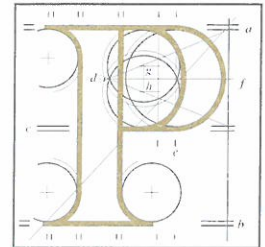


Our Ref: 61.PC0150

Your Ref: JPK/BR 2139

An Bord Pleanála



Brendan Rudden
Tobin Consulting Engineers
Fairgreen House
Fairgreen Road
Galway

TOBIN CONSULTING ENGINEERS		
PROJECT NO:		
FILE REF:		
Date Received	08 OCT 2013	
PASS TO	ACTION BY	DATE
JPK/BR		
JPK	BR	8/10/13

Copied to LTR

7th October 2013

Re: Harbour Extension at Galway Harbour,
Galway, County 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 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. A copy of the Board Direction is enclosed for your information.

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

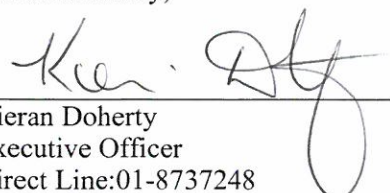
In accordance with section 146(5) of the Planning and Development Act, 2000 as amended, the Board will make available for inspection and purchase at its offices the documents relating to the decision within 3 working days following its decision. This information is normally made available on the list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

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

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, 50A and 50B of the Planning and Development Act 2000 (as substituted by section 13 of the Planning and Development (Strategic Infrastructure) Act 2006, as amended/substituted by sections 32 and 33 of the Planning and Development (Amendment) Act 2010 and as amended by sections 20 and 21 of the Environment (Miscellaneous Provisions) Act 2011) contain provisions in relation to challenges to the validity of a decision of the Board.

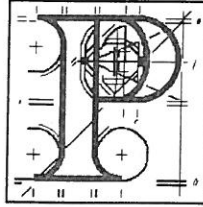
The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(6) of the Planning and Development Act 2000 requires that subject to any extension to the time period 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 and that the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

Section 50B contains provisions in relation to the cost of judicial review proceedings in the High Court relating to specified types of development (including proceedings relating to decisions or actions pursuant to a law of the state that gives effect to the public participation and access to justice provisions of Council Directive 85/337/EEC i.e. the EIA Directive and to the provisions of Directive 2001/12/EC i.e. Directive on the assessment of the effects on the environment of certain plans and programmes). The general provision contained in section 50B is that in such cases each party shall bear its own costs. The Court however may award costs against any party in specified circumstances. There is also provision for the Court to award the costs of proceedings or a portion of such costs to an applicant against a respondent or notice party where relief is obtained to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

General information on judicial review procedures is contained on the following website, **www.citizensinformation.ie**.

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



Inspector's Report

61.PC0150

Prospective Applicant:

Galway Harbour Company

Planning Authority:

Galway City Council

Issue:

SID Pre-application – whether project is or is not strategic infrastructure development

Nature of Development:

Harbour Extension / New Port for Galway

Inspector:

Philip Jones

Appendices:-

1. Copies of Signed Records of Meetings held
2. Copies of relevant policies from Dev. Plan, RPG and NSS
3. Site Layout Map showing outline of proposed development

