

Eve O'Sullivan

Subject: Technical Amendment to Licence S0012-03
Attachments: TAEPA160522.docx

From: Pat Moran [REDACTED]
Sent: Monday 16 May 2022 17:52
To: Licensing Staff <licensing@epa.ie>
Subject: Technical Amendment to Licence S0012-03

To whom it may concern

Dear Sir or Madam

Please find below the attached, my submission in regard to the Port of Waterford second application to the EPA for the same Dredging Operation in the Waterford estuary.

Regards

Pat Moran

Pat Moran

16/05/22

Ref – Technical Amendment to Licence S0012-03

Dear Sir/ Madam

As there are now two applications from the Port of Waterford for the same Dredging operation, one review is S0012-04 and now there is a later one for a Technical Amendment to permit S0012-03.

I would like to begin by including my submission from Review File S0012-04 and included also in Technical Amendment S0012-03

I notice the sentence referring to the Pontoon restricting access to Cheekpoint Harbour is now missing from the Technical Amendment application. See attached document (Port of Waterford) with original Pontoon sentence underlined.

Furthermore I would like to place on file my letter to the Chief Executives of the various Planning bodies the EPA, the Chief State Solicitors Office and two Government Ministers sent on the 20/04/22 as regards the Dredging at Cheekpoint Harbour referenced in the review application by the Port of Waterford (S0012-04). This will explain the significance of the Pontoon sentence omitted from the Technical Amendment and my further concerns in regards to the disregard of NIS regulations.

The Technical Amendment and the review seek to increase the area of Plough Dredging along with the Plough Dredging amounts again (Technical Amendment A) from 159,165 wet tonnes to 186,665 wet tonnes annually. Surely a totally new permit is needed? With the majority of the Plough Dredging taking place within the Cheekpoint area the confluence of the river systems the effects are being felt across 9000 square kilometres of catchment.

With no answers, around accountability, responsibility and oversight, as regards an NIS, AA and EIS. They are valueless as regards protection for the Environment and Human Rights in the Planning and Licencing system. Also with the Precautionary Principle being ignored it looks like a Court case of National and European importance needs to take place as the Law and protections at present are being circumvented with catastrophic consequences and results.

Yours sincerely

Pat Moran

Pat Moran

[REDACTED]

[REDACTED]

[REDACTED]

19/04/22

Ref – Planning, Dredging and Dumping, Cheekpoint Harbour - Project Splitting?

Dear Sir/ Madam

Reference email dated 09/03/22 from Pat O’Neil – Foreshore Section informs me that the increased Dredging and Dumping application and any enquiries or queries in relation to this matter should be taken up with the EPA (copy of e-mail attached). Is this correct or a continuation of Project Splitting?

A Pontoon Planning and Foreshore application (permission now granted) now with an add on, of Dredging - EPA Ref - S0012- 04 which was always needed but not mentioned in the Natura Impact Statement, (NIS) the Planning and the Foreshore application file.

The instillation of a pontoon at Cheekpoint quay is a joint development between Cheekpoint Boat Owners and the Port of Waterford. “Where we (Port of Waterford) funded the Environmental Evaluations required as part of the planning application”. In the file and those evaluations and a NIS the Port of Waterford and the Boat Owners failed to mention the need for the Dredging requested in application Ref-S0012-04 currently with the EPA to alleviate the restricted access. The foreshore determination only happened this year (File no FS007053) and the Department’s web site has consultation.

Not only has project splitting allowed a development to proceed through planning and foreshore without the full environmental impacts being considered but also allowed the development to proceed without Stage 3 of the NIS an assessment of alternative solutions, which may have considered an option that would require no Dredging rather than more Dredging as is now required.

It is now blatantly obvious that an EIS, AA and NIS are just window dressing on any Planning and Licencing application and the condition of Waterford Estuary is testimony to that.

“The European Court of Justice (ECJ) – The Irish Court has provided clarity on how competent authorities should view NIS, AA and EIS.

“(The AA) cannot have lacunae and must contain complete precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned.”

My questions are to the Chairpersons of the statutory bodies and the Ministers who have received this letter. Which Department or statutory body is responsible for implementation of this the law, in this instance, as three permissions have been granted on foot of a NIS with lacunae and files without the relevant information. Also for the EPA, what is the current position of the recent application as it is also part of a project splitting exercise?

See Waterford City and County Council Planning File 20/217

An Bord Pleanala – Board Order ABP- 309266-21

Department of Housing Foreshore – No F5007053

EPA Application – S0012-04

Please find attached 3pages from the Pontoon NIS.

