

Broadmeadow Way Greenway
Applicant's Response to Prescribed Body Observations
FS006909

Responses to Prescribed Bodies Observations

1. [Department of Agriculture, Food and the Marine - Environmental Co-ordination Unit](#)
Please be cognisant of the EIA (Agriculture) Regulations (S.I.456 of 2011 as amended) which requires screening to be submitted to DAFM in certain instances. The document mentions hedgerow trimming so perhaps there is no removals but if there are removals on agricultural land please ensure this is compliant with the EIA (Agriculture) Regulations.

In addition, please be cognisant of the Wildlife Act which restricts the cutting, grubbing, burning or destruction by other means of vegetation growing on uncultivated land or in hedges or ditches during the nesting and breeding season for birds and wildlife, from 1st March to 31st August. The document mentions trimming of hedgerows which is not to be done during the bird nesting season.

[FCC Response](#)

We have noted the requirements of EIA (Agriculture) Regulations (S.I.456 of 2011 as amended) and the seasonal restrictions on trimming of hedge rows is noted in our CEMP.

2. [Commissioners of Irish Lights \(CIL\)](#)

Thank you for contacting Irish Lights regarding this consultation.

Irish Lights has reviewed this application and no observations with respect to the project from a safety of navigation perspective.

[FCC Response](#)

No response required.

3. [Department of Agriculture, Food and the Marine \(DAFM\)](#)

I refer to your request for comments/observations with regards to this application for Fingal County Council.

The Department of Agriculture Food and the Marine has no objections.

[FCC Response](#)

No response required.

4. Marine Survey Office (MSO)

After consideration from a safety of navigation perspective MSO have no observations to the referenced application.

FCC Response

No response required.

5. Department of the Housing, Local Government and Heritage - Marine Advisor (Environment)

Prescribed Bodies Consultation - Environmental Report

Re: FS006909 to develop a new greenway (shared footpath and cycleway) between Malahide Demesne and Newbridge Demesne.

Applicant: Fingal County Council

Your email of the 15th June 2023 refers to this licence application to develop a new greenway (shared footpath and cycleway) between Malahide Demesne and Newbridge Demesne.

This coastline of north County Dublin is characterised by a number of small estuaries which contain a number of Annex I habitats including mudflats and sandflats, saltmarshes and dunes. They provide important wintering sites for a number of species including internationally important populations of Brent geese and national important populations of species such as Golden Plover and Bar-tailed Godwit.

Assessment Process

The Minister for Housing, Local Government and Heritage, is responsible for carrying out environmental screening and any environmental assessments determined as being required following screening, in accordance with the requirements set out in Directive 92/43/EEC (Habitats Directive) and Directive 2009/147/EC (Birds Directive), in respect of applications under the Foreshore Act 1933, as amended.

Habitats Directive

The Appropriate Assessment process (AA) is an assessment of the potential for adverse or negative effects of a plan or project, in combination with other plans or projects, on the conservation objectives of a European Site (Natura 2000 site). The focus of AA is targeted specifically on Natura 2000 sites and their conservation objectives.

Article 6(3) and 6(4) of the Habitats Directive place strict legal obligations on Member States to regulate the conditions under which development that has the potential to impact on European Sites can be proceed. It requires that an Appropriate Assessment be carried out of plans or projects, not directly connected with or necessary to the management of a site as a European Site, but which are likely to have a significant effect thereon, either individually or in combination with other plans or projects. An AA Screening assessment is carried out to determine whether a plan or project is likely to have a significant effect on a European Site.

- Article 6.3 states that: “Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.”
- Article 6.4 states: “if, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted. Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest.”

In giving effect to the above as a matter of Irish law, the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. 477 of 2011, as amended) (Birds and Natural Habitats Regulations) provide as follows:-

Regulation 42(1) of the Birds and Natural Habitats Regulations states that: “A screening for Appropriate Assessment of a plan or project for which an application for consent is received, or which a public authority wishes to undertake or adopt, and which is not directly connected with or necessary to the management of the site as a European Site, shall be carried out by the public authority to assess, in view of best scientific knowledge and in view of the conservation objectives of the site, if that plan or project, individually or in combination with other plans or projects is likely to have a significant effect on the European site”.

Regulation 42(2) provides that: “A public authority shall carry out screening for Appropriate Assessment under paragraph (1) before consenting for a plan or project is given, or a decision to undertake or adopt a plan or project is taken”.