INTRODUCTION

- 1.1 The subject proposal relates to a proposed harbour expansion development at Galway City. The development involves the infilling and/or dredging of approx. 79 hectares of Galway Bay in order to create a new port facility to serve Galway and the Western Region, and to replace the existing port at the Inner Harbour in Galway.
- 1.2 Four pre-application consultation meetings with the Galway Harbour Company (and its planning, ecological and engineering consultants) in relation to the prospective application were held on 1st October 2012, 15th January 2013, 24th April 2013 and 11th July 2013 (see signed records in Appendix 1). The primary purpose of these meetings was to address the issue of whether or not the proposed development constitutes strategic infrastructure for the purposes of the 2000 Act as amended by the Planning and Development (Strategic Infrastructure) Act, 2006, to consider matters relating to the proper planning and sustainable development of the area or the environment which may have a bearing on the Board's decision, and to outline the procedures involved in making the application.
- 1.3 Representatives from An Bord Pleanála met with officials from the National Parks and Wildlife Service of the Department of Arts, Heritage and the Gaeltacht on 11th February 2013. The primary purpose of this meeting was to discuss issues relating to ecological matters that may arise in the context of the proposed development, including Imperative Reasons of Overriding Public Interest (IROPI). (See signed record in Appendix 1).
- 1.4 Representatives from An Bord Pleanála met with officials from the Maritime Division of the Department of Transport, Tourism and Sport on 13th February 2013. The primary purpose of the meeting was to discuss issues relating to the then in preparation National Ports Policy. (See signed record in Appendix 1).
- 1.5 Representatives from An Bord Pleanála met with officials from Galway City Council on 26th June 2013. The primary purpose of this meeting was to update the Planning Authority on the Board's pre-application consultations with the prospective applicant, and to seek the Authority's views on issues relating to ecology and IROPI, the role of Galway Port in the context of the National Ports Policy, and to obtain an update from the Authority on traffic issues in the city since 2010. (See signed record in Appendix 1).

- 1.6 It should be noted that the Galway Harbour Company previously engaged in pre-application consultations in relation to a proposed harbour extension at this location (reference PC0012). In that case the Board issued notice that it was of the opinion that the proposed development fell within the scope of S 37A(2) (a) and (b) of the 2000 Act, as amended, and, as such, constituted strategic infrastructure development within the meaning of the said Act. The notice issued on October 21st 2010 (file reference PC0012). In addition Galway Harbour Company sought and obtained a written opinion from the Board on the information to be contained in the environmental impact statement in respect of a proposed Harbour Extension at this location (file reference PS0004). The opinion issued on March 10th 2011.

2.0 SITE LOCATION

- 2.1 The subject site comprises part of Galway Bay and is located immediately to the south east of Galway city centre. It would comprise a substantial reclamation of lands from the sea to form an approximately 935 metres southwards extension into Galway Bay, from lands previously reclaimed and which currently form part of the Galway Harbour Enterprise Park, to a point approximately midway between and in line with Mutton Island to the west and Hare Island to the east. Associated roads and services improvements would take place within the Enterprise Park, and there would be associated works to Lough Atalia Road.

3.0 THE PROPOSED DEVELOPMENT

- 3.1 The development, described by the prospective applicant as providing a new port for Galway, is justified by it on the basis that the existing port facility, located in the Inner Harbour, is unsuitable to serve Galway in the future, due to significant size and tidal constraints including a narrow and shallow entrance channel requiring dredging every 10 years, lateral set from the River Corrib, narrow dock gates, limited access (for two hours twice daily, depending on tides) 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 the new port would provide a facility that would serve existing and future long term needs over a minimum 30 year period, and would include the following:-

- Sufficient quay length to accommodate freight, cruise and offshore servicing and operational requirements

- Sufficient draft for all tide access to each berth
- Sufficient capacity to accommodate vessels of 20,000 tonnes capacity
- Sufficient land to support the necessary land based facilities for a sustainable port
- Addressing existing SEVESO issues through the construction of petroleum and bitumen terminals and transfer pipelines to the existing tank forms, to replace current operations within the existing harbour/city centre area

In addition, it is noted that the relocation of port activities would support the objectives of the Planning Authority for the redevelopment of the Inner Harbour area

3.2 The proposed development would comprise two main elements:- (a) a combined quay wall and deep-water docking facility stretching 935 metres southwards into Galway Bay and (b) the reclamation of approx. 24 hectares of lands on the leeward (western) side of the quay walls and berths. As part of the deep-water docking facility, extensive dredging is proposed to create a deep-water basin inside the southern end of the quay wall. This basin would have a general depth of -10 metres Chart Datum (CD), and there would be a dredged deep-water channel, of -8 metres CD, which would extend further south to meet up with the existing maritime -8 metre CD contour in the Bay. Dredged areas to provide depths of -12 metres CD would be provided along the quay wall, with a shallower dredged area to the eastern side of the land reclamation for fishing boats and other smaller craft. Dredged areas would also be provided on the western side of the development, by continuing the existing -3.5 metre CD channel to serve a marina and to continue to serve the existing Harbour.

