



An  
Bord  
Pleanála

## Memorandum

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**To:** Ciara Kellett Director Of Planning  
**From:** Paul Caprani Assistant Director of Planning  
**Re:** Galway Harbour Extension Application Ref. No. 61.PA0033  
**Date:** 4<sup>th</sup> March 2024

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### **Background:**

A Planning Application was lodged with the Board under the provisions of S37E of the Planning and Development Act for an extension to Galway Harbour on January 10<sup>th</sup> 2014. An Oral Hearing was held in January 2015 and an Inspectors Report issued (dated February 27<sup>th</sup> 2015). The Board came to the conclusion that the development would result in the removal of Qualifying Interests associated with the Inner Galway Bay Complex SAC (Site Code 000268) and as such would result in a significant adverse effect on the Qualifying Interests of the SAC. In deciding not to accept the Inspectors recommendation that viable alternative solutions were available which would have a lesser impact on European Sites, the Board decided that there were imperative reasons of overriding public interest which were primarily of a social and economic nature. The Board came to the view that the proposed development should be given consent for imperative reasons of overriding public interest (IROPI) as per S177AA(1) of the Act.

A series of bilateral and tripartite meetings took place between the Board, the Applicant and the NPWS exploring the possibility of compensatory measures elsewhere within Galway Bay as provided for under the provisions of S177AA(1)(b) of the Act.

Two reports were prepared on behalf of the applicant in respect of compensatory measures at Tawin Island on the eastern section of Galway Bay (dated 9<sup>th</sup> of August 2017 and 26<sup>th</sup> April 2019). On foot of further supplementary reports from the Consultant Ecologist, employed on behalf of the Board (11<sup>th</sup> of September and 19<sup>th</sup> of December 2019), a Report from the NPWS (8<sup>th</sup> of April 2020) and a supplementary Report of Senior Planning Inspector reporting on the case (dated 6<sup>th</sup> of October 2020), the Board accepted the viability and adequacy of the compensatory measures. As required under the legislation, the Board then prepared a 'Statement of Case' in accordance to the requirements of 177AA(1)(c) of the Act, and forwarded the said Statement of Case to the Minister in accordance with the provisions of 177AA(1)(d) of the Act.

In accordance with the provisions of 177AB(1)(a) of the Act, The Minister of Housing Local Government and Heritage on receiving the report, requested the views of the Minister of Arts Heritage and the Gaeltacht<sup>1</sup>.

### **Current State of Play with the Application**

As of the 27<sup>th</sup> February 2024, A letter was received by the Board from the Minister Housing Local Government and Heritage informing the Board that:

- Pursuant of Section 177AB(3) that the Minister of State for Heritage and Electoral Reform has formed an opinion that the compensatory measures proposed are sufficient to ensure the overall coherence of the Natura 2000 network is protected.
- That under the provisions of 177AB(5) that Minister O'Brien (and not the Board) is obliged to inform the European Commission of the matter and the Compensatory Measures proposed.
- That the Board can proceed to make a decision on the application.

### **Further Steps Now Required**

In accordance with the provisions of 177AB(6) the Board is required to make available for inspection by members of the public during office hours at the office of the Authority and may also publish on the internet (An Bord Pleanála website) the

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<sup>1</sup> Now the Minister of State for Nature, Heritage and Electoral Reform

notice issued to the authority by the Minister of State for Heritage and Electoral Reform.

**Moving the case forward, the Board now has to:**

- (a) Make a formal decision to grant permission for the Galway Harbour Extension.
- (b) Make the opinion of the Minister of State for Heritage and Electoral Reform available to the public on its website and at its offices. In publishing the opinion on its website there is no explicit requirement to seek further public comment.
- (c) Whether the Board can make a decision in parallel with publishing the Opinion of the Minister of State for Heritage and Electoral Reform is not explicit in the legislation.
- (d) The period of time that the Board may publish the Opinion of the Minister on its website is likewise not explicit in the legislation.

I am very happy to discuss any aspects of this application further with yourself, the Chairperson or Deputy Chairperson should you require.

**Paul Caprani ADP**