



An Roinn
Ealaíon, Oidhreachta agus Gaeltachta

Department of
Arts, Heritage and the Gaeltacht

Judgment of the Court of Justice of the European Union
in
Case C 418/04 Commission v Ireland
“The Birds Case”

A Programme of measures by Ireland to ensure full
compliance with the Judgment of the Court of Justice
of the European Union

Update – July 2015

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SUMMARY

Background – The Birds Directive

[Directive 2009/147/EC](#) of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (this is the codified version of Directive 79/409/EC as amended) is the EU's oldest piece of nature legislation and one of the most important, creating a comprehensive scheme of protection for all wild bird species naturally occurring in the Union. It was adopted unanimously by the Member States in 1979 as a response to increasing concern about the declines in Europe's wild bird populations resulting from pollution, loss of habitats as well as unsustainable use. It was also in recognition that wild birds, many of which are migratory, are a shared heritage of the Member States and that their effective conservation required international co-operation.

The directive recognises that habitat loss and degradation are the most serious threats to the conservation of wild birds. It therefore places great emphasis on the protection of habitats for endangered as well as migratory species (listed in Annex I), especially through the establishment of a coherent network of Special Protection Areas (SPAs) comprising all the most suitable territories for these species. Since 1994 all SPAs form an integral part of the NATURA 2000 ecological network.

The Birds Directive bans activities that directly threaten birds, such as the deliberate killing or capture of birds, the destruction of their nests and taking of their eggs, and associated activities such as trading in live or dead birds, with a few exceptions (listed in Annex III - III/1 allows taking in all Member States; III/2 allows taking in Member States in agreement with European Commission). The Directive recognises hunting as a legitimate activity and provides a comprehensive system for the management of hunting (limited to species listed in Annex II - II/1 allows hunting in all Member States; II/2 allows hunting in listed Member States) to ensure that this practice is sustainable. This includes a requirement to ensure that birds are not hunted during the periods of their greatest vulnerability, such as the return migration to the nesting areas, reproduction and the raising of chicks. It requires Member States to outlaw all forms of non-selective and large scale killing of birds, (especially the methods listed in Annex IV). It promotes research to underpin the protection, management and use of all species of birds covered by the Directive (Annex V).

The case against Ireland – what it is all about

In December 2007, the Court of Justice of the European Union¹, arising from a case brought by the European Commission, delivered judgment on Ireland's

¹ Previously referred to as the European Court of Justice

implementation of the Birds Directive. The Judgment refers to six separate complaints and gives a ruling in respect of each one. The Court found in favour of Ireland in respect of one complaint.

In broad terms the Court found that Ireland:

- had not correctly transposed the Directive in a number of areas, including in relation to assessment of land use plans,
- had not designated a sufficient number of Special Protection Areas in respect of particular species, e.g. corncrake, kingfisher,
- had not designated SPAs in accordance with the required standard of protection,
- did not meet the required standard regarding the level of protection being achieved in SPAs or in areas that should be designated as SPAs, as set out in Article 4 of the Birds Directive or Article 6 of the Habitats Directive, in particular by failing to take all reasonable measures, including targeted action to prevent their deterioration, and by not requiring appropriate assessment for certain types of activities including aquaculture, and
- required protective measures outside SPAs have not been put in place.

The Timeline of the Birds Case Judgment

Case	Document	Date	Name of the parties
C-418/04	Application (OJ)	08/01/2005	Commission v Ireland
	See: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ%3AC%3A2005%3A006%3A0022%3A0022%3Aen%3APDF		
C-418/04	Order	17/03/2005	Commission v Ireland
	See: http://curia.europa.eu/juris/document/document.jsf?text=&docid=59931&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=3100578		
C-418/04	Opinion	14/09/2006	Commission v Ireland
	See: http://curia.europa.eu/juris/showPdf.jsf?text=&docid=64070&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=3100578		
C-418/04	Judgment	13/12/2007	Commission v Ireland
	See: http://curia.europa.eu/juris/showPdf.jsf?text=&docid=71717&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=3101025		

C-418/04 Judgment (OJ)

23/02/2008

Commission v Ireland

See:

<http://curia.europa.eu/juris/showPdf.jsf?text=&docid=72029&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=3101367>

Purpose of this Document

The Programme of Measures sets out the actions taken to date by Ireland in response to the Judgment of the Court together with commitments for further action to ensure that remaining issues have been dealt with. It is updated at 6-monthly intervals.

Copies of all correspondence on the case and any general queries may be directed or obtained from Frank Donohoe who is co-ordinating the case for Ireland at the address below:

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Response to the specific findings against Ireland

First Complaint

1. ***The Court found that Ireland had failed to classify all the most suitable sites - in number and size - as SPAs, contrary to Article 4 (1) and (2) of the Birds Directive***

The judgment refers to 42 sites and these are indicated in the tables in the Appendices 1 and 2 with colour coding for the species protected at each site. (There is an explanatory key to the coding at the end of each Appendix.)