The Birds and Natural Habitats Regulations further provide as follows at Regulation 42 (6) and 42 (7):-

(6) The public authority shall determine that an Appropriate Assessment of a plan or project is required where the plan or project is not directly connected with or necessary to the management of the site as a European Site and if it cannot be excluded, on the basis of objective scientific information following screening under this Regulation, that the plan or project, individually or in

combination with other plans or projects, will have a significant effect on a European site.

(7) The public authority shall determine that an Appropriate Assessment of a plan or project is not required where the plan or project is not directly connected with or necessary to the management of the site as a European Site and if it can be excluded on the basis of objective scientific information following screening under this Regulation, that the plan or project, individually or in combination with other plans or projects, will have a significant effect on a European site.

Furthermore, under section 42A (13) of S.I. No. 293 of 2021 an Appropriate Assessment, including the specified public consultation, must be carried out before the public authority makes a decision to undertake or adopt the proposed plan or project.

Risk Assessment for Annex IV Species

Article 12 of the Habitats Directive (92/43/EEC) affords strict protection to species listed in Annex IV of the Directive wherever they occur. Outside of designated Natura 2000 sites, the waters around Ireland's coast are a suitable habitat for a number of Annex IV species. Where necessary a Risk Assessment for adverse effects of the proposed works on these species must be undertaken and a report produced.

The purpose of the Risk Assessment is to examine the possibility that the proposed project either individually or in combination with other plans and projects, may result in the deliberate disturbance or destruction of any of the species listed in Annex IV which may be present in the works area. The Risk Assessment should take into account the status (e.g. as indicated in the latest Article 17 reporting for Ireland, NPWS 2019) and sensitivities of relevant Annex IV species to potential impacts associated with the proposed project.

The Risk Assessment for Annex IV Species should be precise, with definite findings, mitigation and conclusions removing all reasonable scientific doubt as to the effects of the proposed project on any Annex IV species. This assessment is separate to that undertaken under Article 6.3.

Conclusion/Recommendation

In principle I have no objections to this application. On completion consultation process, I will furnish my final report with determinations. These may include any case specific conditions having regard to the information obtained from the consultation phase.

FCC Response

No response required.

6. Department of Housing, Local Government and Heritage - Underwater Archaeology Unit (UAU)

Underwater Archaeology

We refer to your consultation received in relation to the above proposed development. The proponent's documentation, including the submitted EIAR has been reviewed by the Underwater Archaeology Unit (UAU) of the National Monuments Service of the Department of Housing, Local Government and Heritage. As statutory consultees in the planning process, the UAU, on behalf of the Minister for Housing, Local Government and Heritage, are charged with the protection, preservation, and promotion of underwater cultural heritage in Ireland. The construction of the proposed greenway will involve a number of disparate works areas and associated construction compounds south and north of Malahide estuary and includes erection of a new pedestrian/cycleway bridge and temporary modification of a weir and a crossing of the River Pill. It is noted that Section 12.7.2 of the submitted Cultural Heritage chapter of the EIAR states the following:

'Three bridges will be constructed along the proposed greenway route; one over the Malahide Estuary (CHS 2) and two over the River Pill (CHS 3). Driven piles will keep construction impacts on the waterways to a minimum. However, there will be some impact to potential subsurface underwater archaeological levels in these areas. Consultation with the Underwater Unit at the DCHE will be carried out in advance of bridge construction, to determine what mitigation may be required'.

The Wreck Inventory of Ireland contains entries for losses in Malahide Estuary and in the environs of the proposed development area and it is therefore possible that wrecks or elements of lost vessels, and archaeological objects underwater, will be impacted upon by works associated with this option. It should be noted, also, that although over 18,000 wrecks have been recorded in the Wreck Inventory of Ireland to date from Irish waterways and the marine environment, ranging from small fishing boats, dugout canoes and coastal traders to steamships and ocean going ships, the Inventory is largely based on documentary sources available from after AD 1700. As such, previously unrecorded wreck sites, including those dating to earlier periods, may await discovery in the area under consideration here. Section 3 of the National Monuments (Amendment) Act 1987 is the primary piece of legislation that protects wrecks over 100 years old and archaeological objects underwater irrespective of age. Wrecks that are less than 100 years old and archaeological objects or the potential location of such a wreck or archaeological object can also be protected under Section 3 of the 1987 (Amendment) Act. Furthermore, it is noted that a weir structure will be regraded. It is the overarching policy of this Department, as outlined in the document Frameworks and Principles for the Protection of the Archaeological Heritage, to preserve in situ archaeological materials, including those found underwater and, if identified they may require the institution of exclusion zones and buffers to facilitate their protection in the course of the proposed works. Accordingly given the potential for the development to include adverse impacts on underwater wrecks and objects, underwater cultural heritage, it is the recommendation of this Department that the proposed development is subject to an Underwater Archaeological Impact Assessment (UAIA), to be undertaken as a CONDITION of any planning permission that may be granted, in order

to effectively assess the potential impact, if any, on archaeological and underwater cultural heritage.

