

**Eve O'Sullivan**

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**Subject:** I am sharing 'Comment on Cheek Point Pontoon Natura Impact Statement' with you  
**Attachments:** Comment on Cheek Point Pontoon Natura Impact Statement.docx

**From:** Sean Doherty [REDACTED]

**Sent:** 09 March 2022 23:01

**To:** Wexford Receptionist <[REC\\_WEX@epa.ie](mailto:REC_WEX@epa.ie)>

**Subject:** I am sharing 'Comment on Cheek Point Pontoon Natura Impact Statement' with you

Dear sir

Dredging and additional Dredging at cheekpoint harbour .

We wish to provide the attached report

To support our objections to Dredging licences by waterford port company .

Waterford estuary is most likely the most environmentally impacted estuarine environment in Europe the EPA Have failed spectacularly to protect this vital eco system from environmental aquaculture and traditional fisheries those impacted is vast ... .

Sean & Patricia Doherty  
&family

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# Comment on Cheek Point Pontoon Natura Impact Statement

by Malone O Regan, dated November 2019

Produced for Cheekpoint Boat Owners Association.

## Context

This note is part of a wider study of the Waterford estuary and its 3 Natura 2000 sites, which was initiated in 2019 by Coastwatch and Irish Wildlife Trust. One module deals with activities, plans and projects in the estuary.

The aim is to contribute to estuarine management, biodiversity protection and restoration. It is due to be published in May 2021.

Collated by Karin Dubsy BA, MSc Estuarine ecologist and Coastwatch Coordinator

I am happy to make this note available to those appealing to ABP as a contribution towards the decision making process.



Karin Dubsy

Sat. 20<sup>th</sup> Feb 2021

Contact: [kdubsy@tcd.ie](mailto:kdubsy@tcd.ie) 00 353 86 8111 684

**Case study Site:** Cheekpoint in the Waterford estuary as the confluence of two Natura 2000 sites – lower river Suir (code 2137) and the river Barrow and river Nore estuary (code 2162)

**Plan or Project:** A 63m long pontoon for 20-30 boats and a 25m long gangway attached to the outer pier wall at its base. The facility is to have lights, 3 CCTV cameras, a metal entrance door and wheelchair ramp – see diagram taken from e-tender document, published Sept 2020.

**Proponents:** Cheekpoint Boat Owners Association

**The Natura Impact Statement** was produced to submit with the Planning Application to Waterford County Council and Foreshore License application to the Department of Housing.

**Permit Status February 2021:**

Planning permission granted by Waterford County Council, but appealed to ABP. The ABP appeal has a wheelchair ramp emphases.

[309266: Main Quay, Cheekpoint, County Waterford. \(20217\)](#)

**Status:** Case is due to be decided by 27/05/2021 **Date lodged:** 2021-01-22  
To construct a wheelchair accessible ramp access with entrance gate and associated works to access proposed pontoon facility. An NIS (Natura Impact Statement) accompanies this planning application.

Foreshore license application submitted 9<sup>th</sup> March 2020 (reference FS007053), published for public comment in Dec 2020 and shown as 'at consultation stage' on the Dept of Housing website (viewed Feb 17<sup>th</sup> 2021)

