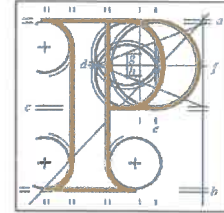


**Our Case Number:** 61.PA0033

**Your Reference:** JPK 2139 – Galway Harbour Company



**An  
Bord  
Pleanála**

Tobin Consulting Engineers  
Brendan Rudden  
Fairgreen House,  
Galway

TOBIN CONSULTING ENGINEERS		
PROJECT NO.		
FILE REF:		
Date Received	25 MAR 2021	
PASS TO	ACTION BY	DATE
BC/BR		

**Date:** 24th March, 2021

**Re:** Galway Harbour Extension.

Dear Sir / Madam,

Please find enclosed for your information of a copy of the letter issued the Minister of Housing, Local Government and Heritage in accordance with the provisions of section 177AA of the Planning and Development Act 2000 as amended. In this regard a Statement of Case is attached in the appendix.

Yours faithfully,

Josephine Hayes

Senior Executive Officer

01-8737264

**Tel**  
**Glaio Áitiúil**  
**Facs**  
**Láithreán Gréasáin**  
**Ríomhphost**

**Tel**  
**LoCall**  
**Fax**  
**Website**  
**Email**

(01) 858 8100  
1890 275 175  
(01) 872 2684  
www.pleanala.ie  
bord@pleanala.ie

64 Sráid Maoilbhríde  
Baile Átha Cliath 1  
D01 V902

64 Marlborough Street  
Dublin 1  
D01 V902



## APPENDIX

### Statement of Case in support of planning consent to be given for Imperative Reasons of Overriding Public Interest (IROPI) and Compensatory Habitat Measures

Galway Harbour Company has submitted a planning application to An Bord Pleanála (ABP planning reference: 61.PA0033) to extend Galway Harbour south from Renmore Point and to reclaim approximately 27 hectares of land from the foreshore and sea, with the objective to:

- develop new commercial quays and a deep-water docking facility, along with ancillary breakwaters and dredging channels, extending south into Galway Bay,
- develop a new marina to the west side of the port extension to serve both local and tourist demand,
- develop a new fishing pier on the northern side of the new quay to facilitate mooring for small fishing vessels,
- provide for a new railway spur to serve the harbour area, and
- develop a number of new offices and ancillary structures for harbour-related activities.

It is An Bord Pleanála's view that the development proposed as part of this application should be given consent for Imperative Reasons of Overriding Public Interest (IROPI), and on the basis of satisfactory compensatory habitat measures.

The purpose of this Statement of Case for Imperative Reasons of Overriding Public Interest (IROPI) and the provision of compensatory habitats is to:

- introduce the background and context to the proposed development;
- provide the conclusions of the Appropriate Assessment process to date;
- present the views of An Bord Pleanála and the determination regarding the potential effects of the proposed development on the integrity of European Sites;
- describe the IROPI supporting the pursuit of the proposed development; and
- provide information on the compensatory habitat measures proposed.

**Teil**  
**Glaio Áitiúil**  
**Facs**  
**Láithreán Gréasáin**  
**Ríomhphost**

**Tel** (01) 858 8100  
**LoCall** 1890 275 175  
**Fax** (01) 872 2684  
**Website** [www.pleanala.ie](http://www.pleanala.ie)  
**Email** [bord@pleanala.ie](mailto:bord@pleanala.ie)

64 Sráid Maoilbhríde 64 Marlborough Street  
Baile Átha Cliath 1 Dublin 1  
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## **1. Background to the Project**

### **1.1 Purpose of the application**

Galway Harbour Company is seeking planning permission to provide new port facilities that will upgrade and replace the current inadequate facilities by extending Galway Harbour southwards from Renmore Point and to develop new commercial quays and a deep-water docking facility with sufficient draught for all-tide access, together with a new marina and a fishing pier for smaller fishing vessels, on 27 hectares of land reclaimed from the foreshore and sea, together with ancillary structures and new offices for harbour-related activities.

Galway Port is one of nine commercial ports in the country, with nine ship berths available along a total quay length of 1,189 metres (together with a 40-berth marina), and the vast majority of trade associated with the port relates to the importation of goods, primarily importation of petroleum and bitumen products. Petroleum is currently stored at two large oil depots within the Galway Harbour Enterprise Park that provide petroleum supply across Connacht and many of the western counties.

The purpose of the application is to improve access to, and the range of integrated maritime, commercial and tourism services provided within, the Galway Harbour area which is designated as a regionally significant Tier 3 port within the National Ports Policy, with the aim of ensuring the continued operation and economic, social and recreational value of the harbour as a key enabling resource to support the growth of Galway City and its wider hinterland within the region. The developments proposed would help to overcome the operational constraints experienced by the existing inner harbour area, including:

- navigation constraints due to the restricted gate width and channel depth, which limits ship size to 7000 tonnes,
- limited access due to tidal flows – where the harbour is only available 4 hours per day,
- limited berthage within the enclosed inner harbour, and
- limited serviced land for harbour facilities and storage.

### **1.2 Site location and description**

Galway Bay at its widest point is approximately 60kms wide and is over 70kms long. There are two islands close to the harbour area and approximately 1km from the mainland – Mutton Island to the west, which is linked to the mainland by a causeway and provides the location for a wastewater treatment plant serving the city, and Hare Island to the east – and both these islands provide a natural shelter on the approach to the harbour.

The inner part of Galway Bay, where the harbour is situated, does not generally exceed 10 metres in depth, with the seabed between the islands and the mainland

Tel (01) 858 8100  
Glaio Áitiúil 1890 275 175  
Facs (01) 872 2684  
Láithreán Gréasáin www.pleanala.ie  
Ríomhphost bord@pleanala.ie

64 Sráid Maoilbhríde 64 Marlborough Street  
Baile Átha Cliath 1 Dublin 1  
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incorporating very shallow depths. The maximum tidal range in the inner part of the Bay is approximately 6 metres.