Archaeological Recommendations

The developer shall commission an Underwater Archaeological Impact Assessment (UAIA) report which shall include the following:

A desktop assessment that addresses the archaeological, including underwater cultural heritage, and any associated riverine/marine built, vernacular, fishing, and industrial heritage of the proposed development area. The assessment shall include a full inventory and mapping of the sites of all identified archaeological/underwater cultural heritage and riverine/marine built features and structures. The UAIA shall assess all proposed in-stream development, access, and ingress to all in-stream works, and shall also assess any proposed Site Investigation impacts and potential secondary or indirect impacts such as areas of scouring that may result from potential changes in hydrology. All identified features and structures and any other identified archaeological/underwater cultural heritage that may be adversely impacted upon shall be surveyed in detail as part of the assessment.

FCC Response

Fingal County Council acknowledge the submission by the Department of Housing, Local Government and Heritage - Underwater Archaeology Unit (UAU), which has recommended that an Underwater Archaeological Impact Assessment (UAIA) be undertaken. Fingal County Council will proceed to tender for a suitability qualified specialist to undertake the required assessment. Fingal County Council will submit the report to the UAU on completion and liaise with the unit regarding any further actions.

7. Inland Fisheries Ireland (IFI)

Overview

Fingal County Council proposes to develop the Broadmeadow Way, a new greenway (shared footpath and cycleway) between Malahide Demesne and Newbridge Demesne via the railway causeway across the Malahide Estuary. The proposed greenway would be c. 6km in length. Much of the propose greenway follows existing pathways and roads.

The works proposed include:

- Construction of off-road pedestrian and cyclist facilities
- Provision of a 12span bridge alongside the existing Dublin-Belfast railway across Malahide Estuary

IFI Comment

Consideration of resident and transient fish species must be made. In terms of time windows especially for work at the rail bridge across the estuary, the following are relevant, in regard to planning of the proposed construction (see Table 1).

- Summer inward migration of 1-sea winter salmon or grilse into the investigation area,

- migration of adult river lamprey into the area from late summer through Autumn and Winter,
- Spring downstream migration (March – May) of salmon smolts moving out to sea,
- Winter – Spring glass eel recruitment and elver upstream migrations of European eel,
- Autumn – Spring downstream migration of adult silver eel, European eel (beginning as early as August).

Special consideration may need to be paid to resident and migratory fish species which could be passing through the area and potentially effected by noise (sound) and vibration effects introduced into the water column due to investigation works. Also, the release of suspended solids, chemicals, such as hydrocarbons and other pollutants into the water column would have to be mitigated against.

The mitigation of accidents and the protection of the aquatic and marine environment is outlined in the supporting document. All refuelling of machines and equipment must take place well away from the shoreline. All fuels, lubricants and hydraulic fluids must be kept in secure bunded areas away from the shoreline. An effective spillage control procedure must be put in place with all staff properly briefed.

IFI must be included in an Emergency Response Plan as a notifiable body in the event of water pollution occurring during construction works. Particular attention to activities likely to generate suspended solids and/or other pollutants and the proposals to prevent these pollutants need to be specified.

In a marine context, the timing of the proposed construction should be examined in regard to the spawning time and spawning area of commercially important fish species. Input from the Sea Fisheries Protection Authority (SFPA) should be sought here. Species of note would be sharks, such as tope and smoothhound.

It is recommended that work timing be structured in an environmentally sensitive way (e.g. particularly in the context of the tidal cycle) in order to minimise the impact of the high suspended solids load in the water column that will result from this construction process.

