

**Our Ref:** 61.PC0012

**Your Ref:** BR/AM 2139 - Galway Harbour Co

Brendan Rudden,  
Patrick J. Tobin & Co. Ltd.  
Fairgreen House,  
Fairgreen Road,  
Galway.

TOBIN CONSULTING ENGINEERS		
PROJECT NO:		
FILE REF:		
Date Received	22 OCT 2010	
PASS TO	ACTION BY	DATE
SPK	BR	22/10/10

21st October 2010

**Re:** Proposed harbour extension at Galway Harbour, Galway,  
Co. Galway.

Dear Sir/Madam,

Please be advised that following consultations under section 37B of the Planning and Development Act, 2000 as amended, the Board hereby serves notice under section 37B(4)(a) that it is of the opinion that the proposed development (other than general warehousing), falls within the scope of paragraphs 37A(2)(a) and (b) of the Act. Accordingly, the Board has decided that the proposed development would be strategic infrastructure within the meaning of section 37A of the Planning and Development Act, 2000, as amended. Any application for permission for the proposed development must therefore be made directly to An Bord Pleanála under section 37E of the Act.

Please also be informed that the Board considers that the pre-application consultation process in respect of this proposed development is now closed.

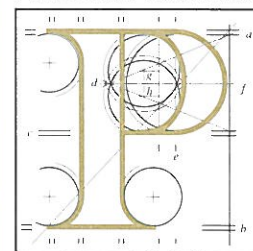
A list of prescribed bodies to be notified of the application of the proposed development, can be requested following the Environmental Impact Statement scoping exercise.

In accordance with section 146(5) of the Planning and Development Act, 2000 as amended, the Board will make available for inspection and purchase at its offices the documents relating to the decision within 3 working days following its decision. This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The attachment contains information in relation to challenges to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act, 2000, as amended.

If you have any queries in relation to the matter please contact the undersigned officer of the Board.

An Bord Pleanála



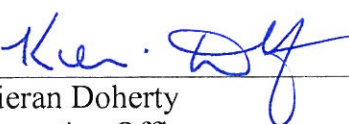
64 Sráid Maoilbhríde,  
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64 Marlborough Street,  
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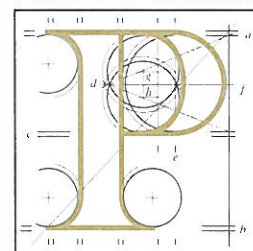
Please quote the above mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,

  
Kieran Doherty  
Executive Officer  
Direct Line: 01-8737248

PC09.LTR

An Bord Pleanála



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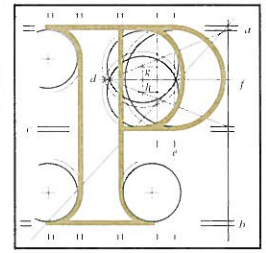
## Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Act, 2000, as amended

A person wishing to challenge the validity of a Board decision may do so by way of judicial review only. Sections 50 and 50A of the Planning and Development Act, 2000 (as substituted by section 13 of the Planning and Development (Strategic Infrastructure) Act 2006) contain provisions in relation to challenges to the validity of a decision of the Board.

The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(6) of the Planning and Development Act, 2000 requires that subject to any extension to the time period which may be allowed by the High Court in accordance with subsection 50(8), any application for judicial review must be made within 8 weeks of the decision of the Board. It should be noted that any challenge taken under section 50 may question only the validity of the decision and the Courts do not adjudicate on the merits of the development from the perspectives of the proper planning and sustainable development of the area and/or effects on the environment. Section 50A states that leave for judicial review shall not be granted unless the Court is satisfied that there are substantial grounds for contending that the decision is invalid or ought to be quashed.

Disclaimer: The above is intended for information purposes. It does not purport to be a legally binding interpretation of the relevant provisions and it would be advisable for persons contemplating legal action to seek legal advice.