The existing harbour facilities and commercial docks are located in the heart of Galway City, bounded by the River Corrib to the west and Lough Atalia to the east, and includes a commercial inner dock berthing facility, almost exclusively under the ownership of Galway Harbour Company, which comprises three quay areas and a small marina area, with the narrow, gated channel entrance (19.8 metres wide) providing limited capacity for larger ships to access the inner dock only at high tide.

The existing docks area is surrounded by multi-storey commercial and residential blocks. Ceannt Railway Station is situated approximately 250 metres from the commercial docks, and is less than 500 metres from Eyre Square in the city centre. The CIE rail line runs along the northern boundary of the Enterprise Park, and there are a number of leisure facilities located close by – a GAA sports ground, pitch and putt course and other recreational facilities. Lands on the eastern side of Lough Atalia comprise the existing Galway Harbour Enterprise Park, permitted in 1995, which accommodates a mixture of commercial and industrial uses, including fuel and oil storage depots, transportation and bus depots, as well as a number of warehouses and marine- and harbour-related activities.

In respect of environmental designations, there are three sites that are adjacent to the proposed harbour extension area - the Galway Inner Bay Special Protection Area (site code: 004031), the Galway Bay Complex Special Area of Conservation (site code: 000268) and the Lough Corrib Special Area of Conservation (site code: 000297).

The Galway Inner Bay SPA is one of the most important ornithological sites in the western region, with several internationally important wintering bird populations and important colonies of breeding birds. The Galway Bay Complex SAC incorporates a variety of marine habitats which support a wide range of flora and fauna, including shallow bays, reefs, bedrock shore, shingle beach, sandy beaches and salt marshes, and numerous lagoons which are of high conservation importance. The qualifying interests of the Lough Corrib SAC includes several Annex II species (Sea Lamprey, Atlantic Salmon and Otter) which could potentially be affected by the proposed harbour extension.

### **1.3 Proposed Galway Harbour Extension**

As provided for under the provisions of Section 37B of the Planning and Development Act 2000, as amended, Galway Harbour Company entered into pre-application consultations with An Bord Pleanála in 2012 to assist the Board in determining whether the proposed extension to the existing harbour at Galway City docks constituted Strategic Infrastructure under the Act. Following a number of meetings with the prospective applicant as well as meetings with the National Parks and Wildlife Service, the Department of Transport, Tourism and Sport and Galway City Council, An Bord Pleanála concluded in its decision of 2nd October 2013 that the proposal constituted a strategic infrastructure project, and the planning application was lodged with the Board on 10th January 2014.

<b>Teil</b>	<b>Tel</b>	(01) 858 8100
<b>Glaio Áitiúil</b>	<b>LoCall</b>	1890 275 175
<b>Facs</b>	<b>Fax</b>	(01) 872 2684
<b>Láithreán Gréasáin</b>	<b>Website</b>	<a href="http://www.pleanala.ie">www.pleanala.ie</a>
<b>Ríomhphost</b>	<b>Email</b>	<a href="mailto:bord@pleanala.ie">bord@pleanala.ie</a>

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
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As outlined above, the planning application proposes an extension to the existing harbour by re-locating the harbour to the south from Renmore Point, with 23.89 hectares of reclaimed lands from Galway Bay, along with approximately 4 hectares of re-purposed lands from the existing Galway Harbour Enterprise Park and an additional 3 hectares of breakwaters and revetement area. It is also proposed to dredge approximately 46.5 hectares to deepen the approach channels to the new harbour, to alter the existing approach channel to the inner docks area, and facilitate access to a new marina located on the western side of the new harbour.

The main elements of the integrated proposal include:

- new quay walls, breakwaters and wave walls to create commercial quays and a deep-water docking facility, extending southwards into Galway Bay;
- dredging to create a new approach channel to the commercial quays and the deep-water docking area;
- reclamation of approximately 27 hectares from the foreshore and seabed;
- development of the reclaimed lands and redevelopment of part of the adjacent Galway Harbour Enterprise Park lands for harbour related business;
- a marina on the western side of the proposed harbour;
- fishing quays, a slipway for a lifeboat station and a nautical centre on the eastern side of the main harbour facility;
- a twin-track freight rail link from the existing Galway to Dublin rail line to the commercial quays, including embankments, rail overbridge to existing service road and noise abatement screening;
- the construction of oil and bitumen transfer pipelines to the existing oil and bitumen tank farms on the Galway Harbour Enterprise Park and the provision of fire water storage facilities;
- harbour related buildings, including a Port Operations Office (four storeys), a Harbour Management Warehouse (single storey), Marina Office (single storey), Passenger Terminal (single storey); and ancillary car parking and site services, including three ESB substations, three control offices and oil terminal water pumphouse and a helicopter pad for search and rescue purposes;
- the construction/improvement of access roads, including the horizontal and vertical re-alignment of the road under Lough Atalia Road rail bridge (a protected structure), and re-alignment/improvements including traffic lights at Dock Road/Bóthar na Long/Galway Harbour Enterprise Park Access Road junction (adjacent to the Harbour Hotel);
- the provision of landscaping and amenity areas, including replacement of the previously permitted amenity strip from the southern seaward boundary of the

**Teil**  
**Glaio Áitiúil**  
**Facs**  
**Láithreán Gréasáin**  
**Ríomhphost**

**Tel** (01) 858 8100  
**LoCall** 1890 275 175  
**Fax** (01) 872 2684  
**Website** [www.pleanala.ie](http://www.pleanala.ie)  
**Email** [bord@pleanala.ie](mailto:bord@pleanala.ie)

64 Sráid Maoilbhríde 64 Marlborough Street  
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Galway Harbour Enterprise Park to form an amenity link from the marina to the nautical centre; along with

- other temporary/permanent site development works to facilitate the construction of the development.