3.3 The elements of the port development have been outlined by the Harbour Company, as follows:-

- 660 m of quay berth
- Commercial Port development serviced by a dredged channel, with a 400m turning circle
- Western Marina with 216 berths
- Fishing Pier on the eastern side
- A slipway to serve a lifeboat station and nautical centre on the eastern side
- 28.07 hectares of land development for harbour related development, comprising 23.89 hectares in the reclaimed lands

and 4.18 hectares of land to be redeveloped within the existing Harbour Enterprise Park.

- 3.4 The port would be served by a dedicated freight rail link, coming off the existing railway line to the north-east of the Harbour Enterprise Park. This rail link would be in an embankment on lands to the east of the Harbour Enterprise Park, and then run down along the eastern side of the new port, accessing directly onto the side of the quay wall of the proposed commercial port.
- 3.5 Road access to the new port facility would come from Lough Atalia and Dock Roads, through upgraded road links within the Harbour Enterprise Park. It is proposed, as part of the roads works, to lower the road level (in conjunction with the City Council) under the railway bridge on the Lough Atalia Road.
- 3.6 It is indicated by the prospective applicant that berthing facilities for general cargo vessels, oil tankers, passenger vessels fishing vessels and container vessels would be provided. Passenger vessels would include for services to the Aran Islands, and also facilities for visiting Cruise Liners, with a passenger terminal area of 0.34 hectares. In addition, the commercial port would be designed to handle the following dry bulk cargoes:-
- Waste export
 - Coal yard
 - Steel import
 - Scrap metal
 - Ship chandlers
 - Roll on/ roll off container traffic
 - Load On / Load off container traffic
 - Project cargoes, such as s ocean energy development and servicing
 - Biomass storage and handling.
- 3.7 The proposed development would take place in four stages, which are envisaged to take place over a ten year period. These are as follows:-
1. Lough Atalia Road and Harbour entrance upgrade, construction of 600 m of quayside on eastern side, reclamation of 19.86 hectares of land to western/north-western side of new quay wall, provision of berths, dredging of access channel, turning circle

and berths to -8 metres and – 12 metres, and dredging of new channel to existing/old port to -3.5 metres.

2. Provision of bund to accept future fill, completion of 60 metre quay (0.12 hectares), completion of rail line embankments and construction of commercial breakwater.
3. Reclamation of additional 3.79 hectares of land, construction of slipway and fishing pier (to eastern side), construction of marina breakwater (to western side) and consolidation and completion of stage 1 reclaimed lands to level to form yards.
4. Completion of marina, with 216 berths, construction of marina quay (0.12 hectares), consolidation of stage 3 lands.

[Note:- these stages are shown graphically on the set of A3 drawings in the file pouch at the back of the file, entitled “non technical summary drawings”, as submitted on 21st August 2012.]

- 3.8 The prospective applicant has stated that the nature and extent of the proposed development has not significantly changed from that which was granted SID status following the previous pre-application consultations under file PC0012 in October 2010. (This file is attached for reference by the Board).