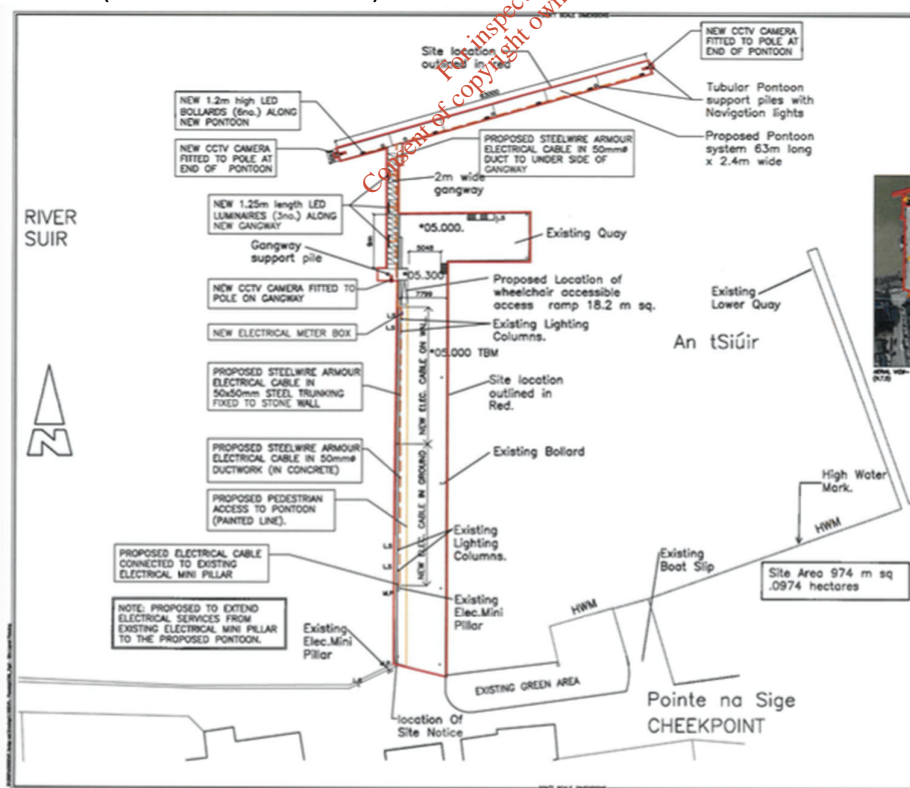


Figure 1 Pontoon layout from e tender document Sept 2020

## Background

The over 200-year-old Cheek point harbour is located in a key position right in the centre of the Waterford estuary where the three sister rivers meet.

From a management point of view it's where 3 local authorities meet, where Inland Fisheries and Sea Fisheries Protection Authorities meet. Under the water framework directive, it belongs to the Suir estuary. NPWS have attributed the area to the Barrow Nore estuary. The SFPA show it as just inside the Waterford estuary designated shellfish area for mussels.

**Silt:** Cheekpoint harbour has been silting and required maintenance dredging like almost all harbours. But the silt problem has got much worse over the last 25 years. In that time groynes were put into the river and Belview port just across the river estuary was established. There has been a dramatic increase in dredging and change in dredge methods used.

Most boats can only access Cheekpoint harbour berths for part of the tidal cycle. Leisure boat activity is on the increase. Most of the heritage fishing in traditional local boats is closed as the fish stocks are below threshold levels. However: -

- If with Marine Spatial Planning an estuary management plan is advanced with Natura site conservation and restoration then these traditional fishermen and boats would be valuable for site monitoring and the feature restoration work.
- When Ireland strengthens its implements of water and nature legislation, this estuarine ecosystem and fish stocks should recover, though some species may be replaced by more southern species pushing north due to climate change.

So the old harbour and boats should not be written off while we are on the threshold of this change.

**Other Plans - possible cumulative impacts:** Opposite Cheekpoint at Snowhill in Co Kilkenny planning permission for an oil tank farm was given and extended just before the NIS was written. Beside it, Waterford port has major development plans published in 2019 and in County Wexford at Great Island one can see the SSE power station, which was in the news at the time the NIS was being drafted as fishermen, aquaculture operators and anglers were complaining about the foam bergs and chlorine smell from the cooling waters drifting across the estuary. Since then, SSE has asked for an EPA license amendment which includes a tenfold increase water abstraction.

**From an EU habitats point of view and in terms of the WFD,** both River Suir and Barrow estuary Natura 2000 sites are in trouble. They are protected in law but deteriorating both in terms of water quality and conservation objectives - even since the NIS was drafted.

It is essential that we study the estuary's structure, function and biodiversity, especially the fish species to develop an estuary restoration plan and individual or grouped fish action plans.