### An Bord Pleanála

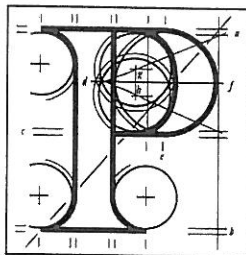


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## An Bord Pleanála



### **INSPECTORS REPORT ON PRE APPLICATION CONSULTATION UNDER SECTION 37B OF PLANNING AND DEVELOPMENT ACTS 2000 (AS AMENDED)**

**Development:** Proposed harbour extension at Galway Harbour, Galway

**Planning authority:** Galway City Council

**Prospective Applicant:** The Galway Harbour Company

**Date of pre application meetings with prospective applicants:** 28/06/07  
10/10/07  
07/05/10  
18/08/10

**Date of pre application meetings with planning authority:** 06/09/07  
08/07/10

**Inspector : Philip Green**

Appendix 1: Site location plans  
Appendix 2 : Proposed phasing  
Appendix 3 : Future Masterplan



## **1.0 THE SITE**

- 1.1 The site is located immediately to the south east of Galway city centre. It will comprise a substantial reclamation of lands from the sea to form a southwards extension into Galway Bay to lands previously reclaimed and which presently form part of the Galway Harbour Enterprise Park. The proposed development will extend some 1000 metres seawards to a point approximately mid way between and in line with Mutton Island to the west and Hare Island to the east.
- 1.2 Please refer to Appendix 1 to this report for location and extent of the proposed site of the development.

## **2.0 THE PROPOSED DEVELOPMENT**

- 2.1 The Board should note that during the process of the pre application meetings the scale and form of the proposed development was amended and particularly reduced in its scale and extent. Please refer to the written record to the final meeting held with the prospective applicants on the 18<sup>th</sup> August 2010 in this regard. It is this final scheme as presented to the Board at that meeting that is considered in this report and recommendation.
- 2.2 The proposed development seeks a relocation and enhancement of the existing harbour, dock facilities and other existing uses at Galway Harbour. It is stated by the prospective applicants that the existing harbour facilities are subject to significant size and tidal constraints including a narrow and shallow entrance channel requiring dredging every 10 years, lateral set from the River Corib, narrow dock gates, limited access (for two hours twice daily) and lacking in modern port facilities such as berthing facilities for passenger vessels, unitised container transport, Ro Ro vessels, car carriers, rail link and sufficient land for associated areas. It is stated that this relocation and enhancement would facilitate the provision of a modern, secure and efficient port facility with rail link and the redevelopment potential of a substantial area of land within the city centre.
- 2.3 The justification for the proposed development and associated issues discussed in the four pre application meetings are set out in the various documents provided by the prospective applicants as part of the pre application process and are referred to in the written records of these meetings. The Board should also note that two meetings were held with representatives of the Galway City Council. The prospective applicants have now written to the Board following this pre application consultation process requesting formal closure of consultations pursuant to s.37B and requesting the Board's determination as to the SID status of the proposed development.
- 2.4 It is stated that the proposed development will consist of approximately 24.95ha. of land reclamation. It will extend 1032m out to sea providing 660m. of quay berth to -12m. CD depth serviced by a -8m CD channel depth. Berthing facilities for general cargo vessels, oil tankers, passenger vessels fishing vessels and container vessels will be provided. A western marina will be formed providing 216 amenity berths. The development will also contain

Roll on/Roll off facilities and berths for naval/research vessels. Breakwaters will be constructed as part of the proposed development to provide requisite shelter and craft stability while berthed.

- 2.5 The land reclamation is intended to provide for harbour related sites for the following. It should be noted by the Board that the prospective applicants were reminded as part of the pre application process that to classify as strategic infrastructure the nature of uses proposed should be directly related and ancillary to the harbour/port activity itself. This has regard to the emerging definition of a port installation contained in the amended Planning and Development Act 2010 and which does not provide for general manufacturing and warehousing. The prospective applicant confirmed that the intended planning application would be in respect of the provision of lands, the generation of quays and provision of additional lands for port use although the Board should note that a number of the uses identified below reflect established uses at the existing harbour lands.

- Warehousing (general and fishing related);
- Oil tanks (future);
- Coal yard;
- Waste export;
- Steel import yard;
- Scrap metal yard;
- Passenger terminal;
- Car import;
- Ship chandlers;
- Roll on/roll off yard;
- Container yard;
- Parklands;
- Renmore promenade;
- Project cargos.

- 2.6 The development will be constructed in four phases over a 10 year period (see Appendix 2 to this report) and with potential for future extension set out in an overall Masterplan. The Masterplan is provided for indicative purposes and will not form part of the proposed development (see Appendix 3 to this report). In summary the application itself will therefore provide for

- 24.95ha. reclaimed as quays and back up land – consolidated during construction and available for industries as identified in 2.5 above;
- 660m of sheltered quays;
- Western marina with 216 no. berths;
- Fishermans Pier and slipway;
- Freight rail link;
- Commercial port.

