or priority species, the only imperative reasons of overriding public interest that may be considered are those relating to—*

- (a) Human health,*
- (b) Public safety,*
- (c) Beneficial consequences of primary importance to the environment, or*
- (d) Subject to subsection (7), having obtained an opinion from the European Commission other imperative reasons of overriding public interest”.*

I have already argued above in section 9.4.1 of my assessment that in relation to the hosting of a priority habitat, while the Galway Bay Complex cSAC hosts a number of priority habitats<sup>37</sup>, including Lough Atalia and Renmore Lough, which are located contiguous to the development, there is general agreement that these priority habitats will not be adversely affected by the proposed development. With this in mind, I consider that the Board could and indeed should, take a pragmatic approach in relation to priority habitats on the grounds that they are not affected and therefore, in considering imperative reasons of overriding public interest, advice could be sought from the Commission as to whether or not reasons of a social or economic nature can be included.

I am of the view, based on my analysis thus far that there may be a viable and feasible alternative in Shannon Foynes which, were it to be expanded and developed, such development could possibly have a lesser impact on the integrity of Natura 2000 network. Or where similar impacts on Natura 2000 sites are envisaged, the status of Shannon Foynes as a T-ENT Port would make it more amenable or

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<sup>37</sup> Turloughs are also a priority habitat located in the Galway Bay Complex cSAC, but none are located anywhere near the proposed development

better qualified to invoke IROPI. Only where the Board decide otherwise, and determine based on the information on file including discussions at the Oral Hearing, the Galway Port offers the best solution in terms of its impact on the Natura 2000 sites, and/or that no other viable alternative exists, it can then go on to consider whether or not imperative reasons of overriding public interest exist and should be invoked in this instance.

The concept of "*imperative reason of overriding public interest*" is not defined in the Directive. However, Article 6 (4) second subparagraph mentions human health, public safety and beneficial consequences of primary importance for the environment as examples of such imperative reasons of overriding public interests. As regards the "*other imperative reasons of overriding public interest*" of social or economic nature, it is clear from the wording that only 'public' interests, irrespective of whether they are promoted either by public or private bodies, can be balanced against the conservation aims of the Directive. Thus, projects developed by private bodies can only be considered where such public interests are served and demonstrated.

The applicant has argued in this instance that the business case put forward provides an imperative reason for granting permission in this instance. As already mentioned a very strong and convincing economic/business case has been made by the applicant for granting planning permission for the proposal. The expansion of the port will undoubtedly benefit Galway and the wider region in terms of economic development, regional development and urban renewal opportunities in the Inner Dock area. It will also assist in full or at the very least a significantly better rate of compliance with the requirements set out under the Seveso Directive. The evidence presented suggests that a number of businesses are reliant on port expansion not just to expand their employment base but to secure and maintain the existing employment base in their respective businesses. These arguments could however hold true for any Port in Ireland and businesses which are dependent on such ports – including any of the 13 regional ports listed in the NPP. Subsequent to passing the tests set out (the Board satisfies itself that no alternatives exist that are viable and have less harmful effects on the Natura 2000 network), the key question then before the Board is whether or not these business arguments put forward in the case Galway Port alone are enough to justify the invocation of IROPI?

Firstly the guidance given at EU level<sup>38</sup> refers to the ‘public interest’ in the project must be **overriding** and the interest must be **long-term**. In short the Guidance suggests that:

*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**: (my emphasis)*

- *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.*

In relation to the issue of ‘public’ interest, and notwithstanding the fact that port operates as a private commercial entity, it is my considered opinion that the expansion of the port would serve a tangible public interest in facilitating economic expansion and employment. The urban renewal opportunities arising in the inner dock area and the Seveso considerations would also in my view be very much in the public interest.

EU Guidance on the matter also makes reference to various cases in Europe which have been through the IROPI process. The Guidance states that:

*‘In order to provide readers with a more precise indication of what might legitimately be considered as potential imperative reasons of overriding public interest, some examples have been extracted from the Opinions delivered by the Commission in the framework of Article 6(4) and are related to the reasoning given by Member States’.*

One of the cases in my opinion is of particular relevance to the Board, and is quoted in full from the guidance below.