## **2. Appropriate Assessment**

In undertaking the appropriate assessment, the Board had regard to the documentation submitted by the applicant, namely:

- the Natura Impact Statement (January 2014)
- Errata and Addenda to the Natura Impact Statement (October 2014)
- Additional Addendum/Errata to the Natura Impact Statement (January 2015), and
- Addendum to the Natura Impact Statement to include consideration of the Compensatory Measures (April 2019),

which included a comprehensive list of the European sites potentially coming within the influence of the proposed harbour extension. The Board agreed with the screening assessment and conclusion reached in the report of the Board's inspector, that the following sites:

- Galway Bay Complex Special Area of Conservation (site code: 000268)
- Inner Galway Bay Special Protection Area (site code: 004031), and
- Lough Corrib Special Area of Conservation (site code: 000297)

are the relevant European sites for which there is a likelihood of significant effects, requiring a stage 2 appropriate assessment and that other sites can be discounted from further consideration, owing to the separation distances involved and the lack of likelihood of significant effects arising.

The Board considered the Natura Impact Statement and all other relevant submissions, including further information submitted by the applicant in response to a request from An Bord Pleanála and further submissions made in the course of the oral hearing, and carried out an appropriate assessment of the implications of the proposed development for the above-listed European sites in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the report of the Board's inspector, in respect of the potential effects of the proposed development on the aforementioned European sites, having regard to the sites' conservation objectives.

It is the determination of An Bord Pleanála that the proposed development is likely to adversely affect the integrity of Galway Bay Complex Special Area of Conservation (site code: 000268).

### **Reasons for the determination**

On the basis of the Natura Impact Statement and other relevant information submitted by Galway Harbour Company in association with the application, including the further information materials and responses received at the oral hearing, and having regard to:

- i. the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, including the reclamation of land in the area carried out by the Galway Harbour Company in the mid-1990s to create the Galway Harbour Enterprise Park (planning permission reference 95/68);
- ii. the mitigation measures which are included as part of the current proposal;
- iii. the conservation objectives for the European sites in the area; and
- iv. the submissions of the National Parks and Wildlife Service of the Department of Arts, Heritage and the Gaeltacht, and of the other participants in the case including observations made at the oral hearing,

the Board concluded that the integrity of the Galway Bay Complex Special Area of Conservation (site code: 000268) would be adversely affected by the proposed development, including the direct, permanent and irreversible loss of fucoid-dominated reef Annex 1 habitat and the mud and sand flat habitat not covered by sea water at low tide through the proposed reclamation of 5.93 hectares located in the inter-tidal zone directly adjacent to the existing Galway Harbour Enterprise Park. Taking account of the 1227 hectares of total area of reef habitat occurring in the Galway Bay Complex SAC, the loss of 5.93 hectares would represent approximately 0.5% of the total reef habitat area occurring within the European site.

In addition, there would likely be a loss of perennial vegetation of stony banks along a low shingle bank running along the shore adjacent to the Galway Harbour Enterprise Park and beside Renmore Lough, due to the sheltering effect of the harbour extension, which will prevent storm and wave surges from accessing the stony banks, leading to increased colonisation by terrestrial vegetation. The total area of this habitat affected is approximately 0.35 hectares of which approximately 0.2 hectares lie within the SAC boundary.

Furthermore, the Board concluded, in line with the assessment and conclusion of Board's inspector and the specialist ecologist consultant, that, although there are certain priority habitats, namely shallow coastal lagoons, present within the Galway Bay Complex SAC, including Lough Atalia and Renmore Lough, the proposed harbour extension project will not lead to adverse effects arising for the conservation objectives relating to these priority habitats, due to the careful management of the

**Tel** (01) 858 8100  
**Glaó Áitiúil** LoCall 1890 275 175  
**Facs** Fax (01) 872 2684  
**Láithreán Gréasáin** Website www.pleanala.ie  
**Ríomhphost** Email bord@pleanala.ie

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Baile Átha Cliath 1 Dublin 1  
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release of suspended solids transported into the Loughs from dredging works or tidal flow, by only undertaking dredging works during the ebb tide, and lack of any significant change in the Loughs' salinity regime.

In relation to the other two European sites identified, it was concluded that, while there will be some moderate adverse effects on the Inner Galway Bay Special Protection Area and the Lough Corrib Special Area of Conservation from underwater noise and vibration and general disturbance during construction and from increased shipping traffic during operations, these impacts will not result in any loss of habitat and will not be ecologically significant in relation to the integrity of the SPA and SAC, in view of the sites' conservation objectives and taking account of full implementation of the mitigation measures proposed.

Taking the above into account, the Board concluded that approval of the proposed development could not be considered under Article 6(3) of the Habitats Directive, given that a significant adverse effect on the integrity of the Galway Bay Complex Special Area of Conservation (site code: 000268) would occur.

The Board therefore proceeded to examine whether it should consider applying the derogation provisions of Article 6(4) of the Directive to this proposal, solely in relation to the Galway Bay Complex Special Area of Conservation.

### **3. Alternative Options Examined**

In line with the provisions of Article 6(4) and relevant guidance from the European Commission, the Board examined alternatives to the proposed Galway Harbour extension in order to ascertain whether the project as applied for is the least damaging for habitats, for species and for the integrity of the European sites, regardless of economic and social considerations, and that no other feasible alternative exists that would not affect the integrity of the site.

The following alternatives were considered:

- Option A: Do Nothing – Zero Option – i.e. continue to operate Galway Harbour at its current location and subject to existing tidal constraints, limits on ship size and limited quay length.

The Board accepted that the “do-nothing” scenario, in failing to address the existing constraints, would make the port unviable and ultimately lead to the demise of the port in the medium to long term, thereby seriously undermining connectivity and services in the Northern and Western Region, contrary to national policy as articulated in the 2002 National Spatial Strategy and reinforced in the 2018 National Planning Framework and National Ports Policy. The Board concluded that this is not a feasible alternative.