- 2.7 The land area will provide for the following:

- Commercial port back up yard areas = 9.02ha.

- Commercial quay area = 2.6ha.
- Harbour company warehouse and yards area = 2.52ha.
- ESB and security yard area = 0.53ha.
- Fire water storage area = 0.49ha.
- Marine boat yard area = 1.11ha.
- Fishermans pier and yard area = 0.53ha.
- Roads and access area = 2.61ha.
- Rail line area = 1.28ha.
- Marina village buildings and yard area = 1.16ha.
- Open space area = 3.1ha.

### 3.0 PROSPECTIVE APPLICANTS CASE FOR STRATEGIC INFRASTRUCTURE

3.1 In their initial letter to the Board dated 18<sup>th</sup> April 2007 the prospective applicants set out their case as to why the proposed development would constitute strategic infrastructure. This includes the following points:

- The proposed development would fall within section 37A (Seventh Schedule) Transport Infrastructure Item 2 comprising development for the purposes of

*“an intermodal transshipment facility, an intermodal terminal or a passenger or goods facility which, in each case, would exceed 5 hectares in area;*

*a harbour or port installation*

*(a) where the area or additional area of 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 or each of which would exceed 100 metres in length, or*

*(d) which would enable a vessel of over 1350 tonnes to enter within it.”*

- Development proposes to be a nodal link between shipping and road and rail infrastructure for goods and people;
- Galway will have potential to be major import/export location for petroleum, containers, raw materials, cars and other goods;
- Nearby rail line and major road links proposed will allow Galway to realise potential as a ‘Gateway’ for the West region as designated in the NSS;

- Galway proposes to become major passenger hub and destination for cruise ships and is ideally located for visitors to the city, county, Connemara and the Aran Islands, The Burren and the West region;
- A marine leisure centre is also proposed as part of the development to increase water based tourism and leisure activities (Board to note that the 'Nautical Centre is now not part of the proposed application but contained within the future Masterplan proposals);
- Proposed development will allow for redevelopment of Galway docklands as promoted in vision statement for area published in 2006 by Minister for Community, Rural and Gaeltacht Affairs and other interested agencies and groups;
- Vision can only be realised by relocation of existing dock facilities as proposed.

#### 4.0 ASSESSMENT AND RECOMMENDATION

- 4.1 The key issue for determination by the Board in this case being considered under Section 37 of the Planning and Development Act 2000 (As Amended) is whether the proposed development would or would not constitute strategic infrastructure and thus necessitate the application for the proposed development being made to the Board direct under s. 37E and not to the Galway City Council as the planning authority for the administrative area in which the proposed development is located.
- 4.2 In this regard the Board is required to have regard to the provisions of the Seventh Schedule to the 2000 Act (as amended by the Acts of 2006 and 2010) relating to the nature and scale of developments that would fall within the definition of strategic infrastructure. Should it fall within such a category then, subject to the Board being satisfied that the further criteria set out in Section 37A(2) are met, the proposed development would be made direct to the Board rather than to Galway City Council.
- 4.3 There are amendments to the Seventh Schedule contained within the Planning and Development (Amendment) Act 2010 relevant to harbour or port installations. This amendment came into effect from the 5<sup>th</sup> October 2010. In particular this amendment defines a harbour or port installation as “*A harbour or port 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 or transport of passengers (including customs or passport control facilities), associated administrative offices or other similar facilities directly related to and forming an integral part of the installation ..*” The remaining relevant sections of the Seventh Schedule are unchanged and I refer to the current provisions of the Act as they are currently relevant to this case in the following paragraphs.
- 4.4 **Seventh Schedule:** I refer to the provisions of the Seventh Schedule (Infrastructure Developments for the purposes of sections 37A and 37B) Transport Infrastructure Section 2 under the clauses relating to “A harbour or port installation” (see section 3.1 above). It would appear that having regard



to the nature and scale of the development as described by the prospective applicants that the proposed development would be significantly in excess of the threshold criteria specified particularly for clauses (b) in regard to land reclamation and (c) length of quays. Further in regard to clause (d) it was clarified during the pre application consultation process that the scheme would facilitate vessels of 20,000 tonnes (and which would require a 10m. berthing depth). I conclude therefore that the proposed development would constitute a designated category of infrastructure development as contained within the Seventh Schedule and for the purposes of Section 37A. In regard to the nature of uses proposed I consider that the nature of the proposed uses as described in 2.5 above (with the exception of general warehousing) would broadly follow the description contained within the amended 2010 Act with however the provision that this proposed development also reflects a number of the established and related activities presently operating from Galway Harbour <sup>1</sup>.