Finally, IFI refers to its guidance in relation to construction works adjacent to water (<https://www.fisheriesireland.ie/sites/default/files/migrated/docman/2016/Guidelines%20Report%202016.pdf>), (IFI, 2006) and would require that all relevant measures specified therein should be adhered to. The document covers a range of issues including management of materials hazardous to the aquatic environment such as cements, grouting, oils, fuels and other chemicals, along with management of suspended solids and excavated materials. IFI proposes that compliance with this document should be a condition of foreshore licence permission.

References:

IFI (2006). Guidelines on protection of fisheries during construction work in and adjacent to waters. Inland Fisheries Ireland.

<https://www.fisheriesireland.ie/sites/default/files/migrated/docman/2016/Guidelines%20Report%202016.pdf>).

FCC Response

Fingal County Council acknowledge the submission by Inland Fisheries Ireland (IFI) and the recommendations and references contained therein.

A preliminary Construction Environmental Management Plan (CEMP) was included in the planning application that was approved as part of the scheme planning consent by An Bord Pleanála. As the tender documentation for the works is now underway, this preliminary CEMP will now be developed further, and its requirements specified within the tender pack. Fingal County Council will oversee the contractor's compliance with the requirements of the CEMP through the assessment and appointment of competent contractor and the appointment of specialised resident site staff including an Ecological Clerk of Works to actively oversee the works on site. This will include management of measures within the CEMP specifically to address and minimise the likelihood of impact to the aquatic species listed.

We note the request for IFI to be included in the Emergency Response Plan for water pollution incidents and will action accordingly.

8. Marine Institute

A foreshore application has been submitted to DHLGH on behalf of Fingal County Council to install a greenway (footpath and cycle path) along the railway causeway across the Malahide Estuary. On the basis of information provided in the application form, the overall area of foreshore likely to be used is relatively small, i.e. < 0.5ha and the area to be temporarily used is approximately 1ha.

The application was accompanied by a AA screening report and an NIS.

There are no licenced aquaculture or fisheries activities in the vicinity of the proposed works.

Given the small occupancy of the foreshore by the final works it is unlikely this project will have a permanent effect on aquatic features or conservation features found therein. It would be important however, that during construction, proposed mitigation measures (identified in both the AA and in the proposed Construction and Environment Management Plan (CEMP)) be fully implemented to minimise any impacts from siltation and pollution and any pressure deriving from other likely impacting sources (e.g. noise).

The Marine Institute has no further observations at this time.

FCC Response

Submission and recommendations noted.

9. Department of the Housing, Local Government and Heritage - Marine Advisor (Engineer)

Re: Foreshore Lease and Licence Application and Application for Section 10 Consent for Broadmeadow Way, Malahide, Co. Dublin.

Applicant: Fingal County Council

Site Location: Malahide Estuary, Co. Dublin

Supporting Information Considered:-

- Application Form.
- Application Drawings and Maps.
- NMPF Cover Letter (dated 7/6/2023).
- NMPF Statement of Compliance (dated 01/06/2023).
- Malahide Viaduct Reinstatement Temporary Works Computer Modelling for Environmental Analyses Report by Fluvio R&D Ltd (Dated July 2015).
- Works Programme/Schedule.

Project Overview and Background

Fingal County Council propose to develop a new greenway (shared footpath and cycleway) between Malahide Demesne and Newbridge Demesne via the existing railway causeway across the Malahide Estuary. The proposed greenway will be circa 6km in length.

Brief Description of the Proposed Works

The proposed greenway will typically be 4m in width, other than sections where the greenway is utilising existing public roads, tracks and pathways. It will be finished with a macadam surfacing to ensure comfort and safety for cyclists, pedestrians and mobility-impaired users. A 2.4m high security fence will line the eastern edge of the proposed greenway where it runs adjacent to the Dublin-Belfast railway line, to prevent access to the railway.

Proposed greenway works which fall within the foreshore area are as follows:-

- Works to facilitate a new greenway circa 615m in length along the existing weir maintenance access track on the western embankment of the Dublin-Belfast railway causeway, extending north from Bissets Strand into Malahide Estuary. The works will include new surfacing, fencing, boundary walls, local stone fill, route lighting and signage, and a viewing area.
- Provision of a new 12-span pedestrian/cycleway bridge deck of approximately 180m in length on the existing piers located alongside the Dublin-Belfast railway bridge situated on the weir in Malahide Estuary.
- Works to facilitate a new greenway of approximately 1,000m in length along the shoulder of the western embankment of the Dublin-Belfast railway causeway, from the railway bridge on the weir in Malahide Estuary extending as far as the northern shoreline of Malahide Estuary at Kilcrea, to include new surfacing, fencing, boundary walls, local stone fill, route lighting and signage.

