



APPROPRIATE ASSESSMENT (AA) SCREENING DETERMINATION

On 15th May, 2019 Europa Oil & Gas (Inishkea) Limited (a wholly owned subsidiary of Europa Oil & Gas (Holdings) PLC) ('Europa') submitted an application to the Department of Communications, Climate Action and Environment (DCCA) seeking Ministerial approval to undertake a geophysical and environmental baseline site survey over Licensing Blocks 18/19 and 18/20, offshore Ireland in 2019 or 2020. The survey called the 'Inishkea survey' is located approximately 4 km north-west of the western-most end of the Corrib gas pipeline and over 63 km from landfall at Inishkea South Island which is located approximately 4 km west of the Mullet Peninsula, County Mayo, Ireland.

It is proposed that survey operations will be undertaken by a single survey team between June and late November 2019. Excluding weather and technical downtime, survey operations are expected to take a total of 14 survey working days. If the survey has not commenced or concluded in 2019, operations will be undertaken sometime between early February 2020 and late November 2020.

The aim of the geophysical and environmental baseline survey is to:

- Accurately determine water depths and seabed/ subsurface geology at the site.
- Identify any seabed obstructions and confirm the location of any existing infrastructure (such as pipelines, wellheads).
- Assist in the identification of all geo-hazards and geological conditions that may be of significance to future drilling activities.¹ This may include shallow gas, channelling, faults and other geological features that may be of significance.
- Provide information on the cultural potential of the survey area, including the location of any shipwrecks or other underwater cultural heritage features.
- Identify and delineate Annex I habitats (as defined in the EC Habitats Directive 92/43/EC) or other sensitive habitats and identify any areas of environmental interest.
- Establish environmental baseline to establish a benchmark for ongoing environmental monitoring as per OSPAR guidelines; and
- Acquire sediment samples for determination of physico-chemical baseline conditions.

The following documents were submitted with the Europa Inishkea Survey application:-

- (i) Inishkea Prospect Site Survey – Screening for Environmental Impact Assessment and Environmental Risk Assessment Report, prepared by RPS on behalf of Europa;
- (ii) Inishkea Prospect Site Survey – Screening for Appropriate Assessment and Natura Impact Statement Report, prepared by RPS on behalf of Europa;

¹ Drilling activities do not form part of the survey operations proposed in the Europa application.

- (iii) Inishkea Prospect Site Survey – Survey Technical Specifications Report, prepared by RPS on behalf of Europa;
- (iv) Inishkea Prospect Site Survey - Pre-Survey Fishery Assessment, prepared by RPS on behalf of Europa.

Assessment Process

The Environment Advisory Unit (**EAU**), a functionally independent and separate unit of DCCAE, 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 2011/92/EU, as amended by Directive 2014/52/EU (**EIA Directive**) and Directive 92/43/EEC, as amended, (**Habitats Directive**) in respect of applications made to the Minister for permission to undertake activities under an exploration licence or petroleum prospecting licence.

EIA – The *European Union (Environmental Impact Assessment) (Petroleum Exploration) Regulations 2013* (S.I. 134 of 2013), as amended by the *European Union (Environmental Impact Assessment) (Petroleum Exploration) (Amendment) Regulations 2019* (S.I. 124 of 2019) give effect to the EIA Directive as a matter of Irish law in the context of applications for permission to undertake activities under an exploration licence or petroleum prospecting licence. Regulation 3(1B) provides that the EAU shall carry out an EIA Screening Assessment and make a Determination as to whether the activities the subject of the application would, or would not, be likely to have significant effects on the environment by virtue, inter alia, of their nature size and location. Where it has been determined, following screening, that the activities the subject of the application are likely to have significant effects on the environment, an environmental impact assessment will be required.

AA – The European Communities (Birds and Natural Habitats) Regulations 2011 – 15, as amended (**Birds and Natural Habitats Regulations**) give effect to the Habitats Directive as a matter of Irish law and require, inter alia, that a public authority carry out screening for Appropriate Assessment of a plan or project for which an application for consent is received. Where a public authority determines that an Appropriate Assessment is required, the Regulations require that the assessment carried out by a public authority include a determination pursuant to Article 6(3) of the Habitats Directive as to whether or not the plan or project would adversely affect the integrity of a European site. The EAU is responsible for carrying out Stage 1 AA screening assessments (and any required Stage 2 Appropriate Assessment) in accordance with the Birds and Natural Habitats Regulations, in respect of applications to the Minister for permission to undertake “*activities*” under an exploration licence or petroleum prospecting licence.