**4.5 Conditions required to be satisfied under section 37A to warrant application to be made to Board under section 37E:** Section 37A requires the Board to also confirm, following consultations under section 37B, that the proposed development would meet one or more of the following criteria:

- (a) the development would be of strategic economic or social importance to the State or to the Region in which it would be situate,
- (b) the development would contribute substantially to the fulfilment of any of the objectives in the National Spatial Strategy or in any regional planning guidelines in force in respect of the area or areas in which it would be situate,
- (c) the development would have a significant effect on the area of more than one planning authority.

**4.6 National port policy:** This would essentially appear to be contained within the Ports Policy Statement 2005. Whilst addressing a wide range of port related management issues it is clear from statements made within that document that ports are perceived as being critical to the economic importance of the State and region in which they are located. It is for example stated that:

*“Ireland, as an island, is dependent on seaborne trade and the economic significance and importance of our ports to the prosperity of the country is self evident. Given our small open economy, Irelands international competitiveness is central to overall economic performance. Our ports are vital gateways for commercial freight and sea passengers. This is highlighted by the fact that 9 of the 10 commercial State port companies are located in areas identified as gateways in the national Spatial Strategy. Almost all of Irelands overseas trade goes by sea, underlining the commercial significance of ports and their strategic importance ...”*

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<sup>1</sup> Note that adjoining Galway Harbour is an Industrial Estate (Enterprise Park) which contains a multiplicity of warehousing, offices and industrial uses and including a bus depot

*“ .. While our ports are clearly commercial entities, it cannot be overlooked that they can act as engines of regional economic growth and that they are also essential pieces of public infrastructure, which it is Government policy to ensure are sufficient and appropriate to meet the needs of the economy ... Significant shortfalls in port infrastructure capacity could result in serious damage to the economy .. ”*

*“Irish ports constitute a fundamental link in the supply chain to and from our trading partners. It is essential that they are properly integrated with other transport modes ... The Ministerial Task Force in relation to transport logistics in connection with ports ... highlighted ... The importance of ports as a vital link in the logistics between producers and their customers and the effect any inefficiencies can have on the competitiveness of our economy ... To ensure balanced regional development the programme for government accorded full recognition to the importance of competitive access maritime transport. In particular the Government committed to ensuring that our ports are equipped for the demands of our growing economy through investment and development of seamless transport systems between all modes.. ”*

*“The provision of adequate and efficient capacity into the future is a crucial strategic objective of the Government. ”*

Having regard to the current constraints to the existing harbour facilities as highlighted by the prospective applicants, the nature and scale of the proposed development and the acknowledged economic significance of ports particularly those situated in an identified ‘Gateway’ I consider that it is reasonable to conclude that the development would be of strategic economic or social importance to the State or to the Region in which it would be situate.

**4.7 The National Spatial Strategy/West Regional Authority Regional Planning Guidelines 2004 - 2014:** I have had an opportunity to consider the policies and guidance set out in these documents. I consider that it would also be reasonable to conclude having regard to the following that the proposed development would contribute substantially to the fulfilment of objectives in the National Spatial Strategy and the Regional Planning Guidelines for the area.

**4.8** As indicated above Galway is a designated Gateway in the NSS and one which needs to be “strengthened further” (section 3.3.2 of NSS). Gateways are identified in order to establish balanced regional patterns of economic development to complement Dublin’s economic role in the State. The spatial policy relating to gateways are identified as:

*“Balanced national growth and development are secured with the support of a small number of nationally significant centres, whose location and scale support the achievement of the type of critical mass necessary to sustain strong levels of job growth in the regions.*

Section 4.8 of the NSS states that Galway with its population catchment, quality of life attractions, transport connections and capacity to innovate with

the support of third level institutions, will continue to play the critical role which has been essential in activating the potential of the region. The challenge now is to sustain and broaden this role to strengthen other areas.