**From the wildlife point of view,** this quiet little harbour forms part of a good habitat mosaic, set across the river from Belview port and out of reach of SSE power station water abstraction field. The coastal terrain may be important for several of the threatened fish species as it includes saltmarsh and creeks, natural shores with boulders and good seaweed cover. For species like otter, the harbour is an asset with regular scavenging opportunities as well as a deep water pool.

Yet, the area is not well studied. Primarily field research would be needed to ascertain that a pontoon leading beyond the main pier into a deeper water 'pool' just in front of the harbour will not just solve the access problem for Cheekpoint boat owner association and visitors, providing them with extra security with lights, cameras and locks, but can show, beyond reasonable doubt, that it will not impact on the conservation objectives of 2 Natura 2000 sites.

## Adequacy of the Natura Impact Statement (NIS hereafter)

1. The consultants state that both a desk and a field survey were undertaken, but there is no information in the field survey methodology or results.  
This proposal is for a development set on the outside of an old stone harbour with lots of holes and crevices and good brown seaweed cover where fish can shelter and feed. The pontoon then runs in front of the harbour mouth in the deep water pool. As harbour and proposed development are set in the Barrow Nore SAC with estuary as qualifying interest and 5 threatened fish species, the least you expect is a basic report of sessile biota on the pier and in the adjacent mudflat and a fish survey.
2. There are a few points which are either too sketchy or misleading, or appeared to have changed since the consultants prepared the NIA:
  - 2.1 The pontoon is described as planned 'within the active harbour' but the construction is actually outside the harbour set adjacent and in front of it into the deep pool area.
  - 2.2 There is no information on or assessment of the pontoon materials to be used and their upkeep – any biocide or anti fouling paint, or the light emissions
  - 2.3 The size description used in the NIS, planning application and foreshore license application do not match the LEADER funded e-tender document detail of Sept 2020.

Documents - Lot 196376:1 - Installation of a Pontoon and Gangway at Cheekpoint Co Waterford, Ireland

Document available to download

 [Cheekpoint Pontoon Tender Invitation 15 September 2020.pdf](#)

Key difference includes:

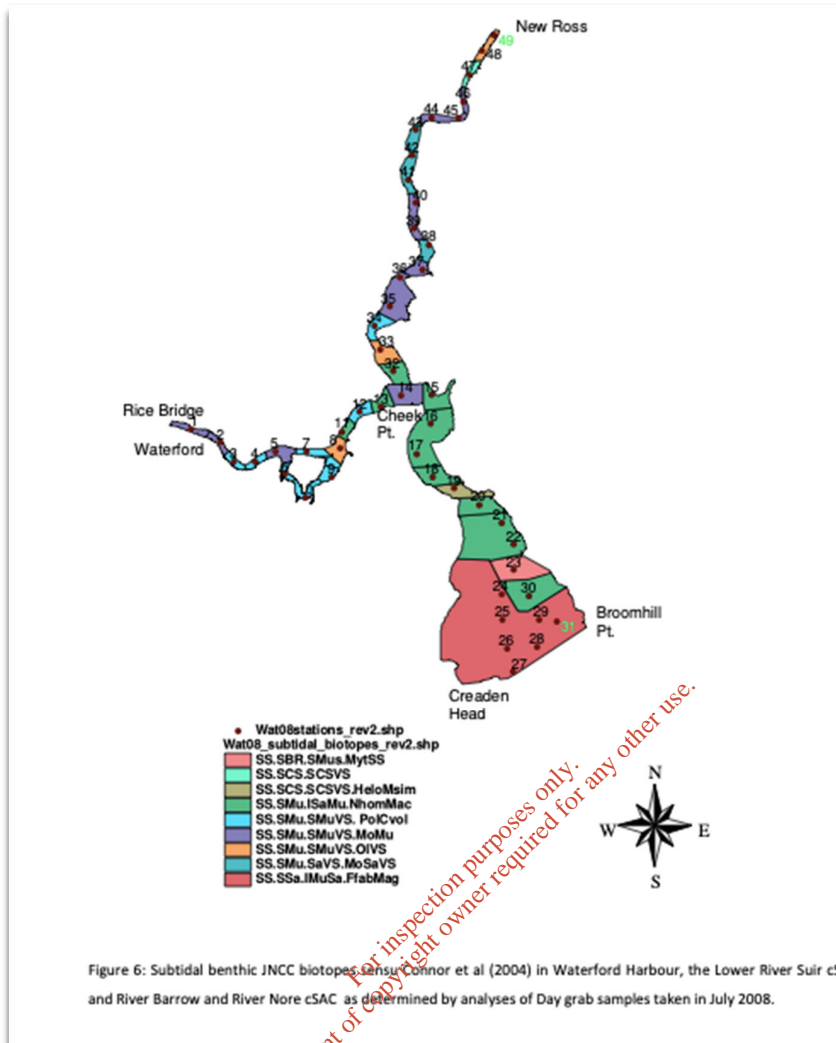
The consultant was working on impact of a 21m gangway set in parallel and then protruding out from the old harbour pier to link to the pontoon. By the time we come to the e-tender the gangway has grown to 25m.