On receipt of an application, the Petroleum Affairs Division in DCCAE places the application on the DCCAE website for consultation and refers the application, and any associated responses to the consultation, to the EAU for the purposes of carrying out its assessments.

On the completion of all environmental assessments by the EAU and after incorporating any suggested conditions which may be recommended by the EAU, the application will then be evaluated by the Petroleum Affairs Division in the Department who will make a recommendation to the Minister of State regarding whether consent should be given for the ‘activities’ applied for.

Independent Expert Advisors

DCCAE has further engaged Ramboll UK Limited (**Ramboll**) as independent experts, to provide assistance to the EAU with regard to the carrying out of statutory environmental assessments of

applications for permission to carry out “activities” under an exploration licence or petroleum prospecting licence.

Ramboll has conducted an independent assessment of the information provided by the Applicant, having regard to the Habitats Directive, the Birds and Natural Habitats Regulations and relevant jurisprudence of the EU and Irish courts. The Ramboll Report is shown at Appendix 1.

Legislative Background

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. The focus of AA is targeted specifically on Natura 2000 sites and their conservation objectives.

Articles 6(3) and 6(4) of the **Habitats Directive** place strict legal obligations on Member States regulating the conditions under which development that has the potential to impact on European Sites can be implemented and requiring 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 **Birds and Habitats Regulations** provide, *inter alia*, as follows in relation to screening for Appropriate Assessment:-

Regulation 42(1) of the Birds and 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”.*

Furthermore the Regulations provide under Regulation 42 (6) and 42 (7) that:-

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.’

Notified Bodies

Notification of the Inishkea Survey application was issued to the following organisations:

- National Parks and Wildlife Service;
- Irish Maritime Administration, Department of Transport, Tourism and Sport;
- Ship Source Pollution Prevention Unit Irish Maritime Administration, Department of Transport, Tourism and Sport;
- Irish Coast Guard (& National Maritime Operations Centre), Department of Transport, Tourism and Sport;
- Sea Fisheries Protection Authority;
- Sea Fisheries Policy Division, Department of Transport, Tourism and Sport;
- Department of Defence;
- Mission Support Facility, Irish Air Corps;
- Naval Headquarters;
- Marine Institute;
- Commissioners of Irish Lights

One responded with comments as shown in Section 2.3.1 of the Ramboll Report, referenced above and included at Appendix 1.

Public Consultation

The Europa Inishkea Survey application and supporting documentation were published on the Department website on the 15th May, 2019 and submissions were invited to be made on the application during a 30 day consultation period concluding on the 14th June, 2019. Six responses were received and have been considered as part of the AA screening process as shown below:

- Consultation response received from Patrick Lynn (on behalf of Irish Whale and Dolphin Group dated 19th May, 2019

- Consultation response received from private individual dated 12th June, 2019
- Consultation response received from Gas Networks Ireland dated 14th June, 2019
- Consultation response received from Not Here, Not Anywhere, Futureproof Clare, Love Leitrim and Friends of the Earth Ireland dated 14th June, 2019
- Consultation response received from private individual dated 14th June, 2019
- Consultation response received from Gluaiseacht dated 14th June, 2019

The consultation responses received (including the project specific observations) are shown in Paragraphs 2.3.2 – 2.3.4 of the Report prepared by Ramboll, as part of its external review of the applicant's Screening for Appropriate Assessment and Natura Impact Statement Report. The Ramboll Report is at Appendix 1 to this Determination.

AA Screening Assessment and Determination

The AA screening process has been conducted in accordance with Articles 6.3 and 6.4 of the Habitats Directive (92/43/EEC), the Birds and Habitats Regulations and the principles established in case law interpreting the Directive and Regulations, which provide the decision making framework and tests for carrying out screening for appropriate assessment.

Per Regulation 42(6) of the Bird and Habitats Regulations, an Appropriate Assessment of a plan or project is required where it cannot be excluded, on the basis of objective scientific information following screening, that the plan or project, individually or in combination with other plans or projects, will have a significant effect on a European Site.