Coastal Processes

The proposed works will have no permanent impact on the existing coastal processes in the estuary. The formation of a temporary access road across the existing weir during the construction phase will have a short-term impact upon water levels retained within the estuary on the western (landward) side of the railway embankment/weir. The temporary impacts on the tidal regime within the estuary due to the construction of the access roadway has been modelled in the Malahide Viaduct Reinstatement Temporary Works Computer Modelling for Environmental Analyses Report by Fluvio R&D Ltd (Dated July 2015).

An Bord Pleanála (in its decision dated 07/05/2020) granted approval to Fingal County Council under section 226 of the Planning and Development Act 2000, as amended, to the Broadmeadow Greenway Project, in accordance with plans and particulars, including an Environmental Impact Assessment Report (EIAR) and a Natura Impact Statement (NIS). As this application was submitted to An Bord Pleanála for approval under Section 226 of the Planning and Development Act 2000 the Board and only the Board are responsible for the Environmental Impact Assessment Process for the development application.

Considering the above temporary impacts on the tidal regime within the Malahide Estuary are not considered further in this Engineering report.

Estate Management, Site Inspection, Existing Use and Activities

I inspected the site on the 11/01/2023. The proposed greenway will utilise the existing access maintenance track to the western side of the existing railway embankment across the Malahide Estuary. The proposed project does not constitute new occupation of the foreshore with the exception of a limited area to accommodate the viewing deck at the southern extent of the bridge over the weir and at the northern extent of the railway causeway in the townland of Kilcrea where slight widening of the causeway is required to accommodate the proposed path (circa 123m² in area).

There are no existing leases or licences on the western side of the railway embankment which would conflict with the works as proposed.

A significant portion of the foreshore on which the existing weir access track is located is in the private ownership of Irish Rail. RPS drawing number MDT0915-RPS-00-XX-DR-Z-DG0003 Rev C02 dated 12/10/2020 details the extent of the permanent works which are situated on private foreshore. If consented to the occupation of this element of the works on privately owned foreshore will be authorised by a Section 10 Consent.

RPS drawings MDT0915-RPS-00-XX-DR-Z-DG0002 Rev C02 and MDT0915-RPS-00-XX-DR-Z-DG0004 Rev C01 detail the extent of state owned foreshore required for the greenway. These areas are very minor in comparison to the scale of the overall scheme (circa 132m² in total). If consented to the permanent occupation of state foreshore by these elements of the works will be authorised by a Section 2 Foreshore Lease.

RPS drawing MDT0915-RPS-00-XX-DR-Z-DG0001 Rev C03 details the area of foreshore required for temporary works during the construction of the bridge at the

weir. If consented to the temporary occupation of the state owned foreshore in this area will be authorised by a Section 3 Licence.

The total area of foreshore which is the subject of this application is made up as follows:-

- Area of works on private foreshore subject to Section 10 Consent = 0.433 Ha
- Area of permanent works on state foreshore subject to a Section 2 Lease = 0.0132 Ha
- Area of temporary works on state foreshore subject to a Section 3 Licence = 1.0386 Ha

Public Interest

Section 2 and 3 of the Foreshore Act, as amended, states that a lease or licence of state foreshore may be granted "If, in the opinion of the Minister, it is in the public interest". As state owned foreshore is a finite and valuable state resource and a public amenity, it is important that each plan and project is fully assessed to ensure, that if consented to, it is a sustainable and proper use of that resource.

Once completed the scheme will enhance the general public's ability to access, use and enjoy the Malahide Estuary foreshore area. Having considered the works as proposed I am satisfied that the proposed project is in the public interest.

National Marine Planning Framework (NMPF)

The NMPF is a national plan for Ireland's marine area including the Foreshore. It sets out, over a 20-year horizon, how we want to use, protect and enjoy our marine area. The NMPF sits at the top of the hierarchy of plans and sectoral policies for the marine area and provides a coherent framework in which those sectoral policies and objectives can be realised. All decisions on individual applications determined under the Foreshore Act, must secure and be consistent with the objectives of the plan, similar to the way that terrestrial plans form part of the decision-making tool-kit in the on-land planning process. NMPF objectives are supported by specific policies that articulate factors that can form part of objective consideration.