3. The habitat map created as Figure 5-1 (copied below) is grossly misleading and shows the pontoon located in the intertidal, while it is to be sited in a pool about 2m deep at low tide.

Figure 5-1: Extent of Annex I habitat mudflat and sandflat not covered by sea water at low tide in River Barrow and River Nore SAC (NPWS, 2011)



The assessment should have look at the estuarine habitats and species as provided by NPWS (see overleaf the different biotopes in the estuary) and then home in on the site and area around it with well planned and executed field studies.



4. While the NIS conclusions suggest that potential impacts of both construction and operating phases have been studied, in fact **only the construction phase is assessed**. This is such a serious flaw which should lead to rejection of the NIS.

In the use phase the following would be expected assessment of shading of gangway, pontoons and boats on the seaweed *Ascophyllum* dominated pier wall and biota associated with it as well as pool biota. Also, a projection of level and timing of use and hence extra disturbance, noise, light etc.

Further the environmental impacts from boats turning up the mud in the pool and a hydrology study or even reference to similar pontoon placed across the mouth of a harbour suffering from silting.

We are simply told, without evidence that silting won't occur.

5. There is also no mention of damage risk and what happens if polystyrene pontoon floats break loose, are damaged or shredded in a storm. The individual pellets cannot be collected and are consumed by a wide range of wildlife from sandhoppers to birds.

6. The authors screened out the two qualifying interest habitats as not impacted, but did not bring adequate evidence. This happens twice in the NIS. First in the screening stage:

**'Estuary'** a qualifying interest of the Barrow Nore estuary is screened out as the authors believe that there will be no adverse effect on water flow' without any supporting evidence. How can the permitting authorities be sure that water flow won't be slowed by having a pontoon protruding from the harbour into the estuary, especially once it becomes colonised by seaweeds and is flanked by a cluster of boats? Also - hydrology is only one consideration.

Similarly, **'mudflats not covered by seawater at low tide'** are screened out as the consultants argue that the mudflats are disturbed anyway by ongoing maintenance dredging. No macroinvertebrate sampling data is provided to confirm this no habitat value assertion.

Even a look over the pier wall shows the healthy brown seaweed cover. In a 2019 look at the mudflats as part of a Coastwatch – Irish Wildlife Trust Waterford estuary public education event, we also noted the mud surface here had a high density of starshaped marks which indicate presence of the bivalve *Scrobicularia plana*.

Later in the stage 2 assessment, the circular argument used to discount any impact fails to convince. See screenshot extract on Page 32 of the NIS below:

#### 7.1 Loss of, or Disturbance to Habitats during Construction and Operation Phase

The installation of the proposed pontoon system adjacent to Cheekpoint Pier will not result in any direct loss of habitats for which the River Barrow and River Nore SAC or the Lower River Suir SAC are designated, as the proposed development will not cause any adverse effects to any Annex I habitats for which these Natura sites are designated.