I have carefully considered the following documents in carrying out the AA Screening assessment of the application made by Europa Inishkea ('the applicant'):-

- Documents provided by the applicant – in particular, Screening for Appropriate Assessment and Natura Impact Statement Report, prepared by RPS on behalf Europa;
- Appropriate Assessment Screening Determination and NIS Review for Europa Inishkea Report prepared by Ramboll (Appendix 1);
- Submissions received during the public consultation processes;
- Observations received from notified bodies.

The AA screening process considered the different project elements that are likely to give rise to impacts on the conservation objectives and or qualifying features of a Natura site. In this context the following elements were considered:

- Project Description including the spatial extent, supporting infrastructure, transportation requirements, physical changes that will result from the project, emissions and waste, resource requirements and duration of each phase;
- Effects of the proposed development in combination with other plans or projects;
- Identification of relevant European sites and species;
- Assessment of likely significant effects (LSE).

The applicant's Inishkea Prospect Site Survey Screening for Appropriate Assessment and Natura Impact Statement Report contains a project description, in combination assessment, identification of relevant European sites and species, and assessment of likely significant effects (LSE), which were assessed by Ramboll. The results of the Ramboll AA screening assessment are contained in the Appropriate Assessment Screening and NIS Review for Inishkea Survey Report (Appendix 1).

Based on careful consideration of the documentation highlighted above, I agree with and adopt the conclusions reached in the Ramboll Report (at Appendix 1 to this Determination) regarding the adequacy of the information provided by the applicant and I am satisfied that the applicant has provided sufficient information to enable an AA Screening Assessment of the proposed Inishkea site survey in Licensing Blocks 18/19 and 18/20, offshore Ireland.

I further agree with, and adopt the responses to the observations received from notified bodies (as set out in section 2.3.1 of the Ramboll Report) and the responses to the project specific observations received during the public consultation process (as set out in section 2.3.4 of the Ramboll Report, at Appendix 1 to this Determination).

As regards the additional observations received during the public consultation process regarding the current regulatory process and structures in DCCAE (set out in section 2.3.3 of the Ramboll Report) these are addressed in the "Assessment Process" section of this Determination, which describes the structural changes that have occurred in the Department's management of the environmental assessment and decision making processes.

As regards the additional observations received during the public consultation process, comprising general economic comments, general comments regarding climate change and general contractual comments (also set out in section 2.3.3 of the Ramboll Report), these are outside the scope of the AA Screening Assessment process.

The applicant's screening for Appropriate Assessment Report identified that the only source of impact that has the potential to result in likely significant effects (LSE) is :-

- underwater noise generated by the proposed geophysical survey and positioning equipment.

The applicant has in their assessment of LSE stated that the possibility of significant effects from the proposed Inishkea site survey operations cannot be ruled out. It was ascertained by the applicant during their AA screening assessment that it cannot be excluded on the basis of objective scientific information that that underwater noise generated by geophysical and positioning equipment for the proposed Inishkea Survey, individually or in combination with other plans or projects, will have a significant effect on a Natura 2000 site, therefore an AA is required. As a result, the applicant prepared and submitted a Natura Impact Statement (NIS) with their application.

I note that the Applicant's own AA screening assessment has concluded that the proposed geophysical and environmental baseline site survey over Licensing Blocks 18/19 and 18/20, offshore Ireland (Inishkea Survey) will require Appropriate Assessment.

I agree with and adopt the AA Screening Assessment carried out by Ramboll in respect of the Europa Inishkea Survey application and the conclusions reached in the Ramboll Appropriate Assessment Screening Determination and NIS Review for Europa Inishkea Report (at Appendix 1 to this Determination).

Accordingly, I am satisfied and have decided that the proposed geophysical and environmental baseline site survey over Licensing Blocks 18/19 and 18/20, offshore Ireland (Inishkea Survey) will require Appropriate Assessment as the possibility of significant effect on the European sites concerned cannot be excluded on the basis of objective scientific information. The application will now proceed to Stage 2 Appropriate Assessment.

Jean Clarke, 6th November , 2019

A handwritten signature in black ink that reads "Jean Clarke". The signature is written in a cursive style with a light blue rectangular background behind it.

Environment Advisory Unit
Department of Communications, Climate Action and Environment