- Option B: Alternative locations within Galway Bay – possibility of developing new port facilities at Mutton Island or Tawin Island or expanding existing harbour facilities at Rossaveel (37 kilometres west of Galway City) to cater for commercial freight.

Teil	Tel	(01) 858 8100
Glaob Áitiúil	LoCall	1890 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
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The Board concluded that the alternative locations considered in the inner Galway Bay area would likely result in greater impacts on the European sites and the option to relocate commercial port services to Rossaveel would not be feasible due to its distance from, and lack of connectivity with, Galway City and taking account of its lack of infrastructure.

- Option C: Alternative locations outside Galway Bay, such as Shannon-Foynes Port or other ports that would be capable of handling the existing and planned future commercial freight tonnage at Galway Port.

The Board considered that shifting commercial shipping activities from Galway to Shannon-Foynes or other Irish ports would seriously impair Galway Port's ability to fulfil its role as a Tier 3 regional port, as envisaged in the National Ports Policy, and could compromise the development of Galway as a gateway city in the West and the city's need for adequate, reliable, cost-effective and efficient access to ports. Furthermore, moving the commercial shipping element to another port/ports would seriously undermine the overall viability of the entire project, including significantly impact on the economic/business case for the non-commercial shipping elements such as the tourism, marina expansion and leisure elements of the proposal, and would therefore result in the key aims of the proposed development not being achieved. Accordingly, the Board concluded that this was not a feasible alternative.

- Option D: Alternative configurations for a port expansion, including alternative layouts and more limited extensions with a smaller footprint to provide some but not all of the proposed activities.

Having considered the physical constraints of the existing inner harbour area, the location of the reefs and mud and sand flat habitats immediately adjacent to the existing port lands, and the iterative design process carried out over a number of years, culminating in the current design proposal, the Board concluded that the harbour extension design proposed represented the least damaging option for the relevant European sites that could deliver on the project objectives.

After evaluating the above options, the Board concluded that there are no feasible alternatives to the extension of Galway Harbour that would result in reduced impacts on the habitats, species and integrity of the Galway Bay Complex Special Area of Conservation, and proceeded to examine whether imperative reasons of overriding public importance are applicable to the proposal.

#### **4. Imperative Reasons of Overriding Public Interest**

The Board had regard to the European Commission's "Guidance Document on Article 6(4) of the Habitats Directive (92/43/EEC)" (2007/2012) in assessing whether there are imperative reasons of overriding public interest (IROPI), including those of a social and economic nature, and considered whether the development envisaged would have any adverse effects on any priority habitat or on any priority species, which would necessitate engagement with the European Commission in order to invoke IROPI procedures. On this latter point, taking account of the conclusion of

Teil	Tel	(01) 858 8100
Glaio Áitiúil	LoCall	1890 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
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the appropriate assessment carried out by An Bord Pleanála that the proposed harbour extension would not have adverse effects on any priority habitat or priority species, the Board concluded that it is not necessary to seek the opinion of the European Commission at this point.

The Board concluded that, in overall terms, the proposed extension to Galway Harbour represents an integrated development that enhances the social, economic and recreational benefits of the port for the benefit of the population of Galway and its regional hinterlands.

Given the current constraints affecting the existing operations at Galway Port, including its tide dependency, limited berthage and ship size allowed, the enhancement of port facilities within the city by a public company and the provision of modern, efficient marine and associated transport services will significantly improve transportation infrastructure for the region, and also aligns with the European transportation policy of promoting "short-sea shipping" as a cost-effective and environmentally sustainable alternative to road transport.

In the absence of the proposed port expansion and the evolution of both commercial and transport services to Galway City and its wider hinterland, it is likely that the port's role will further deteriorate in terms of its capacity to fulfil its regionally significant status and will also hamper the growth of Galway City as the major urban centre serving the western and north western parts of the country. Failure to upgrade and modernise the necessary commercial and ancillary marine services that a coastal city expects to be able to rely on would potentially disadvantage the city in terms of its competitiveness with other Irish cities and with comparable urban centres abroad, and would be likely to result in lost investment and development opportunities, with both economic and social consequences for Galway's residents and businesses, as well as a wider negative impact across the region.

Beyond the city itself, the enhancement of the quality of transport infrastructure serving the Northern and Western Region area, which includes the least economically developed parts of the country, is strongly aligned with national and regional policy frameworks:

- the 2018 National Planning Framework, which highlights the importance of Galway City as the regional city located on a pivotal point on the Atlantic Economic Corridor, and primed to drive economic growth for the wider region, as well as harnessing the opportunity to regenerate, develop and intensify the city centre, including around Ceannt Rail Station and the existing docks area, and
- the 2020 Regional Spatial and Economic Strategy for the Northern and Western Region, which includes the Galway Metropolitan Area Strategic Plan (MASP) and which identifies the expansion of harbour facilities within the city area as being of strategic importance and having the potential to contribute significantly to the economy of both the city and the wider region, increasing connectivity and contributing to the tourism, enterprise and off-shore energy sectors.

**Teil**  
**Glaio Áitiúil**  
**Facs**  
**Láithreán Gréasáin**  
**Ríomhphost**

**Tel** (01) 858 8100  
**LoCall** 1890 275 175  
**Fax** (01) 872 2684  
**Website** [www.pleanala.ie](http://www.pleanala.ie)  
**Email** [bord@pleanala.ie](mailto:bord@pleanala.ie)

64 Sráid Maoilbhride 64 Marlborough Street  
Baile Átha Cliath 1 Dublin 1  
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In terms of its core shipping function, the National Ports Policy designates Galway as a port of regional significance, which functions as important facilitators of trade for the regional and local hinterlands, and identifies Galway as an important strategic regional hub for petroleum importation, storage and distribution, as well as a key node for transportation of bulk good for many companies in the Northern and Western Region. Failure to address the current deficiencies at the port would signal the demise of commercial shipping in the medium to long term, undermining the national and regional planning and economic policies that support balanced regional development and sustainable transport and damaging the competitiveness of the City and Region.