Finally letters from Waterford City and County Council Planning File forward

I look forward to a prompt reply to this issue of where the responsibility lies, is it within the Planning Department, Foreshore Department or Licencing Department?

Yours sincerely

Pat Moran

Dredging and Dumping Cheekpoint Harbour
Pat O'Neill (Housing) <Pat.ONeill@housing.gov.ie>

Wed, Mar 9,
1:54 PM

Dear Mr. Moran

Thank you for your correspondence of 24 February last.

It would appear that the appropriate authority to contact in relation to increased dredging and dumping application by Port of Waterford is the EPA. Accordingly, you should contact the EPA with enquiries in relation to this matter. Any queries to the EPA should be sent to: licensing@epa.ie.

Yours sincerely,

Patrick O'Neill

Foreshore Section

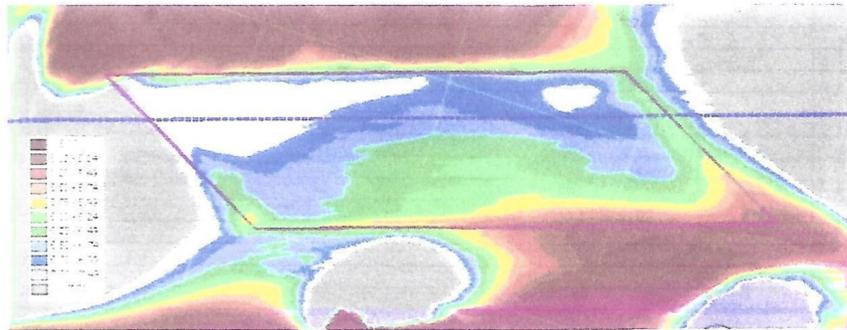


Figure 2 Bathymetric Survey of Cheekpoint Lower Bar

The Port seeks to extend the licensed area to allow the plough to work in longer trails and utilise the deep scour depressions on either side of the bar area to prevent this build-up. This is the primary purpose of this application. Figure 2 outlines the extension proposed.



Notes: purple box = current licensed area, red area = proposed new licensed area, blue line = leading lights

Figure 3 Change in Licensed area proposed at Cheekpoint Lower Bar

The Port is not seeking any change in methodology or additional tonnages to its current license, only an extension to the area.

Cheekpoint Harbour

Cheekpoint Harbour, comprising of an approach channel and a basin, is a community harbour facilitating local fishing and recreational vessels.

The current license area is very narrow and manoeuvring is currently challenging for the plough regularly used. However, a new pontoon is currently being licensed/installed that will further restrict access. Due to this, and as plough tracks are needed to be provided to the EPA as part of the reporting procedures, the Port feel an extension is required to ensure it can operate in the area and maintain compliance by keeping the plough tracks within the designated area. Figure 3 shows the proposed extension area in red, with the current licensed area outlined in purple.

Planning File

Info

On the 7th April 2020 the Cheekpoint Boat Owners Association applied for Planning Permission for a wheelchair accessible ramp access with entrance gate and associated works to access a proposed pontoon facility at Main Quay, Cheekpoint, Co Waterford.

Waterford County Council requested further information in relation to the application on 16th July 2020.

This submission addresses the seven items in the request for further information.

Response to Request for Further Information

Item 1 Pontoon System and Dredging

The pontoon system is identified within dredging area however no details are provided in relation to the impact of the development on future dredging in the area. Full details of the dredging in the area shall be provided and how future dredging can be undertaken to include confirmation from all parties responsible for dredging that the proposed pontoon system will not impede/impact dredging in the area. Confirmation from the parties involved shall be provided that the pontoon system will not be impacted upon High Court Order relating to access to the pier, dredging etc.

The area outside the main Quay leading to the river is dredged regularly by the Port of Waterford Company to maintain 2 metres of depth at Low Water Springs from the Quay wall to the channel markers. A tidal flow runs past the main Quay in an West / East direction and this also helps to keep this immediate area clear of mud build up.

Appendix 1 attached contains letters as follows:

- Letter from the Chief Executive of the Port of Waterford Company confirming their support for the proposal and stating that they will continue to ensure that the access channel to Cheekpoint is maintained including in and around the proposed pontoon.
- Letter from Anthony D Bates Partnership, Dredging Consultants to the Port of Waterford Company confirming that the proposed pontoon system including the support piles will not hinder the licensed plough dredging activities required to maintain dredged depths at Cheekpoint Harbour and the approach therefo.
- Letter from South East Tug Services Ltd confirming that the current maintenance dredging programme can be fulfilled if the proposed pontoon system is installed and noting that the tug used is a highly manoeuvrable vessel.
- Letter from Inland and Coastal Marina Services confirming that pontoons can be removed if necessary to facilitate dredging activities.