4.0 PLANNING POLICY CONTEXT

4.1 Galway City Development Plan 2011-2017

- 4.1.1 The Galway City Plan recognises the proposals by the Harbour Company to re-locate and expand the Harbour area and to provide deepwater port facilities. The following is stated in the overall “Aim, Context and strategy” section of the Plan:-

“The plans for the re-location and extension of the Harbour area which include for deepwater port facilities has potential to contribute to both tourism and enterprise in the local economy. It is acknowledged that such a development could have strategic importance for the city and is supported subject to assessment on economic viability, environmental, visual and transport grounds”

- 4.1.2 The Plan supports the further development of the Harbour Enterprise Park for port related uses. The Enterprise Park is zoned for

"Enterprise, Industrial and Related Uses (Objective I). In section 11.2.5, the Plan refers to the Harbour Enterprise Park area as follows:-

"Lands zoned I at Lough Atalia between the railway line and the seashore comprising of approximately 16.2 hectares. Development on this site will be limited to activities relating to harbour expansion and industries which must be located adjacent to the harbour for a viable existence. Provided however that the processes involved are environmentally acceptable and do not interfere with the residential amenity of nearby housing developments."

4.1.3 The following is a specific statement of policy in relation to the Harbour Enterprise Park:

"The Harbour Enterprise Park currently supports a number of industries, some of the "heavy industrial nature" and some with direct links to the harbour facilities. The Council will continue to support these developments particularly in the context of the expansion plans envisaged by the Galway Harbour Board where they do not have an adverse impact on the integrity of the Natura 2000 sites"

4.1.4 The Plan also recognises the advantages, for the future development of the city centre, of freeing up the Inner Harbour Area from port uses for urban expansion. The Planning Authority states that it intends to prepare a Master plan / Framework Plan for the Inner Harbour Area. The following is stated in the Plan at para 9.2.2:-

"The need to modernise Galway Harbour facilities will require the docks' function to be re-located to an alternative site. Galway Harbour Company has plans for such a development to the east of the existing Inner Harbour which will free up the existing site for re-development. 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. These lands, in addition to other adjoining brownfield lands as defined in Figure 9.3, represent the definition of harbour area and the lands required to be the subject of a Master plan / Framework plan."

[I have provided copies of the relevant pages from the Plan, from which the above quotations have been taken, together with a copy of the zoning map for the Harbour area, in Appendix 2 to this report]

4.2 Regional Planning Guidelines for the Western Region 2010 - 2022

4.2.1 Under these guidelines, Galway is the designed Gateway for the region, and the policies set out in the Guidelines seek to promote the

development of this Gateway as a key component of the development of the Western Region as a whole.

- 4.2.2 Specifically, in relation to Ports and Harbours, the Guidelines state (Section 5.2.3) that Galway Sea Port “is of strategic importance to the West Region”. It also states:-

“The plans for the relocation and extension of Galway Harbour area which includes deepwater port facilities has the potential to contribute to both tourism and enterprise in the local economy and is considered critical for growth in the region”

- 4.2.3 Among the specific objectives is Objective IO21, which states as follows:-

“Support the sustainable redevelopment and expansion of Galway Harbour which is critical for 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 Habitats Directive Assessment, visual travel and transport impacts. Any proposals should support enhanced integration with the rail and road network.”

4.3 National Ports Policy 2013

- 4.3.1 The National Ports Policy, which was published during the period in which the pre-application consultation process was being carried out, provides a clear “plan-led” approach to the development of ports and ports policy. The Policy categorises the commercial ports, on a hierarchical basis, with the key national ports as Tier 1 (Ports of National Significance) – Dublin, Cork and Shannon/Foynes, other national ports as Tier 2 – Waterford and Rosslare, and Ports of Regional Significance (Tier 3).

- 4.3.2 Under the National Ports Policy, Galway is listed as a Tier 3 Port. There are 14 such ports, but the Ports Policy notes that there are important but different roles for the five state owned ports of regional significance (including Galway). Tier 3 Ports are seen as serving an important regional purpose and/or specialized trades or maritime tourism. The Policy recognises the importance of these ports in serving their hinterlands and in supporting balanced regional development, and notes that a number of them could play a more

significant role in supporting Ireland's national economic development in certain specialized trades (e.g. oil/petroleum import and storage/off-shore energy servicing).