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<sup>38</sup> Guidance document on Article 6(4) of the 'Habitats Directive' 92/43/EEC CLARIFICATION OF THE CONCEPTS OF: ALTERNATIVE SOLUTIONS, IMPERATIVE REASONS OF OVERRIDING PUBLIC INTEREST, COMPENSATORY MEASURES, OVERALL COHERENCE, OPINION OF THE COMMISSION. 2007/2012

*Project Mainport Rotterdam” Development Plan<sup>39</sup> (The Netherlands)*  
*Portuary and industrial activity in the Rotterdam area is one of the main pillars of Dutch economy. The harbour of Rotterdam is an essential multimodal crossroads in the TEN-T Network and is therefore of Community importance. Expected growth in global container handling and chemical industrial activity will lead to increased demand for space which will have to be met if the competitive position of the Rotterdam harbour in the Hamburg – Le Havre range has to be maintained. The development of the Rotterdam port also brings into focus the question of promoting modal-shift particularly in relation to freight transport. It is clear that shifting freight from road to water will have considerable benefits in terms of reduced green-house gas emissions, reduced atmospheric pollution and reduced congestion. These benefits should be recognised in assessing questions of public interest.*

It is clear from the rationale set out above that Rotterdam Port is considered to be ‘one of the main pillars’ of the Dutch economy and a critical component of the TEN-T network. In fact Rotterdam is by far the largest port in Europe, almost 3 times larger than the next largest European Port (Antwerp), handling a total freight of 434,500,000 tonnes in 2011. It is also the largest transshipment facility in Europe. The economic importance of the port not only in terms of the Dutch economy, but in terms of EU trade cannot in my view be under-stated.

There are also significant benefits accruing from more sustainable modal-shifts in transporting freight. With the exception of perhaps the latter point, no similar arguments could be made in the case of Galway Port. Galway Port has a defined role as a Regional Port and is of Tier 3 Status. It serves essentially a regional role it cannot be considered to be a major driving force or economic pillar of the Irish economy. The contribution of Galway Port to the national maritime trade nationally is in the region of 1%. Galway in the context of Ireland does not play a similar role to Rotterdam in the context of the Netherlands or indeed Europe as a whole.

There can be no doubt that the expansion of the port of Galway would be beneficial in economic and social terms for Galway and its regional hinterland. I would however proffer an opinion that the expansion of the Port cannot be considered ‘indispensable’ in terms of:

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<sup>39</sup> The Board is asked to note that this example relates to a plan as opposed to a project.

- aiming to protect values for the citizens life (health, safety, environment).
- Fulfilling fundamental policies for the state and society (having particular regard to its position on the hierarchy of National Ports).
- Within the framework of carrying out activities of an economic or social nature fulfilling specific obligations for the public service.

While the proposal would certainly be beneficial, in economic and social terms, to the City and perhaps the Connaught Region, unlike Rotterdam and the role it plays as a port in the continued economic development of the Netherlands and Northern Europe, I do not consider that the development of Galway Port can be viewed as 'indispensable' as required under the Guidance. A better case could be made for invoking IROPI in my opinion if Galway Port had been afforded higher status within the hierarchy contained in the NPP.

Reference was made in the oral hearing to the Port of Lorient on the western seaboard in France, as having gone through the IROPI procedures to secure expansion notwithstanding the fact that it adversely impacted on a Natura 2000 site. It was argued, by the applicants at the hearing that Lorient cannot be considered a major port in the context of French mainland, and hence a similar argument could be made for Galway in this regard.

Lorient is the largest Port in Brittany and in terms of size but cannot be considered as one of the major commercial ports in France. In terms of tonnage, it handled c2.6m tonnes in 2010 which is significantly less than the larger French ports such as Marseille (88m tonnes), or Le Havre (67m tonnes) Dunkirk (47m tonnes). Lorient is however a very large fishing port, second only to Boulogne-Sur-Mar in all of France and also provides a range of port services including fishing, commercial, military, leisure and passenger facilities.

Most importantly however, Lorient is listed as being part of the TEN-T European network. It is designated as a 'comprehensive' or Tier 2 port. As already stated, European Guidance suggests that TEN-T designated ports should be prioritised above other ports in terms of considering IROPI procedures

Thus, even where the Board determine that no suitable alternative exists to the development of Galway Port, I do not consider that it

has been adequately demonstrated, or that a justifiable case has been put forward that consent should be given on the grounds of imperative reasons of over-riding public interest, particularly in light of EU Guidance on the matter.

## **10.0 CONCLUSIONS AND RECOMMENDATIONS**

Arising from my assessment above I consider that the proposed development would in many, or indeed most respects, be beneficial in planning terms to the City of Galway. There can be no doubt that the expansion of the Port of Galway will have significant positive economic impacts for the City of Galway and the surrounding hinterland both in terms of tourism, trade and general economic development. The numerous observations in support of the development attest to this conclusion.