Given that EU and national legislation requires the establishment beyond reasonable scientific doubt that adverse effects on site integrity will not result, both of these habitats would need to be screened in and examined in more detail before discounting an impact on them.

## 7. Fish

In the Natura Impact Assessment screening stage, the consultants correctly quote the NPWS natura documents and include potential risk to **fish species for which the two SACs were designated: Salmon, River and Sea lamprey and Twaité shad**. They should have added the red listed eel also protected as typical species and separately under the eel regs.

But the main issue is that at Stage 2 - assessing the impact of construction and operation (page 32), there is no assessment evidence provided for these fish species.

These are migratory fish, which must spend time in the estuary to get to their spawning grounds. An immediate concern could be the significance of the deep water 'pool' where the pontoon is to be located. This may be used by fish as staging post in its migratory journey and/or as refuge in heat waves, or in case of twaite shad to prey on smaller fish. It should have been assessed.

With none of the listed fish species at favourable conservation status, quantifying and avoiding adverse effects would be essential, not just in the construction phase but also during use. One would expect to see IFI work on these fish summarised and supplemented with even limited ecological sampling. Information from traditional fishermen, samples from nearby sprat weir and from anglers who frequently fish from the pier should have been included. This is essential information for any new plan or project as without it we cannot assess the potential impact and mitigate.

**Example Twaite shad:** Numbers are decreasing and now deemed by IFI to be in a poor state due to a range of pressures. This species is restricted to the SE of Ireland and spawning is confirmed only in the 3 sister rivers and the Waterford Blackwater. So even small losses of potentially important spots may have a significant impact. We know juvenile stages are found in the Waterford estuary, but have no idea where in the estuary the juveniles spend their time and whether that changes diurnally, in different seasons and weather conditions.

Given the lack of fish data, it is surprising that it is claimed that the potential impact of noise on designated species was taken into account (NIS Page 32).

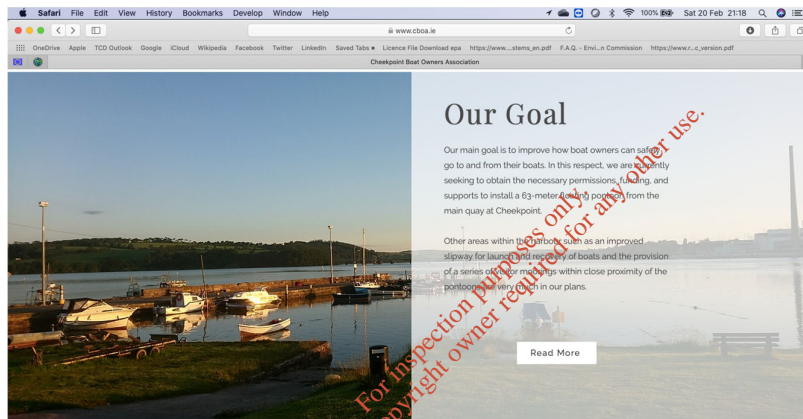
8. **For otter** only the construction phase was considered, not the operating phase. Fishermen and community using Cheekpoint harbour have mentioned and recorded regular otter sightings and even otter cubs. A proper study is needed of both construction and operating phase, where apart from night lights, general disturbance is likely to be for much longer periods as the pontoon will make boat use possible at all tide levels. Neither impact nor mitigation for the operating phase are suggested.  
We contrast this with a much more modest proposal for Duncannon Harbour where a seasonal pontoon put in on a trial bases with close monitoring was proposed and the otter seen by locals who championed that project as an asset to be minded.
- 9 **Cumulative impacts** are not considered. As stated in the beginning of this review a range of other plans and project proposals are already published, including Waterford harbour development plans. The consultants who have worked with Waterford Port would have been aware that the published SEA with plans for a training wall very close to Cheekpoint harbour. In fact, the Waterford port SEA promises that this wall will sort the silting problem in Cheekpoint harbour (see screenshot below). The reason for the pontoon is to overcome the silting problem.