4.3.3 The Ports Policy, in relation to Tier 3 ports, notes their importance as "important facilitators of trade for their regional and local hinterland" Galway is listed as having an important strategic regional role for petroleum importation, storage and distribution (Section 2.7.3)

4.3.4 In relation to the subject proposal, the National Ports policy states the following:-

"The Department.....and other relevant agencies are currently giving detailed consideration to the plans to relocate commercial port activities to a new site on reclaimed land"

4.3.5 In relation to the existing port location, the Policy recognises that it limits the port's potential for further expansion in terms of increasing trade, but notes:-

"The inner harbour is an immensely attractive location for the development of marine tourism and leisure facilities, in particular a marina, as well as for urban redevelopment."

4.3.6 The Policy endorses the development proposals in the Regional Planning Guidelines and in the Galway City Development Plan in respect of the inner harbour, and also supports the Harbour Company's efforts to develop cruise tourist business.

4.4 National Spatial Strategy 2002 – 2020 (NSS)

4.4.1 Under the National Spatial Strategy, Galway is a designated Gateway 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."

4.4.2 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.

4.4.3 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.

5.0 PROSPECTIVE APPLICANT'S CASE FOR STRATEGIC INFRASTRUCTURE

The prospective applicant's argument in relation to why the development should be deemed by the Board to be Strategic Infrastructure may be summarised as follows:

- The development falls under Item 2 – "Transport Infrastructure" in the 7th Schedule to the Act.
- The development has not significantly changed from that which was previously determined by An Bord Pleanála as SID within the meaning of Section 37A of the Act in October 2010.

6.0 CONSULTATIONS – SUMMARY OF KEY ISSUES AND ADVICE

As an initial point, it was noted at the first meeting with the prospective applicant that the previous pre-application consultations had dealt with a large number of issues that might arise in the application process, and that it was decided, at the prospective applicant's request, to take these as read. Accordingly, the issues discussed were those in respect of which the prospective applicant wished to have further guidance from the Board, and did not generally repeat all of the issues raised in the previous pre-application consultations.

6.1 The key issues arising during consultations may be summarised as follows (the signed Records should be consulted for further details):

- The need to ensure that there is a fully robust ecological analysis of the impact of the proposed development on European sites (SAC/SPA). A detailed NIS would be required with the application, which would deal with both the impacts of the development on Lough Atalia (a priority 1 habitat) and on Galway Bay itself.
- It was noted that the prospective applicant had concluded, following ecological investigation work in co-operation with the National Parks and Wildlife Service (NPWS), that there would be adverse impacts on the Galway Bay Complex cSAC. It was noted that SAC areas of salt marsh (7.69 ha), intertidal habitat (14.97 ha) and subtidal habitat (26.93 ha – which was also SPA) would be lost as a result of the physical works involving the development. In the light of this, the prospective applicant had indicated that it was its intention to request that the application be considered pursuant to Article 6(4) of the Habitats Directive, and that the Board should invoke the IROPI procedures.
- However, following consideration by the Board representatives, and also from the Board's own meeting with the NPWS, it was pointed out to the prospective applicant that it would be a matter for the competent authority – An Bord Pleanála – to decide whether or not it wished to initiate the IROPI procedures, and that the Board could decide that it disagreed with the applicant's consultants' conclusions as to the impact or, conversely, that it agreed with these conclusions and considered that the development should be refused.
- The prospective applicant was advised at the later meetings that, in view of this, it would not be appropriate for it to propose, as part of the planning application, any compensatory measures, in the expectation that the Board would decide to invoke the IROPI procedures, as to do so would be to pre-judge the Board's decision. Notwithstanding, it was accepted that this advice would not be binding and that the applicant had to take its own decision on whether or not to provide details of such measures as part of its application.
- However it was noted that it would be necessary, as part of the EIS, that alternatives to the proposed development, both in terms of

alternative locations and alternative solutions, should be provided. These alternatives should include the "do-nothing" scenario.