MCR

Planning File

Anthony D Bates Partnership Ltd
Dredging, Harbour & Coastal Consultants
Cahaleen Beg, Windsor, Ovens, Cork
e-mail: info@anthonybates.co.uk
web: www.anthonybates.co.uk

Darren Doyle
Harbour Master
Port of Waterford,
Marine Point, Belview,
Waterford X91 W0XW

Our Ref: 474/cms/20200805
05th August 2020

Dear Darren,

Proposed Cheekpoint Harbour Pontoon

As requested I have reviewed two aspects recently raised by the planning department of Waterford City and County Council regarding the proposed pontoon installation at Cheekpoint Harbour. Following my review please find my opinion on each below.

Item 1:

The pontoon system is identified within dredging area however no details are provided in relation to the impact of the development on future dredging in the area. Full details of the dredging in the area shall be provided and how future dredging can be undertaken to include confirmation from all parties responsible for dredging that the proposed pontoon system will not impede/impact dredging in the area. Confirmation from the parties involved shall be provided that the pontoon system will not impact upon High Court Order relating to access to the pier, dredging etc.

Comment 1:

The maintenance dredging at Cheekpoint Harbour comprises the approach channel and the basin area in front of the quay wall. This area is currently dredged through the use of two plough vessels; a larger plough for the channel and a smaller plough within the basin due to its increased manoeuvrability. Plough dredging consists of pulling material above target levels into areas of capacity or mobilising the sediment into suspension to be naturally dispersed by the tidal currents. This methodology has been used over many years to reduce natural sedimentation at Cheekpoint Harbour. The installation of the proposed pontoon will not hinder these activities. The approach channel dredging by the larger plough vessel is remote from the pontoon location so will be unhindered. From a review of the drawing the smaller plough will be able to access either side of the pontoon and along the quay face. If an alternative larger plough was used, through necessity or choice, the activity could still be undertaken with measures such as high tide operations, relocation of boats, or temporary removal of the pontoons from the piles (a common occurrence in marinas). The use of piles for the installation is also very beneficial as the alternative, anchor blocks and chains, would pose a significant obstruction to maintenance dredging activities.

Item 2:

Please provide an assessment of the potential for the pontoon system to give rise to siltation in the wider area.

Comment 2:

Sedimentation at Cheekpoint Harbour is variable but mainly occurs in the approach channel. The installation of a series of 0.5m piles should not have any influence on the degree of sedimentation occurring in the basin area, or the wider area, as their cross-sectional area is negligible to the tidal flow in the area. The pontoons only rest on the surface of the water and will not impede tidal flow, which is already very low in this area. Should the installation of the pontoon result in the increased use of Cheekpoint Harbour by leisure craft sedimentation may decrease due to increased propeller scour within the basin and the approach channel.

Planning FILE

SOUTH EAST TUG SERVICES LTD

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00 353 86 669 7872

Email: seuts@eircom.net

19 Otteran Place
South Parade
Waterford
Ireland

Checkpoint Boat Owners Association
Checkpoint
Co Waterford

30th June 2020

Dear Association Members,

I wish to advise that our vessel Glensk is a twin screw highly maneuverable tug capable of working in tight restricted areas. The vessel's Master has a thorough knowledge of working this vessel to its maximum capability and is also very familiar with the area in question.

Should a pontoon be positioned in this area we are confident that the current maintenance programme can be fulfilled. Should any further clarification be needed please don't hesitate to contact us.

Yours Sincerely,

Brian Cantrell

3 DESCRIPTION OF THE PROJECT

3.1 Site Context and Description

The proposed development will be located within Cheekpoint Harbour which is located within the Lower Suir Estuary (Little Island – Cheekpoint) on the southern bank of the River Suir (Co. Waterford). Cheekpoint is a coastal village located in the east of Waterford County on the confluence of the River Suir and the River Barrow. Cheekpoint Harbour has been in operation since the 1800s. The Site is located off the local roads, Strand Road and the Mount, ca.0.4km north of Cheekpoint, Co. Waterford. The Site is located adjacent to a residential area and is zoned as 'harbour related activity' under the Waterford County Development Plan 2011-2017 (Waterford County Council, 2011). Within the greater landscape, there is industrial activity from Port of Waterford located ca.2km upriver, residential and agricultural lands to the south and the Great Island Power Station ca.500m north across the Little Suir Estuary.