In relation to the harbour itself, the port and the tradition of maritime trade dating back to the 14th Century is fundamental, not just to the economy of Galway but to its culture and identity. The proposed expansion of harbour facilities, not just in relation to larger-scale commercial shipping and trade but facilitating smaller-scale marine uses through its proposed marina, public boat slip-way and dedicated fishing pier, will revitalise the role of the harbour within the city as well as help to re-connect the city with its marine environment through the creation of linear parks, walkways and improved links from the city centre. Enhanced leisure and sailing facilities would enable local people and visitors to enjoy the amenities of the bay, would help to strengthen the under-developed network of marinas along the west coast and encourage greater sailing tourism and harness the potential of the harbour area and city as a destination for premium race sailing events, building on the city's previous hosting of the Volvo Ocean race.

In terms of the potential economic benefits arising from the proposed harbour extension, there are significant opportunities arising in the tourism, renewable energy and marine research sectors.

- In terms of tourism potential, the enhanced harbour facilities could enable cruise ships to dock in the heart of Galway City which would open up the significant potential of the region, with its international high-quality offering, as a destination for cruise tourism, linking in with the Wild Atlantic Way and potentially bringing a significant dividend for employment and economic development to the city and region.
- Similarly, the proposed development has the potential to reinforce and expand Galway's role within the marine and off-shore renewable energy research sectors, building on its current advantages as the base for the Marine Institute and home port for its international maritime research vessels, as the location of the national marine test facility, Smart Bay Ireland, which supports the development of innovative products and services for the global maritime sector, and through its links to both NUIG and GMIT third-level institutions with marine and environmental science expertise.

As highlighted in both the National Planning Framework and the Northern and Western Regional Spatial and Economic Strategy, the relocation of the port area from the current inner Dock would open up opportunities for a comprehensive urban

<b>Tel</b>	<b>Tel</b>	(01) 858 8100
<b>Glaó Áitiúil</b>	<b>LoCall</b>	1890 275 175
<b>Facs</b>	<b>Fax</b>	(01) 872 2684
<b>Láithreán Gréasáin</b>	<b>Website</b>	<a href="http://www.pleanala.ie">www.pleanala.ie</a>
<b>Ríomhphost</b>	<b>Email</b>	<a href="mailto:bord@pleanala.ie">bord@pleanala.ie</a>

64 Sráid Maoilbhríde	64 Marlborough Street
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regeneration as an attractive and vibrant waterside quarter, as has been achieved in other regional cities, with scope for substantial social and economic benefits. The re-development of the existing port lands would support many of the compact growth and urban consolidation policies of the Galway City Development Plan and also enable some industrial activities (e.g. petroleum storage) to be relocated to open up the lands from a Seveso Directive perspective.

Taking account of the abovementioned positive impacts arising including the important social and economic benefits that will accrue to Galway City and the wider region as a result of the proposed harbour relocation and extension, including improvements to the accessibility, competitiveness and attractiveness of the region, it is the view of An Bord Pleanála that the alignment with public policy goals and the overall social and economic benefits constitute Imperative Reasons of Overriding Public Interest (IROPI) for the proposed harbour development to proceed.

## **5. Proposed Compensatory Measures**

Galway Harbour Company's expert consultants have proposed a number of compensatory measures, as outlined in the:

- Proposed Compensatory Measures (Version 2.3B) in relation to the proposed Galway Harbour Extension (August 2017), and
- Compensatory Measures Report (April 2019),

to adequately address and compensate for the impacts of the proposed development on the integrity of the Galway Bay Complex SAC, including measures to address the following impacts/loss of habitats:

- Permanent loss of 5.93 hectares of fucoid-dominated reef complex habitat and mudflat and sandflat intertidal habitat;
- Permanent loss of 0.35 hectare of perennial vegetation of stony banks habitat to the east of the proposed Galway Harbour extension at Renmore; and
- Legacy impacts arising from the already developed Galway Harbour Enterprise Park.

With the overall objective of the compensatory measures to ensure that the overall coherence of the Galway Bay Complex SAC is protected, Galway Harbour Company has contracted to purchase lands at Mweeloon on the Tawin Peninsula, 4.7km to the south of Galway Port, which are located within the confines of both the Galway Bay Complex SAC and the Inner Galway Bay SPA. As set out in the Phase 2 Compensatory Report (April 2019), the lands identified, which will be the subject of the compensation measures, contain areas of substandard habitat and will be acquired, along with control of any aquaculture licences granted within the area, to compensate for the adverse impacts arising on habitats affected by the proposed Harbour Extension development.

**Teil** (01) 858 8100  
**Glaio Áitiúil** LoCall 1890 275 175  
**Facs** Fax (01) 872 2684  
**Láithreán Gréasáin** Website www.pleanala.ie  
**Ríomhphost** Email bord@pleanala.ie

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In preparing these compensatory measures and evaluating possible locations at Tawin Island, an assessment of both the inter-tidal habitat and the perennial vegetation of stony bank habitat at Renmore that would be affected by the proposed harbour extension was undertaken. In relation to the inter-tidal habitat, both the habitat and species environment were considered to be inadequate due to levels of organic enrichment, attributed in large part to historic wastewater discharges and organic discharges from the adjacent River Corrib. Likewise, the assessment of the perennial vegetation of stony bank habitat was considered to be of unfavourable / inadequate conservation condition, due to the relatively high occurrence and cover of alien plant species, and would also likely be impacted by the harbour extension through less dynamic coastal processes to remove vegetation and allow it to recolonise during quieter periods.

The acquired lands will provide a compensatory ratio of 3:1 against the habitats directly impacted by the proposed development, as well as the estimated impact/loss of habitat from the development of the Galway Harbour Enterprise Park.