The relocation of the heavier port related activities to the newly reclaimed area, away from the existing residential and city centre areas is very likely to prove to be advantageous in improving environmental and residential amenity adjacent to the existing inner dock area, particularly in terms of noise and to a lesser extent odour. The freeing up of the inner dock from port related activities presents a unique opportunity to create a new urban waterfront district with all its associated amenity and urban renewal advantages and possibilities.

While the large scale expanse of the port into Galway Bay will have a significant and profound visual impact, this impact in my view is somewhat tempered by the positive transformation of the Inner Dock area and the creation on a new marina area on the western side of port extension. These recreational aspects of the port area will provide a more amenable urban waterscape which will reduce the adverse visual impacts. The visual impact of the port is likely to be less than relocating it to a greenfield site having regard to the urban environment that already surrounds it.

The expansion of the port will undoubtedly give rise to increased levels of traffic. The traffic issues will be somewhat exacerbated by reason of the Ports location on the opposite side of the City from the national primary and secondary route network. This necessitates traffic using the local road network prior to accessing the strategic routes. Notwithstanding these issues, the transport modelling

undertaken in the EIS indicates that the capacity of the road network, particularly at key junctions will be sufficient to cater for the increased traffic, or where insufficient capacity exists, or is likely to exist in the future, the traffic modelling undertaken suggests that the increase in port traffic resulting from the proposed development will have an negligible impact on the operation of the junctions in question. The Planning Authority is likewise satisfied that the proposal will generally be acceptable in traffic management terms.

The fundamental problems arising from the proposal is the resultant impact of the proposed expansion and its encroachment on the qualifying interests of contiguous Natura 2000 sites, namely Galway Bay SAC and the Inner Galway Bay SPA and its Tier 3 status in the hierarchy set out in the National Ports Policy.

The documentation submitted with the application, and in particular the NIS and NIS addendum, together with the submission from the NPWS and the report from Mr Bastreri the Consultant Ecologist employed on behalf of the Board, have all concluded that the development if carried out (together with previous development within the harbour subsequent to Natura 2000 site designation), will give rise to a situation whereby the development will result in the permanent loss of habitat which is a qualifying interest of a Natura 2000 Site (hosting a priority habitat) or that the development will give rise to a situation whereby adverse effects on the integrity of the Natura 2000 site cannot be excluded.

Based on the precautionary principle, it can only be concluded therefore that the proposal would adversely affect the integrity of a European Site in accordance with the provisions of Article 6 of the Habitats Directive and accompanying EU Guidance on the Directive. By extension the proposal would be contrary to the provisions set out in Policy 4.4 of the Galway City Development Plan which seek to protect, conserve and promote the enhancement of such sites. If the Board agree with the above conclusion it can only consider progressing the application, in my view, under the provisions of Article 6(4) of the Directive, where it is satisfied that there is (a) an absence of alternative solutions and; only where it is satisfied that no feasible alternatives exist (b) there are imperative reasons of overriding public interest for the development to proceed.

In relation to alternatives I argued in my assessment that a feasible alternative possibly exists in Shannon Foynes Port. A comparison of

the two ports suggests that Shannon Foynes has a number of distinct advantages over Galway Port, in terms of natural quayside depth, larger catchment area, landside development opportunities road network etc. but particularly with its designation as a Tier 1 Port in the National Port Policy and its T-ENT status under the Trans-European- Transport Network Programme. However the key issue that should inform the Boards decision in relation to alternative solutions is a comparison of the potential impact on the Conservation Objectives of Natura 2000 Sites. It is a very difficult exercise at present to assess the impact of an expansion Shannon Foynes on Natura 2000 Sites on the grounds that, while a NIR has been prepared for the SFPC in relation to possible future expansion, proposals at this stage are generic which makes detailed evaluation impossible. Notwithstanding this point, the Board is legally required to carry out an assessment of alternatives under the provisions of Article 6(4) and S. 177AA(1) of the Planning and Development Act 2000 as amended.

In the case of the Galway Port application, it can be concluded, based on the evidence presented, that the proposal before the Board will result in a development where adverse impacts on the integrity of a European Site cannot be ruled out. No such conclusion in my view can be definitively reached at present in relation to Shannon Foynes. That is to say that there is a possibility, and in accordance with the conclusions contained in the NIR prepared for SFPC Masterplan and the conclusions reached by the consultant ecologist employed by the Board, that any future expansion proposals may possibly be carried out (and I stress that one cannot be definitive on this matter) without the need of invoking the requirements of IROPI. **It therefore cannot be concluded, on the basis of the evidence presented and the arguments set out above, that the development put forward for approval in this instance is the least damaging on the integrity on conservation objectives associated with the respective Natura 2000 Sites.**

On a final point in relation to alternatives, it is worth noting that EU Guidance advises that where impacts on Natura 2000 Sites occur, priority should be given in terms of IROPI to port developments which form part of the T-ENT network and are prioritised nationally - namely Shannon Foynes in this instance.

