



APPROPRIATE ASSESSMENT (AA) SCREENING DECISION

Project Proposal

Exola DAC, a wholly owned subsidiary of Providence Resources, have applied to the Department of Communications, Climate Action and Environment (**DCCA**E) to conduct a site survey within the Barryroe licence area (SEL 1/11) situated in the Celtic Sea basin approximately 43 km south east of the closest coastline at Ballymacshoneen, Butlerstown North, County Cork on the south coast of Ireland. The application was received on the 21st February, 2019.

The site survey will comprise a seabed and shallow geophysical survey and an environmental baseline and habitat assessment survey to be conducted over three survey areas, encompassing four potential future well locations, within two separate survey vessel activity areas at Barryroe, together with a single environmental control point approximately 10 km to the east-south east.

The key aims of the survey are to:-

- Accurately determine water depths and provide information on the depth of sediments overlying bedrock and to map any chalk bedrock exposures;
- Provide information on seabed and sub-seabed conditions to ensure the safe emplacement and operation of a semi-submersible drilling rig at four proposed well locations (drilling does not form part of this application);
- Provide information on the cultural potential of the survey area, including the location of any shipwrecks or other underwater cultural heritage features;
- Assess the survey area for the presence of any Annex 1 habitats (as defined in the EC Habitats Directive 92/43/EC); and
- Obtain environmental baseline samples across the survey area to establish a benchmark for ongoing environmental monitoring as per OSPAR guidelines.

EXOLA DAC submitted a combined Appropriate Assessment Screening and Natura Impact Statement along with their application.

Assessment Process

The Environment Advisory Unit (EAU) of the Department 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 (**Habitats Directive**) in respect of applications made to the Minister for permission to undertake “*activities*” under an exploration licence or petroleum prospecting licence.

In Ireland, 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) provide (at Regulation 3(1B)) 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.

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. The EAU is responsible for carrying out AA screening assessments (and any required Stage 2 Appropriate Assessment) in accordance with the 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 DCCAЕ places the application on the DCCAЕ 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

DCCAЕ has further engaged Ramboll Environment and Health UK Limited (Ramboll) to provide assistance with regard to the statutory assessment 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.

Article 6(3) and 6(4) of Directive (92/43/EEC) (as amended) (**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 European Communities (Birds and Natural Habitats) Regulations 2011-15 as amended (**Birds and Habitats Regulations**) provide as follows:-

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.’*

Public Consultation

The EXOLA DAC application and supporting documentation were published on the Department website on 27th February, 2019 and submissions were invited to be made on the application during a 30 day consultation period concluding on the 1st April, 2019. Two responses were received and have been considered as part of the AA screening process.

- Consultation response received from Harrington & Co. Solicitors on behalf of An Taisce dated 1st April 2019;
- Consultation response received from Department of Culture, Heritage and the Gaeltacht dated 4th April 2019.

The consultation responses received (including the project specific observations) are shown in Appendix 1 as part of the external review of the applicant's Appropriate Assessment Screening Report undertaken by independent external environmental advisors commissioned by the Department (Ramboll Environment and Health UK Limited; 'Ramboll').

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 EXOLA DAC ('the applicant'):-

- Documents provided by the applicant – combined Appropriate Assessment Screening Report (AA Screening and Natura Impact Statement);
- Appropriate Assessment Screening and NIS Review Report prepared by Ramboll (Appendix 1);
- Submissions received during the public consultation processes.

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, emission 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 screening report identified the following impact sources for further consideration in the determination of likely significant effects (LSE):-

- Underwater noise generated from the geophysical survey equipment, as well as from the survey vessel itself.

The applicant has in their assessment of LSE stated that the possibility of significant effects from the proposed Barryroe site survey operations on the Roaringwater Bay and Islands cSAC, Lower River Shannon cSAC, Saltee Islands cSAC, Blasket Islands cSAC, West Connacht Coast cSAC and Rockabill to Dalkey Island cSAC cannot be ruled out. It was ascertained by the applicant during their AA screening assessment that it is not possible to rule out, as a matter of scientific certainty, that the proposed site survey operations are either likely to have a significant effect on these European sites, or that such a likelihood cannot be ruled out. As a result, the applicant prepared and submitted a Natura Impact Statement (NIS) with their application.

Based on careful consideration of the documentation highlighted above, I am satisfied that the applicant has provided sufficient information to enable an AA Screening Assessment of the proposed site survey project in the Barryroe licence area (SEL 1/11).

I further agree with, and adopt the responses to the observations received during the public consultation process, as set out in the Ramboll Report (at Appendix 1 to this Determination).

I note that the Applicant's own AA screening assessment has concluded that the proposal to conduct a site survey, comprising a seabed and shallow geophysical survey and an environmental baseline and habitat assessment survey, to be conducted over three survey areas within two separate survey vessel activity areas within the Barryroe licence area (SEL 1/11) situated in the Celtic Sea basin will require Appropriate Assessment.

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

Accordingly, I am satisfied and have decided that the application by EXOLA DAC to conduct a site survey, comprising a seabed and shallow geophysical survey and an environmental baseline and habitat assessment survey, to be conducted over three survey areas within two separate survey vessel activity areas within the Barryroe licence area (SEL 1/11) situated in the Celtic Sea basin 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, 1st May, 2019



Environment Advisory Unit

Department of Communications, Climate Action and Environment