In 1995, a series of groynes were built up to 200 metres out in the river to divert the Cheekpoint Bar, which was a mud bank impeding large vessels from travelling up river to the Port of Waterford. The installation of these groynes resulted in the harbour at Cheekpoint silting up to such a degree that Cheekpoint Harbour is now subject to periodic maintenance dredging to maintain the water depth and access for boats. It is not envisaged that any change in the dredging regime will take place after the installation of the pontoon system.

The purpose of installing the pontoon system will be to provide safe and extended tidal time access for boat and watercraft use at Cheekpoint Harbour. Currently, the tidal timeframe allows for boat and watercraft use for approximately 40% of tide time, while the installation of the pontoon system could allow for up to 100% use of tide time. This will help to enhance the local economic and employment opportunities within the area through increasing the opportunity for water-based activities and Marine and Heritage tourism initiatives.

The proposed pontoon system will not be fastened to Cheekpoint Pier. The pontoon system will be connected to land by a cantilever platform installed on a round pile immediately adjacent to the northwest end of the existing Cheekpoint Pier within Cheekpoint Harbour. The gangway will then be fastened onto the cantilever platform and then be connected to the pontoon system.

The current access channel to Cheekpoint Pier requires dredging to maintain access (Figure 3-1 and Plate 7-1). The location of the proposed pontoon system will provide safe access at all times of the tide and the connecting gangway will be of a standard whereby access to the pontoon will be feasible for disabled / wheelchair access.

7 STAGE 2: ASSESSMENT OF POTENTIAL ADVERSE EFFECTS

This section provides recommendations for measures which will mitigate against potential adverse effects of the proposed works on qualifying habitats and species throughout the duration of the project. The following adverse effects with potential to adversely affect the conservation objectives of the identified Natura 2000 sites were considered:

- Loss of, or disturbance to habitats during construction and operation phase;
- Potential impairment of water quality during construction phase; and,
- Potential adverse effects from noise disturbance to designated species during construction phase.

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.

Cheekpoint Harbour comprises of a largely manmade and managed environment. The proposed pontoon system will be located entirely within the active harbour, which is subjected to regular human activity. The habitats within this area have experienced ongoing disturbance as a result of the development of the harbour and the recurrent maintenance dredging required to maintain boat access. It is not anticipated that the works associated with the installation of the pontoon system will result in any adverse effects to these habitats within the harbour as they are subject to regular disturbance.

There will be no change to the dredging regime within Cheekpoint Harbour due to the proposed pontoon system.

Six Piles are to be installed as part of the works. One pile will be located directly adjacent to the existing pier structure. Five piles will be installed within a deep-water pool, an area that is subject to regular maintenance dredging to ensure that boat access can be maintained (Refer to Plates 7-1 & 7-2). It is therefore considered that there will be no adverse effect on the areas of Mudflat habitat or designated species.

It can therefore be concluded that no loss or adverse effects on designated habitats will result from the construction works or operation of the proposed pontoon system.

Pat Moran

11/03/22

Ref – FW.7.21 Port of Waterford Company – Dumping at Sea Permit at Waterford Harbour

EPA Ref – S0012 - 04

Dear Sir/ Madam

As Ploughing is categorised as a Dumping and Dredging Operation rather than a Loading Operation – Dumping is the overriding factor

The application gives coordinates for the Dumping and Dredging, whereas the modelling gives the Dumping area from Buttermilk point to Little Island. As a complete assessment has not been done for the entire Dumping site, for habitat, biodiversity and for species that live in the area, dwell in the area for prolonged lengths of time and or migrate through the said area. This assessment should be done immediately.

This area is part of a Special Area of Conservation (SAC) and Shellfish Designated Waters protected by directives and contains two natural occurring bottom Mussel Beds (dormant from Fishing) that lie within the Dumping area which have not been mentioned or referenced. Why as the waters are Designated Shellfish Waters (See Department of Marine Map with positions attached). On account of being dormant from Fishing the Mussel Beds should now show at least 1,000 tonnes of Mussels on each bed. When the Mussels were fished by the Co-op the yearly harvest was documented at 1,000 tonnes yearly for the Ryan's Quay bed. See also attached picture of Mussels off the ground at the Cheekpoint Tide Mark.

A comprehensive yearlong study should take place to establish the number and abundance of species present to be compared with the 2009 EIS for Great Island Power Station which is in the general area, alongside and overlapping the Dumping and Dredging application along with an assessment of the natural occurring Mussel beds in the area from Little Island to Buttermilk Point.