- In relation to reef habitat and mudflat/sandflat habitat covered by sea water at low tide, a total of 14.51 hectares has been calculated as having been lost or proposed to be lost, with replacement habitat of 27.24 hectares proposed under these compensatory measures;
- In relation to perennial vegetation on stony banks habitat, it is proposed to compensate the total habitat area expected to be impacted or to have already been impacted of 0.63 hectares with 3.05 hectares of similar habitat at Mweeloon; and
- In relation to salt marsh habitat, it is estimated that 7.39 hectares has already been lost as a result of the previous development of the Galway Harbour Enterprise Park and an area of 11.715 hectares of salt marsh enhancement area has been identified at Mweeloon.

Implementation of the compensatory measures will commence prior to commencement of the development as follows:

- The purchase of lands and control of aquaculture licences will be completed within three months of obtaining full planning permission;
- Implementation of management plans will commence within a further three months or as the growing/grazing season allows for the management of these habitats;
- Significant enhancement of inter-tidal, stony bank and salt marshes habitats will be achieved within the first six months of management of the habitats and within the first 12-18 months of obtaining full planning permission;
- The second 12-month management season will see the majority of the habitat enhancement achieved; and

**Teil** (01) 858 8100  
**Glaio Áitiúil** 1890 275 175  
**Facs** (01) 872 2684  
**Láithreán Gréasáin** [www.pleanala.ie](http://www.pleanala.ie)  
**Ríomhphost** [bord@pleanala.ie](mailto:bord@pleanala.ie)

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- Galway Harbour Company will maintain, monitor, audit and publish a public annual report on the condition and maintenance of the compensatory habitats.
- A. Management and Implementation Plan for mudflats and sandflats not covered by sea water at low tide

The main objective of this plan is to re-establish the structure and natural ranges of the habitats at Mweeloon by introducing compensatory measures that will:

- re-establish the structure and composition of both mudflats and sandflats;
- in the longer term, re-establish the habitats dynamics; and
- restore the areas to their prior condition, following the removal of oyster trestles off Lurgan Island associated with the aquaculture licences that will be purchased and surrendered.

- B. Management and Implementation Plan for the Annex I habitat: perennial vegetation of stony banks

The compensatory measures for the perennial vegetation of stony banks habitat at Mweeloon are designed to bring about a biological improvement in the perennial vegetation and protect the stony bank habitat in the long term until the structure and function of this habitat is well established within the European site.

- C. Management and Implementation Plan for Salt Marsh habitat

The compensatory measures relating to the area of Salt Marsh are designed to limit ongoing damage to the identified area and implement actions to improve the structure and functioning of the Salt Marsh habitat at Mweeloon, and also monitor the success and beneficial effects of the management plan in comparison with some reference habitat area not subject to the proposed management measures.

The design and management plans for the inter-tidal reef, salt marsh and stony bank habitats will collectively involve, inter alia:

- a programme to control the colonial non-native marine invertebrates;
- removal of oyster trestles and other aquaculture structures to facilitate changes in the composition of benthic communities around them;
- ceasing the construction / maintenance of all drainage channels within the lands concerned, and no further removal of cobbles from the stony banks;
- elimination of winter and supplementary feeding of livestock on the lands adjacent to the inter-tidal area;
- curtailing of livestock grazing to certain times of year (May to October) during appropriate weather conditions to allow for optimal growth and flowering;

- cessation of fertiliser and slurry spreading, and use of herbicides within or close to the habitat lands;
- controlling of tractor access to eliminate rutting;
- prevention of construction of new sea defences and facilitate only sensitive repairs on the existing sea defence wall (in order to protect the ecology and oceanography of the lagoon and habitats);
- the development of a programme to eradicate the non-native *Didemnum* within the relevant lands;
- regular removal of flotsam and jetsam;
- annual biological surveys of the habitats to document changes in their extent and characterising species, with surveys to be carried out immediately after storms to document the impacts, with scope to adjust or modify the management plan where warranted;
- erection of public information/educational signage; and
- the commissioning of independent audit of surveys on progress with implementation of the management plan measures.

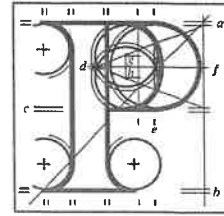
## 6. Legislative provisions

In accordance with the relevant provisions of the Planning and Development Act 2000 (as amended), An Bord Pleanála is forwarding this Statement of Case to the Minister for Housing, Local Government and Heritage, together with a copy of the planning application and Natura Impact Statement and other relevant documents, to consider the adequacy of the compensatory measures proposed by Galway Harbour Company, and to advise the Board as to whether there are imperative reasons of over-riding public interest in this instance to enable the consideration of the proposed development to proceed.

**Tel**  
**Glaó Áitiúil**  
**Facs**  
**Láithreán Gréasáin**  
**Ríomhphost**

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**LoCall** 1890 275 175  
**Fax** (01) 872 2684  
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**Email** [bord@pleanala.ie](mailto:bord@pleanala.ie)

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The Minister  
Department of Housing, Local Government and Heritage,  
C/o Eamonn Kelly, Principal,  
EU and International Planning Regulation Section  
Custom House,  
Dublin 1  
D01 W6XO

**Date:** 24th March, 2021

**Re:** Galway Harbour Extension.

Dear Minister,

I have been asked by An Bord Pleanála to refer to the above-mentioned strategic infrastructure application submitted to the Board under the provisions of section 37E of the Planning and Development Act 2000 as amended.

The Board is of the view that the proposed development as part of this application should be given consent for imperative reasons of overriding public interest (IROPI).

In this regard and in accordance with the provisions of section 177AA of the Planning and Development Act 2000 as amended the Board is required to set out the imperative reasons of overriding public interest that necessitate the giving of consent for the proposed development.