**Table 1-2: Development Options**

No.	Option	Description
1	<b>Options to minimise dredging and improve marine access</b>	
1.1	<b>Cheekpoint Lower Bar River Training Wall</b>	<p>The <b>Cheekpoint</b> Lower Bar area is regularly maintained by dredging, resulting in the need for the disposal of high volumes of dredged material and high ongoing maintenance costs. The key project within the Master Plan is construction of a river training wall at a strategic location, which would significantly reduce the need for ongoing dredging, as shown by the hydrodynamic model completed for the estuary (ABPmer, 2018a).</p> <p>The training wall will be a double line of sheet piles, ca.6m wide – such design minimises environmental impacts, while maximising hydrodynamic benefits.</p>

The Cheekpoint Boat owner association applying for the pontoon also have expansion plans as seen on their website. There is no mention of any awareness or focus on restoring or protecting the Natura 2000 sites or any of its attributes on their website.



## Conclusion

We conclude that this Natura Impact Statement is grossly inadequate. There is no ecological information provided to assess any impacts on the threatened fish species for which this site is designated. The habitats assessment is inadequate and the operating phase of the pontoon is not assessed and hence no mitigation of possible impact on the otter and fish species for which this site was designated. Cumulative impacts of this project together with others planned in the area - such as the development planned by Waterford port have also not been considered.

We therefore believe no competent authority would be in a position to grant permission for this project in one and adjacent to another Natura 2000 site.

## **Annex 1**

Introduction to Waterford estuary protection, restoration and management needs (Publication in preparation).

It is to be expected that inshore MPAs will have a core set set of pressures from human activities and additionally grapple with new ones and climate change impacts. Some ongoing pressures are likely to be well studied, possibly mitigated or even disappearing, but new pressures are almost certain to emerge especially in larger sites. What may be benign on its own or at certain times of year, may turn into the 'last straw' in terms of disturbance for a species where the cumulative impact of other stressors has brought it to the brink of extinction - or last straw in terms of survival of say a heat episode.

At present our core MPAs are made up of an incomplete network of Natura 2000 sites designated and protected under EU Nature law. We do not have site managers, who might engage in promoting the health of 'their' site, or engage us to reach a goal, or alert us to problems sufficiently frequently that we address them in a timely manner. We don't even have site conservation measures, required under the Habitats Directive - or individual site data banks where people can track progress or flag issues. Information regarding any particular site is found on the NPWS database, with 'extras' spread out between different agencies, local authorities, researchers, the Biodiversity Data Centre and NGOs.

All this is about to change.

Ireland's first national Marine Spatial Plan is about to be put in place in 2021. Legislation to underpin it is being drafted. Currently the draft makes provision for regional management plans and a high value inlet like Waterford estuary would benefit greatly from one. Additionally, there is movement on marine nature protection. Government commissioned an advice document how to both expand our network of MPAs from a coverage of 2.3% of our seas to 30% by 2030 and manage a coherent network of sites and features.

We are standing at the threshold - going from a weak uncoordinated marine and coastal management state, to a new well thought out coherent one, which also fully complies with Aarhus principles on public information, participation and access to justice.

### **Permitting activities which may impact on Natura 2000 sites or protected species.**

While the new 'bigger and better MPAs' approach is unfolding, daily life goes on, with people wanting or needing to do things around or in our existing Natura 2000 sites. EU law, guidance and court judgements set out how plans or projects which may impact on protected habitats or species are to be assessed and how the results of an adequate assessment (which also examines in combination effects) must be taken into account by decision makers. This can decide whether or not to grant permits and if yes what conditions should be in there to avoid damage, especially to any of the features, species, habitats for which the site was designated.

This paper will set out some examples of assessments and the decision making process.