Monitoring, Modelling, Surveying, Assessment

Where there is decline- demise – extinction of habitat, biodiversity and species as in the Waterford Estuary, does the relevance and value of Monitoring, Modelling, Surveying, Assessment as it is carried out at the present need to be examined?

1/ This Dredging – Dumping Licence

1tonne dumped causes the same effect as 10,000 tonnes or 40,000 tonnes and can only barely be found above background levels at Monitoring stations.

2/ The Power Station Licence at Great Island

1tonne of Chlorine is the same as thousands of tonnes of Chlorine. When discharged no effect and it cannot be detected in the water.

3/ The Duncannon Beach Report

The water at Duncannon Beach is excellent and has been excellent since 2014, even though the outfall of untreated sewage from Duncannon village is less than 50 metres from the beach and the beach is below Arhurstown and Ballyhack also discharging untreated sewage. Monitoring, Modelling, Surveying, Assessment has been carried out for all three licences. Two licences need not have any conditions as there is no effect no matter how many tonnes are involved. The Beach Report poses a question as to why Sewage Treatment is needed as the Beach water alongside the untreated discharge is excellent while the rest of Waterford Estuary is either- Moderate, Poor or Very Poor, and is not able to support Shellfish survival on the opposite bank of the Estuary. Monitoring, Modelling, Surveying, Assessment are telling one story (no problems) while Species, Habitat, Biodiversity are telling another. Waterford Estuary and Shellfish protected waters can no longer qualify or be classed as an SAC with Shellfish Protected Waters.

Where does the Dredging and Dumping at Cheekpoint Lower Bar fit in to the Port of Waterford's Master Plan 2020/2044 ?In the plan a river training wall is proposed for that area. See attached pages

The application states the Port as not needing additional tonnages only an extension of the area. Additional area means additional Dredging and Dumping in the Dumping area. Buttermilk Point to Little Island, where does the additional tonnage, come from within the licence? Was there a mistake and is there over capacity that allows the area to be doubled and the licence not to be effected as regards tonnages or are the tonnages being moved around the licence or is the emergency tonnage earmarked within the licence being used?

Cheekpoint Harbour – Dredging and Dumping what sort of issues are here?

Permission for a Gangway and Pontoon at Cheekpoint Quay has been granted with the Port of Waterford Company being heavily involved in the planning application for

the Pontoon and in a Natura statement that accompanies the application Waterford City and County Council File No 20217

Nowhere in their letters from the Waterford Port Company within the planning file or in the Natura statement does it mention that extra Dredging and Dumping was needed on account of restricted access to the Pontoon and the Quay in fact a totally opposite view was put forward in the planning application to Waterford County Council and An Board Plenala as to what is on page 24 of this application

The application Ref No F5007053 is still with the Department of Housing, Local Government and Heritage, Marine and Foreshore Section. Also there is a High Court order in place to ensure unrestricted access to Cheekpoint Pier that is being changed and altered without referring to the High Court. What is the legal position on the decision to grant planning with conflicting information and for Dumping and Dredging in this area?

Since 2019 Ploughing has been undertaken more regularly at Cheekpoint Lower Bar this prevents sediment from consolidating in the area as it keeps fluid material moving on the tides. This methodology changes the dynamics of the licence as the composition of the material dredged and dumped is now 100% fluid material (slop). Why is the Monitoring not picking up more in the Dump site between Buttermilk Point and Little Island? Why has the Monitoring not picked up the increase in turbidity 2 hours and twenty minutes after high tide and around the same on the flood tide after low water on the Spring tides? Turbidity does not remain the same during all the ebb and flood, Ploughing should only take place when natural turbidity is high when it does not add significantly to the background levels.

The Beach erosion that has happened at Woodstown and the entire way to Passage has gone unseen. The small area referred to as present at the Southern part of Passage Strand referred to locally as the Mussel Bank and where Ragworm would be got has also gone unnoticed. Mussels and Mussel Beds throughout the estuary have also gone unseen or unnoticed along with Oysters and how many other species?

Shellfish Dieback all around the Harbour, mortalities in Mussels and Oysters, cause unknown, consequences unknown with the EPA's main function now appears to be the Mapping and Recording of the decline and demise of Habitat, Biodiversity, Species and Water Status.

See attached additional information for positions of naturally occurring Mussel beds along with position of Cheekpoint mark with Mussels in 2015 as it should and how they should not be 2020.

Yours sincerely

Pat Moran