In coming to its decision on the Statement of Case to be submitted to the Minister in relation to the above application, in accordance with the requirements of Section 177AA(2), the Board had regard to a range of matters, including the following:

- (a) the report of the Senior Planning Inspector dated the 27th day of February 2015, together with the associated reports of the Ecological Consultant and the Consultant Marine Hydrologist,
- (b) the Environmental Impact Statement, the Natura Impact Statement and the addenda to the Natura Impact Statement (January 2015) and (April 2019), and all supplementary documentation submitted with the original application,

Teil	Tel	(01) 858 8100
Gíao Áitiúil	LoCall	1890 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

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- (c) all the observations and submissions on file including all oral submissions made at the oral hearing held between the 13th day and the 23rd day of January 2015,
- (d) the European Commission Habitats Directive 92/43/EEC,
- (e) the European Commission document, entitled "Managing Natura 2000 Sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC" (2000),
- (f) 'Habitats Directive 92/43/EEC' – Clarification of the Concepts of Alternative Solutions, Imperative Reasons of Overriding Public Interest, Compensatory Measures, Overall Coherence, Opinion of the Commission - 2007/2012,
- (g) the various bilateral and tripartite meetings that were held between the Board, the Applicant and the National Wildlife and Parks Service of the Department of Culture, Heritage and the Gaeltacht in respect of potential compensatory measures proposed,
- (h) the reports prepared on behalf of the applicant in relation to the potential compensatory measures submitted to An Bord Pleanála on the 9th day of August 2017 and the 26th day of April 2019,
- (i) the supplementary reports prepared by the Consultant Ecologist dated the 11th day of September and the 19th day of December 2019,
- (j) the report from the National Parks and Wildlife Service, dated the 8th day of April 2020,
- (k) the supplementary report prepared by the Senior Planning Inspector in respect of the compensatory measures proposed dated the 6th day of October 2020,
- (l) the meetings held by the Board on the 25th day of June, the 2nd day of July, the 13th day of August and the 3rd and 21st days of September 2015, in respect of the original application and the Inspector's recommendation, and
- (m) the subsequent meetings in respect of the Compensatory Measures Report submitted by the applicant and the supplementary reports pertaining to this information held on the 28th day of June 2016, the 13th day of December 2016, the 3rd day of April 2017, the 27th day of July 2017 and the 11th day of December 2017.

On foot of the above information, the Board concluded as follows:

#### Deliberations on Article 6(3) and Article 6(4) of the Habitats Directive

- In its meeting on the 21st day of September 2015, the Board focussed its deliberations on the Appropriate Assessment issues required under Article 6(3) of the Habitats Directive, and on the possible application of Article 6(4) of the Directive (Imperative Reasons of Overriding Public Interest - IROPI) to the case. The Board accepted and adopted the Appropriate Assessment carried out in the report of the Senior Planning Inspector and the specialist ecological consultant appointed by the Board in respect of the potential effects of the proposed development on the potentially affected European Sites, having regard to the Sites' Conservation Objectives, namely that the integrity of the Galway Bay Complex

Teil	Tel	(01) 858 8100
Glaó Áitiúil	LoCall	1890 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
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Special Area of Conservation (site code: 000268) will be affected by the direct and permanent loss of fucoid-dominated reef habitat [1140] and mud and sand flat habitat [1140] and the loss of perennial vegetation of stony banks [1220].

- It was also concluded that a significant adverse effect on the integrity of the Inner Galway Bay Special Protection Area (site code: 004031) or the Lough Corrib Special Area of Conservation (site code: 000297) will not arise in view of the Sites' Conservation Objectives. It was also concluded that the proposal will not lead to any negative impacts on the priority habitats associated with the Galway Bay SAC at Lough Atalia and Renmore Lough.
- The Board decided that consent could not be granted under the provisions of Article 6(3) of the Directive and decided to invoke Article 6(4) (IROPI) for further consideration of the proposal.
- In deciding not to accept the Senior Planning Inspector's conclusion that the proposed development will adversely impact on the integrity of the European sites, that viable alternative solutions could exist which may have a lesser impact in terms of affecting the integrity and coherence of European Sites and on that basis, that there was no convincing case for invoking IROPI, the Board weighed the loss of the qualifying interests of the Galway Bay SAC against the imperative reason for the proposed development which were primarily social and economic in nature.
- The Board therefore noted that the provisions of Section 177AA(3) would apply in this instance, in that the European sites affected do not host a priority natural habitat type or priority species, and that the imperative reasons of overriding public interest therefore may include reasons of a social or economic nature.

#### Imperative Reasons of Overriding Public Interest

In accordance with the provisions of Section 177AA(a) of the Act, setting out the imperative reasons of overriding public interest that necessitate the giving of consent for the proposed development, the Board noted the following:

- The Board concluded that the proposal presents an integrated development that enhances the social, economic and recreational benefits of the port for the wider benefit of the population of Galway and its regional hinterland.
- The enhancement of port facilities also aligns with the European transportation policy's promoting 'short-sea shipping' as a cost effective and environmentally sustainable alternative to road transport. The enhancement of the port serving the region will therefore align with European, national and regional policies in favour of balanced spatial and economic development.
- The port and the tradition of maritime trade is fundamental not just to the economy of Galway but also to its culture and identity.
- In relation to alternatives, the Board took a step-by-step approach to this question, as advised in the relevant guidance from the European Commission. In relation to (i) the do-

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nothing scenario, the Board concluded that failing to address the existing constraints would make the port unviable and ultimately lead to the demise of the port in the medium to long term and would fail to address the existing Seveso constraints, would impede tourism and the potential to develop a new urban quarter.