- The procedures by which the Board would provide a statement of case to the Minister, in the event of it deciding to invoke the IROPI procedures, were outlined and the prospective applicant was advised that, in such a situation, the Board would be in further contact with it in order to facilitate the preparation of the statement of case.
- It was further noted, in the light of the meeting that the Board had held with the NPWS, and also as confirmed to the prospective applicant by the NPWS, that the European site (Galway Bay Complex cSAC) contained a priority habitat (Lough Atalia), and that therefore, if adverse impacts on this SAC were determined, IROPI reasons of a socio-economic nature would be subject to the opinion of the European Commission.
- The issue of road access to the site was discussed, and it was noted that the lowering of the road below the railway bridge on the Lough Atalia Road, as proposed, may be carried out by the Local Authority, at the applicant's expense. The prospective applicant was advised to consult with the Planning Authority and with Iarnród Éireann in this regard.
- Issue relating to traffic levels and arrangements during the (lengthy) construction period were discussed, and the prospective applicant was advised to indicate to what extent construction materials would be brought to the site by road, and to what extent by sea, but to include a "worst case scenario" in the EIS in this regard, if sea-borne access was not achievable or was uncertain.
- The prospective applicant advised the Board that it proposed to include a detailed Traffic Impact Assessment, which would be updated by reference to recent work carried out by Galway City Council's Transportation Unit. The Board accepted that this would be desirable, and noted that the traffic situation had changed since 2010. In particular, the EIS / RIA would be required to demonstrate that operational port traffic could be accommodated on the city's roads, in view of the fact that the previously envisaged access road that had been planned by the Council parallel to the railway line (and which had been referred to at the previous pre-application consultations) was no longer an objective of the Development Plan.

This may require demand management and mobility management measures in relation to port derived traffic.

- The prospective applicant was advised that the construction of the railway access to the port should be included in an early stage of the development's construction phasing, and that liaison with Iarnród Éireann would be an important issue in respect of this matter.
- Issues relating to visual analysis, and the impact of any port related equipment on seaward views from vantage points within the city and other areas were discussed, and the prospective applicant was advised to provide appropriate photomontages in the EIS.
- Potential issues with regard to community gain were discussed with the Planning Authority, in addition to issues relating to ecological impacts and traffic.
- A preliminary list of Prescribed Bodies (in accordance with Article 213) was presented. This was notified to the prospective applicant by letter from the Board dated 18th July 2013.

7.0 STRATEGIC INFRASTRUCTURE – LEGAL PROVISIONS

- 7.1 The Board is asked to decide if the proposal is or is not Strategic Infrastructure Development as defined by Section 37A of the Planning and Development Planning Act 2000 as amended by Section 5 of the Planning and Development (Strategic Infrastructure) Act 2006 and by Section 78 of the Planning and Development (Amendment) Act 2010.

To be classified as a Strategic Infrastructure Development, a proposed development must be of a class specified in the Seventh Schedule to the Act. In the case of the subject development, the relevant class is within Class 2 "Transport Infrastructure" as follows:

"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)

(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."

7.2 Section 37A of the Planning and /Development Act, 2000, as amended by the Planning and Development (Strategic Infrastructure) Act, 2006 requires that any development specified in the Seventh Schedule should be made to the Board if the proposed development falls within one or more of the following paragraphs:

(a) the development would be of strategic economic or social importance to the State or the region in which it would be situate;

(b) the development would contribute substantially to the fulfillment 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 significant effect on the area of more than one planning authority

8.0 ASSESSMENT

The Board will note that it had already decided, in October 2010, that a development that was very similar to what is now proposed was Strategic Infrastructure (see file PC0012). However, I consider it appropriate that the matter be considered *de novo*, particularly given the changed policy context, with a new adopted City Development Plan, a new set of Regional Planning Guidelines and a new National Ports Policy.