- 4.9 Section 2.2 of the NSS in reviewing the importance of the road and public transport linkages within the State also states that ... *“building on the completion of the radial routes to and from Dublin, Ireland’s road network, public transport system and international access points such as ports and airports, will remain key components around which development will need to be structured”*. Section 2.6 also identifies deepwater ports as a specific element whose assembly at strategic locations in a targeted way is vital to foster a wide range of enterprise activity and employment creation.
- 4.10 Similar to the Ports Policy Statement the NSS also recognises that for Ireland to have a globally competitive but regionally integrated economy effective connections to the world are vital and thus Ireland would need (amongst other matters) good sea ports and shipping services.
- 4.11 The Regional Planning Guidelines identifies the port of Galway as the only port of major significance in the West Region and that ports are very important to the economic development of the west and for Ireland as a whole. It states that there is a need to ensure that adequate infrastructure is in place to facilitate the expected growth of the aqua culture industry and the marine tourism industry in the west region. In regard to access and tourism there are strategic goals and policies in the RPG to facilitate the movement of goods in and out of the region in a way that promotes national and international competitiveness, to promote economic growth by improving the region’s accessibility nationally and internationally and to expand the tourism sector in the west region. The development of the transport/access facilities in the region such as the harbour is perceived as a ‘need/requirement for development’ for Galway City in section 6.7 of the RPG.
- 4.12 **Draft Regional Planning Guidelines for the West Region 2010 – 2022:**  
The Board should note that new regional Planning Guidelines are likely to come into effect in the immediate future although at the time of drafting this report they had not yet been adopted. The draft Guidelines maintain the importance and status of Galway as a Gateway under the NSS in terms of critical mass, economic development and tourism and comments that Galway Sea Port is of strategic importance to the West Region and that ports and harbours contribute to economic development and are important transportation links to facilitate the growth and connectivity of the Region. Adequate infrastructure must be in place to facilitate the development of the aqua-culture industry, marine tourism industry and to facilitate water based leisure activities/sports in the West Region.

Policies as set out in the draft document include:

*“Existing harbour, port, slipways, marinas and mooring infrastructure and associated shore facilities need to be sustainably developed incorporating facilities for the production of higher value fish products, aquaculture and*

*tourism. Appropriate developments at these locations which support this objective are to be welcomed with the regions ports integrated with the road networks”.*

Objectives as set out in the draft document include to

*“Support the redevelopment and expansion of Galway Port which is critical for its continued important role in the growth of the region and support enhanced integration with the rail and road network”.*

4.13 I note that this development is of significant scale and have concluded that it would be likely to be of strategic economic or social importance to the State or to the Region in which it would be situate and would contribute substantially to the fulfilment of objectives in the National Spatial Strategy and Regional Planning Guidelines in force in respect of the area or areas in which it would be situate. However I do not consider having regard to the site location that for the specific purposes of S37A that the development would have a significant effect on the area of more than one planning authority.

4.14 **Conclusion:** Having regard to all the above I conclude that the proposed development (other than general warehousing) would meet the definition of Strategic Infrastructure contained within the Seventh Schedule (Infrastructure Developments for the purposes of sections 37A and 37B) Transport Infrastructure Section 2 under the clauses relating to “A harbour or port installation”. Further it would constitute development of strategic economic importance to the State and region contributing to objectives contained within the National Spatial Strategy and Regional Planning Guidelines for the West Region and would thus fall within Sections 37A (2) (a) and (b). The proposed development should therefore be regarded as strategic infrastructure development for which an application for permission should be made to the Board under Section 37E of the Planning and Development Acts 2000 - 2006.

5.0 **RECOMMENDATION:** That the prospective applicants be advised that:

The proposed development (other than general warehousing) would constitute Strategic Infrastructure Development under the meaning of Section 37A of the Planning and Development (Strategic Infrastructure) Act, 2006 being a “A harbour or port installation” as defined in the Seventh Schedule (as amended by Section 78 of the 2010 Act) and that the proposed development would also fall within Sections 37A (2) (a) and (b) of the Act being of strategic economic importance to the State and West Region and contributing to objectives contained within the National Spatial Strategy and Regional Planning Guidelines for the West Region 2004 - 2016. The application for permission should, therefore, be made to the Board under Section 37E of the Planning and Development acts 2000 – 2006.

Philip Green

Assistant Director of Planning

7<sup>th</sup> October 2010