- In relation to (ii) alternative locations within Galway Bay, the Board generally agreed with the Inspector that alternative proposals for a harbour extension within the Bay was not feasible and would result in greater impacts on the Conservation Objectives of the Galway Bay SAC and Inner Galway Bay SPA.
- While it is acknowledged that there are several other Irish ports, including Shannon-Foynes which are capable of handling the existing and planned future commercial freight tonnage at Galway Port, however, shifting commercial shipping activities away from Galway to Shannon-Foynes would seriously impair the Port of Galway's ability to fulfil its historical role as Tier 3 regional port as envisaged in the National Ports Policy. It may also undermine Galway's development as a Gateway City designated in the NSS and subsequently reinforced in the National Planning Framework, and would inhibit marine/leisure tourism-related expansion within Galway City.
- In relation to (iii) alternative configurations, the Board concluded that there was no alternative design available that would deliver on project aims but result in less interference with the sensitive ecology of the area.
- The Board therefore concluded that there were no feasible alternatives.
- The Board also had regard to the existing constraints affecting the existing operations of Galway Port. Failure to address these deficiencies would signal the demise of commercial shipping in the medium to long term. The social and economic benefits of the project include positive impacts to tourism, marine research and development, including offshore renewable energy, urban regeneration and marine leisure opportunities.
- The loss of the qualifying interests of the Galway Bay SAC has been weighed against the imperative reasons for the proposed development which are primarily social and economic in nature.

On the basis of the above considerations the Board decided to explore the possibility of compensatory measures, as provided for in Article 6(4) of the Directive.

### Compensatory Measures

In accordance with the provisions of Section 177AA(b) of the Act, relating to the compensatory measures, the Board invited Galway Harbour Company to confirm that it wished the project to be considered for approval under Article 6(4) of the Directive. The Board indicated to the applicant that the compensatory measures should offset the negative effects of the project such that the overall coherence of the European Sites network is maintained.

- A report, entitled 'Proposed Compensatory Measures', was submitted to An Bord Pleanála on the 9th day of August 2017. This report contained information relating to initial preliminary desk-based studies assessment and mapping of potential areas in the

<b>Tel</b>	<b>Tel</b>	(01) 858 8100	
<b>Glaao Áitiúil</b>	<b>LoCall</b>	1890 275 175	
<b>Facs</b>	<b>Fax</b>	(01) 872 2684	
<b>Láithreán Gréasáin</b>	<b>Website</b>	<a href="http://www.pleanala.ie">www.pleanala.ie</a>	
<b>Ríomhphost</b>	<b>Email</b>	<a href="mailto:bord@pleanala.ie">bord@pleanala.ie</a>	

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Greater Galway Bay area. The eastern part of Galway Bay was identified as the most suitable for the purposes of potentially providing habitats that can be improved by way of compensatory measures.

- The Phase 2 Report was subsequently submitted to the Board on the 26th day of April 2019. A separate addendum to the Natura Impact Statement to include the consideration of compensatory measures was submitted to accompany the Compensatory Measures Report. This report set out detailed compensatory measures at Tawin Island in East Galway Bay and assessed the compensatory measures against EU guidance criteria.

The Board concluded, on the basis of:

- (a) the Compensatory Measures Report submitted,
- (b) together with the further clarification on certain matters issued through additional information submissions, including comments from the National Parks and Wildlife Service,
- (c) the report prepared by the Consultant Ecologist employed by the Board, and
- (d) the supplementary report prepared by the Senior Planning Inspector specifically in relation to the compensatory measures proposed,

that the chosen site at Tawin Island was deemed to be suitable to provide effective compensatory measures for the loss of habitat associated with the proposed expansion of Galway Harbour. The Board also have regard to the monitoring programme proposed which sets out clear and unambiguous objectives with appropriate targets and indicators which are considered to be fit for purpose. Thus, the Board is satisfied that appropriate compensatory measures can be put in place to offset and compensate for any impact that will arise as a result of the Galway Harbour Extension, so as the overall coherence of the network of European Sites is maintained.

#### Conclusions in respect of Statement of Case

On the basis of the foregoing, the Board is satisfied that an appropriate Statement of Case can be prepared and submitted to the Minister in accordance with the provisions of Section 177AA(2) of the Planning and Development Act 2000, as amended.

The Board prepared a statement of case in accordance with the provisions of section 177AA(2) of the Act in support of planning consent to be given for imperative reasons of overriding public interest (IROPI) and compensatory habitat measures. A copy of the Statement of Case is attached as an appendix to this letter.

Copies of the following documentation are enclosed:

1. A copy of the planning application (cd no. 1), a copy of the Natura impact statement dated (January 2015) (hard copy) and dated (April 2019) (cd no.2)

Teil	Tel	(01) 858 8100
Glaio Áitiúil	LoCall	1890 275 175
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Ríomhphost	Email	bord@pleanala.ie

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2. Reports prepared on behalf of the applicant in relation to the potential compensatory measures submitted to An Bord Pleanála on the 9<sup>th</sup> day of August, 2017 and the 26<sup>th</sup> day of April, 2019 (cd no.2)
3. The supplementary report prepared the Inspector in respect of the compensatory measures proposed dated the 6<sup>th</sup> day of October, 2020 (hard copy).
4. The Natura impact statement dated (January 2014) (cd no.1).
5. Errata and Addenda to the Natura impact statement (October 2014) (cd no.2).
6. Additional Addendum/Errata to the Natura impact Statement (January, 2015) (hard copy) and addendum to the Natura impact statement to include consideration of the Compensatory Measures (April, 2019) (cd no.2).
7. The supplementary reports prepared by the Consultant Ecologist dated the 11<sup>th</sup> day of September and the 19<sup>th</sup> day of December, 2019 (hard copy).

The Board requests that you consider the adequacy of the compensatory measures proposed by the applicant, and to advise as to whether there are imperative reasons of overriding public interest in this case to enable consideration of the proposed development to proceed. If you request any further information/clarification in relation to this process please do not hesitate to contact the undersigned officer of the Bord.

Yours faithfully,

  
\_\_\_\_\_  
**Josephine Hayes**  
**Senior Executive Officer**  
**01-8737264**

Teil	Tel	(01) 858 8100
Glaó Áitiúil	LoCall	1890 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

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