Even where the Board conclude that no suitable alternative exists, I am not convinced based on the arguments set out in the

documentation submitted with the application and those presented in the oral hearing, that an appropriate case for invoking IROPI procedures has been made in this instance. While the proposed development can be considered crucially important for the local and regional hinterland, I do not consider that it can be considered 'indispensable' within the framework of protecting fundamental values for the citizens life (health, safety, environment), or protecting fundamental policies for the state and the society (in this respect I refer to the status of Galway Port as a tier 3 port in the National Ports Policy) or that the expansion of the Port would be an activity of an economic or social nature 'fulfilling specific obligations of public service' as required under the European Commission Guidelines already referred to in this report.

It is my overall conclusion therefore that the current proposal will adversely impact on the integrity of a Natura 2000 site, hosting priority habitats, namely the Galway Bay cSAC or at the very least, impacts on the integrity both the Galway Bay cSAC and Inner Galway Bay SPA cannot be ruled out. I am also satisfied based on the analysis carried out that viable alternative solutions could exist which may have a lesser impact in terms of affecting the integrity and coherence of Natura 2000 Sites and the Natura 2000 network. And finally I consider that notwithstanding these conclusions, it is my opinion that a convincing case for invoking IROPI procedures as set out in the Planning and Development legislation, has not been made in this instance. As a result of this negative assessment, as required under Article 6(4) of the Habitats Directive, imperative reasons of overriding public interest are not applicable in this instance and planning permission should therefore be refused for the Galway Harbour Extension.

## **DECISION**

Refuse planning permission for the proposed development based on the reason and considerations set out below:

### **REASONS AND CONSIDERATIONS**

It is considered that the proposed development would result in the permanent and irreversible loss of c.5.93 hectares of intertidal area comprising of mudflats and sandflats not covered by sea water at low tide. This is an Annex 1 habitat and qualifying interest associated with the Galway Bay complex candidate Special Area of Conservation (site code 000268). One of the conservation objectives of the candidate Special Area of Conservation is to maintain the favourable conservation of the above qualifying interest. It is considered that the proposed development, by permanently removing this habitat will result in this conservation objective for the Natura 2000 site not being met and this will have a negative effect on the integrity of this Natura 2000 site. The proposed development will also result in the stabilisation of the shingle habitat adjacent to Renmore Lough, which is also a qualifying interest of the Galway Bay complex candidate Special Area of Conservation (side code 000268) and this will permanently alter its nature and plant species composition thereby adversely affecting the nature of this qualifying interest. Finally it is considered that the impact of disturbance due to increased shipping traffic during the operational phase on sensitive receptors at the site, namely, marine birds has not been fully or adequately assessed. The proposed development site is located within the Inner Galway Bay SPA (site code 004031) and therefore adverse impacts on birds which are qualifying interests of the SPA cannot be ruled out. It is considered therefore On the basis of the information provided with the application, including the Natura Impact Statement, and in light of the assessment carried out above, I am not satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of European sites (site codes 000268 and 004031), in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval. As such and as currently proposed and on the basis of the information provided the Board considers that the development does not meet the requirements for approval under the provisions of Article 6(3) of the Habitats Directive and this therefore contrary to the proper planning and sustainable development of the area.

Furthermore as it is considered that adverse impacts on the qualifying interests of a Natura 2000 Site(s) cannot be ruled out, it is considered that the proposal would materially contravene Policy 4.4 of the Galway City Development Plan 2011 - 2017 which seeks to conserve and promote the enhancement of Internationally (EU) designated sites including Galway Bay Complex cSAC and Galway Bay SPA. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

In considering the proposal under the provisions of Article 6(4) of the Directive, the Board is of the opinion that it has not been adequately demonstrated the development put forward for approval in this instance is the least damaging on the integrity on conservation objectives on Natura 2000 sites and that other alternative solutions including alternative ports may exist which would have lesser impacts on the integrity of Natura 2000 sites and the coherence of the Natura 2000 network while fulfilling the role and policy objectives set out in the National Port Policy for Ireland (2013).

Furthermore it was noted that Galway Port, being designated as a Tier 3, Regional Port in the National Ports Policy (2013) which currently handles c. 1% of the national maritime trade of Ireland, undermines the case for consideration as a project where consent could be considered under the provisions of Article 6(4) for imperative reasons of overriding public interest, having particular regard to EC Guidance on this issue.

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**Paul Caprani,  
Senior Planning Inspector.**

**27th February, 2015.**

**rk/cr**