Having reviewed and assessed the information on file for this application against the objectives of the NMPF, I am satisfied the proposed works do not act significantly against any objective within the NMPF. Furthermore, the proposal is aligned with Chapter 21 of the NMPF relating to Sports and Recreation.

In particular the works as proposed will support the following NMPF Sport and Recreation Objectives:-

- Increased provision of physical activity and recreation amenities in our coastal and marine environment, including coastal trails and greenways, blueways and other outdoor recreation facilities.
- Continued and improved access to marine and coastal resources for tourism activities and sport and recreation.
- Sustainable development of outdoor recreation facilities, promoting access for people of all ages, backgrounds and abilities, while encouraging the sharing of facilities where appropriate. The provision of marine recreational facilities

should be considered an integral part of plans specific to coastal locations, including urban and suburban coastal development sites, with due consideration given to the environmental sensitivities of each site, such as increased visitor or infrastructural pressures on the environment.

Accordingly, I am satisfied that the proposed works are aligned with and help secure the objectives set out in the NMPF.

Assessment & Conclusion

There are no conflicts with existing licences or applications and the works as proposed are in the public interest. The works if completed as proposed will not have significant adverse impacts on the public use of, access to and enjoyment of the foreshore, navigation, fisheries.

Recommendation

I have no objection to the granting of a Foreshore Lease under Section 2, a Foreshore Licence under Section 3 and Consent under Section 10 of the Foreshore Act for this application subject to the following conditions;

Section 2 Lease:-

1. The lessee shall use that part of the foreshore as shown lined red on the two attached drawings titled:-
 - Section 2 Foreshore Lease Map, Sheet 1 of 2, file identifier MDT0915-RPS-00-XX-DR-Z-DG0002, Rev C02 and
 - Section 2 Foreshore Lease Map, Sheets 2 of 2, file identifier MDT0915-RPS-00-XX-DR-Z-DG0004, Rev C01

the subject matter of this lease, for the purposes as outlined in the application and for no other purposes whatsoever.

2. The works shall be located and completed in accordance with documents and drawings submitted by the lessee to the Department of Housing, Local Government and Heritage.
3. The lessee shall notify the Department of Housing, Local Government and Heritage at least 14 days in advance of the commencement of any works on the foreshore. This notification shall include an up to date Programme of Works for the completion of the project.
4. During the construction period the Lessee shall ensure that existing public access arrangements are maintained, where possible, and all necessary precautions are put in place to protect the public in accordance with relevant Health and Safety Legislation.
5. No storage and/or refuelling of equipment, machinery or plant shall take place on the foreshore.
6. An Accident Prevention Procedure and an Emergency Response Procedure shall be put in place and documented prior to commencement of the works. The

procedure shall include an effective spillage control procedure. All staff involved in the works shall be properly briefed to prevent spills and leaks.

Section 3 Licence:-

1. The licensee shall use that part of the foreshore as shown lined red on the attached drawing titled:-
 - Section 3 Foreshore Licence Map, Sheet 1 of 1, file identifier MDT0915-RPS-00-XX-DR-Z-DG0001, Rev C03

the subject matter of this licence, for the temporary works as outlined in the application and for no other purposes whatsoever.

2. The works shall be located and completed in accordance with documents and drawings submitted by the licensee to the Department of Housing, Local Government and Heritage.
3. The licensee shall notify the Department of Housing, Local Government and Heritage at least 14 days in advance of the commencement of any works on the foreshore. This notification shall include an up to date Programme of Works for the completion of the project.
4. During the construction period the licensee shall ensure that existing public access arrangements are maintained, where possible, and all necessary precautions are put in place to protect the public in accordance with relevant Health and Safety Legislation.
5. No storage and/or refuelling of equipment, machinery or plant shall take place on the foreshore.
6. An Accident Prevention Procedure and an Emergency Response Procedure shall be put in place and documented prior to commencement of the works. The procedure shall include an effective spillage control procedure. All staff involved in the works shall be properly briefed to prevent spills and leaks.

FCC Response

Fingal County Council acknowledge the recommendations and conditions outlined. These recommendations will be included in the CEMP for the construction stage of the project. We also note the requirement for advance notice of works to the Foreshore lands.