8.1 I consider that the proposed development clearly comes within the provisions of the Seventh Schedule for a harbour or port installation, as outlined above. The proposal involves the reclamation of over 23 hectares of land (the threshold being 5 hectares) and would also involve the construction of quays of over 600 metres in length (the threshold being 100 metres).

8.2 In the light of the policy statements set out above, and in particular the policies contained in the National Ports Policy and in the City Development Plan, it is evident that the further development of Galway Port is of significant importance to the economy of Galway and of its

hinterland, and to the wider Western Region. I am cognisant of the constraints inherent in the existing port at the Inner Harbour, and in particular the poor tidal access (only for two hours twice daily), and the lack of any further room for expansion, all of which would justify the relocation of the port to another location if the port is to develop further. In addition, the resulting development opportunities that would arise from a relocation of the port away from the Inner Harbour, as outlined in particular in the City Development Plan, would also be important to the future development and consolidation of Galway city centre, not least in commercial and retail terms. In turn, Galway city is seen in the NSS and in the RPG's as the "engine" for the development of the Region as a whole.

Accordingly, I consider that it would be reasonable to conclude that the proposed development would be of strategic social and economic importance to the region in which it would be situate.

- 8.3 In terms of the second criterion in Section 37A, I would draw the Board's attention to the clearly stated objectives and policies that are outlined, in respect of the relocation of Galway Port to a new location with deepwater access, both in the City Development Plan and in the Regional Planning Guidelines, as quoted above. In particular, there is a specific objective in the RPG, Objective IO21, which refers to support for the "sustainable redevelopment and expansion of Galway Harbour which is critical for the continued important role on the growth of the West Region".

I also note the more general objectives and policies for the Gateway of Galway in the National Spatial Strategy, which identify, inter alia, deepwater ports which can "foster a wide range of enterprise activity and employment creation" at such gateways.

In the light of these published policies, I am satisfied that the proposed development would contribute substantially to the fulfillment of objectives in the National Spatial Strategy for the Gateway of Galway and the objectives for the redevelopment and expansion of Galway Harbour in the Regional Planning Guidelines for the West Region 2010 – 2022.

- 8.4 In terms of the third criterion in Section 37A, I am not satisfied that the development would have a significant effect on the area of more than one planning authority. While it might well be the case that the benefits of the expansion of the port would extend well beyond the administrative area of Galway City Council, I do not believe that the

development would have a *significant* effect on the area of other planning authorities.

9. RECOMMENDATION

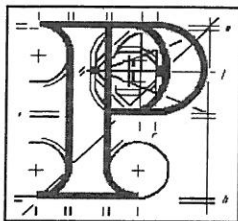
I recommend that the Board serve a notice on the prospective applicant, pursuant to Section 37(B)(4) Planning and Development Act 2000, as amended, stating that it is of the opinion that the proposed development constitutes a strategic infrastructure development, for the following reasons and considerations:

Reasons and Considerations

Having regard to the nature, scale and location of the proposed port development it is considered that the proposed development of a harbour expansion / new port facility at Renmore, Galway City, constitutes development that falls within the definition of transport infrastructure in the Seventh Schedule and is considered to fall within Sections 37A (2) (a) and (b) of the Act being of strategic economic importance to the State and West Region and substantially contributing to the fulfilment of objectives contained within the National Spatial Strategy and in the Regional Planning Guidelines for the West Region. An application for permission for the proposed development must therefore be made directly to An Bord Pleanála under S.37E of the Act.


Philip Jones
Assistant Director of Planning
11th September 2013

An Bord Pleanála



Board Direction

Ref: 61.PC0150

At a meeting held on 2nd of October, 2013, the Board considered the report and recommendation of the Inspector.

The Board decided the proposed development is strategic infrastructure.

Note: The Board considered that any EIS submitted with a future application should consider in combination effects, in particular with Mutton Island – see file number PL 61.EF2018.

Please issue a copy of this direction with the letter.

Board Member: Mary Mac Mahon Date: 2nd October, 2013
Mary Mac Mahon