10. Department of Housing, Local Government and Heritage - National Parks and Wildlife Service (NPWS)

The proposed development in part crosses the Malahide Estuary Special Area of Conservation (SAC) and Malahide Estuary Special Protection Area (SPA) on the western side of the existing railway causeway and at Bisset's Strand. Works to ensure the safety of the railway were carried out to the embankments and weir by Irish Rail between 2002 and 2012. The greenway on the western embankment of the southern arm of the causeway lies within the SAC and SPA. The greenway crosses the

SAC/SPA at the weir. The greenway on the western embankment on the northern arm of the causeway lies largely outside the SAC and SPA.

There are both construction phase and operational phase elements which could potentially impact upon the European sites in the vicinity of the proposed greenway. A section of the proposed development will run along the existing weir maintenance access track adjacent to the western face of the railway embankment to cross the estuary. Much of the greenway base is already in place by way of this weir maintenance access track, which currently runs from Bisset's Strand to the southern abutment of the railway bridge, and the northern shoulder of the railway embankment to the northern estuary bank. The greenway will typically be c. 4m in width, other than sections where the greenway is utilising existing public roads, tracks and pathways. It will be finished with a macadam surfacing to ensure comfort and safety for cyclists, pedestrians and mobility-impaired users. A 2.4m high security fence will line the eastern edge of the greenway where it runs adjacent to the Dublin-Belfast railway line, to prevent access to the railway.

The only terrestrial habitat (saltmarsh habitat) of qualifying interest of the inner estuary is Atlantic salt meadows (*Glauco Puccinellietalia maritimae*) [Site Code: 001330] and Mudflats and sandflats not covered by seawater at low tides [Site Code: 001140].

The potential interaction with the conservation objectives of Malahide Estuary SAC have been examined. No adverse effect on integrity of habitat area conservation objectives for the site were identified. There is no overlap between the footprint of the development and the protected habitats in the SAC. During the eight-week construction period of the greenway across the railway viaduct weir, 4-5ha of the inner mudflats will be inundated for slightly longer than normal but essentially only during the neap tidal cycles. This will not result in a change to the benthic community, which is dominated by chironomids and *Hediste diversicolor*, both tolerant of extended immersion. There will also be no interaction with the *Zostera* dominated and *Mytilus* dominated communities.

The proposed construction and operation of the greenway was assessed with consideration of the current and projected future use of the areas close to the greenway and in a broader sense the activity in the wider area that could interact with the potential impacts arising from this project. The activity close to the route of the greenway is chiefly characterised by recreational use (e.g. Malahide and Newbridge Demesnes, walkers and joggers around parts of the inner estuary, boating on the inner estuary, occasional seasonal hunting) and commuting (walkers, cyclists, road vehicles, agricultural vehicles and trains). Agricultural activities dominate in areas north of the inner estuary (Kilcrea).

There will be no long-term impacts on the key relationships that define the structure or function of the European sites considered in this Natura Impact Statement (NIS). The integrity of Malahide Estuary SPA and Malahide Estuary SAC will not be adversely affected by the proposed development in terms of wholeness or soundness of their conservation objectives.

Following an assessment of potential impacts to Annex IV species, it is concluded that the proposed project complies with the system of strict protections afforded by Article 12 of the Habitats Directive to the following species found in Ireland:

- All cetacean species;
- All bat species;
- All turtle species; and
- Otter.

Consequently, a derogation licence is not required for the proposed greenway works.

Marine Science and Biodiversity Unit Observation for internal National Parks and Wildlife Services usage

- The proposed development would occur within and adjacent to Malahide Estuary SAC and adjacent SPAs. There is no direct impact on the marine Annex I habitats from the proposed development. There may be some temporary interactions (8 weeks) due to water retention associated with the development, but this will have a temporal scale that would not change the communities associated with the Annex I habitats.
- The applicant has furnished a NIS assessment for the proposed works and has concluded there is no likely significant direct, indirect or cumulative effect on the identified adjacent Natura 2000 sites with the application of appropriate mitigation. This conclusion is supported by the accompanying documentation in relation to marine Annex I habitats and Annex II species.

Marine Science and Biodiversity Recommendation for external communication

The proposed works to develop the Broadmeadow Greenway between Malahide Demesne and Newbridge Demesne have been evaluated by an NIS and other documents. The conclusion of the document to support the decision on Article 6(3) is that the proposed works are unlikely to pose a significant likely risk to nature conservation interests in the vicinity if specified mitigating measures are applied.

The nature and location of the works suggests that there is no potential for a population level interaction with Annex IV species and consequently there is no requirement for further legislative assessment.

FCC Response

No response required.