First part of the first complaint

Classification

The classification process requires the statutory authority (i.e. Department of Arts, Heritage and the Gaeltacht) to notify owners and occupiers of land within or in the vicinity of the site, informing them of the extent and boundaries of the SPA, explaining the legal regime in force from the date of notification, identifying the special conservation interests and species that are protected on the site and prescribing a list of Activities Requiring Consent (ARCs – formerly called “notifiable actions”). All relevant consent authorities are also notified to ensure that from the date of notification they enforce all the protective measures required by the Birds and Habitats Directives in the exercise of their consent functions.

A total of 154 sites have now been classified in a manner consistent with the requirements of the Birds Directive, (See Appendix 1).

<http://www.npws.ie/protectedsites/>

Confirmation of Classification through Statutory Instrument

A total of 139 sites have now been designated by S.I. and a further 6 are being drafted. The remaining 9 SPAs are still within the appeals process and will be designated as soon as the boundaries are finalised. Details of these sites are set out in a table at Appendix 2.

<http://www.npws.ie/protectedsites/>

Species Selection

The Court further referenced certain bird species as being of particular concern either because of declining numbers or insufficient protection measures afforded to ensure their continued survival.

In response, Ireland has identified and classified all suitable locations on the basis of available scientific information within the suite of 154 SPAs for the following species: Red Throated Diver, Hen Harrier, Merlin, Peregrine, Golden Plover, Chough, Kingfisher and Corncrake.

The Short-eared Owl, also mentioned in the judgment, bred sporadically in the south-west in the 1960s and 1970s, and is occasionally recorded as possibly breeding. It is envisaged that habitat conservation measures in place for Hen Harrier, that is, extensive grazing of rough grassland, no afforestation of heath/bog and provision of pre-thicket plantation through standard commercial management, will provide adequate measures for Short-eared Owl conservation.

Second part of the first complaint

Site Area

Ireland's SPAs were reviewed in 2008² and Ireland has extended some selected SPAs to ensure that all the important ornithological areas of a site are included within its boundaries. It is considered that all SPA boundaries have the appropriate scientific justification. These sites are indicated with a double asterisk in the tables at Appendix 1 and 2 and all exceed in area their equivalent IBA site.

Outstanding Issues under the first complaint

Confirmation of Classification through Statutory Instrument

A large number of appeals against designation have been or are being processed. All appeals have passed through internal consideration by NPWS and reached the Appeals Board. The status of live appeals as of May 2015 is summarised below, first for the corncrake and then all other appeals.

Corncrake SPA Appeals

Code	SPA	With Appeals Board	Change since Oct 2014
4073	Tory Island	0	0
4083	Inishbofin, Inishdooney & Inishbeg	20	0
4146	Malin Head	0	0
4148	Fanad Head	0	0
4149	Falcarragh to Meenlaragh	25	-7
4227	Mullet Peninsula	0	0
4230	West Donegal Islands	6	+1
4231	Inishbofin, Omey & Turbot Islands	0	-10
	Totals	51	-16

² A review of the SPA network of sites in the Republic of Ireland. Unpublished report, NPWS, 2008

Non-Corncrake SPA Appeals

Code	SPA	With Appeals Board	Change since Oct 2014
4037	Blacksod Bay/ Broadhaven SPA	0	-1
4181	Connemara Bog Complex SPA	161	
4142	Creganna Marsh SPA	0	-3
4039	Derryveagh and Glendowan Mountains SPA	1	-6
4032	Dungarvan Harbour SPA	0	-1
4152	Inishmore SPA	4	
4031	Inner Galway Bay SPA	1	
4058	Lough Derg (Shannon) SPA	0	-4
4077	River Shannon and River Fergus Estuaries SPA	2	-17
4161	Stack's To Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA	1	+1
	Totals	170	-31

Dunlin

An extension to the Blacksod Bay SPA to include areas for breeding dunlin (*Calidris alpina schinzii*) was classified in June 2013 and an additional site for this species – Dugort Machair SPA, was also classified in July 2013.

The designation process for these sites will be completed as soon as the appeals process, which is currently underway, is finalised. For a variety of reasons, the appeals process has taken longer than envisaged and it is now aimed to have it complete by the end of 2016, with the first focus on the sites with few appeals.

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Corncrake

The corncrake census in 2014 recorded 230 calling makes, the highest number since 1993. Most of the increase is occurring in County Donegal and in Connacht, while the Shannon Callows population has not recovered from the series of summer floods during the last decade.

A Corncrake Framework Strategy document has been prepared and can be found on the Department's website.

The main actions listed in the framework strategy are to:

- monitor the core Corncrake populations in Ireland on an annual basis;
- complete the SPA designation process for Corncrake;

- maintain the traditional Corncrake Grant Scheme as a conservation tool for the protection of nesting birds both within the SPA network and in the wider countryside;
- set targets to achieve population growth in the SPAs and to underpin these targets with complementary targets for habitat management in these areas;
- continue to refine and promote relevant multi-annual agri-environment schemes; and to
- continue to enter into management agreements with landholders in important areas in order that land can be exclusively managed as Corncrake habitat.

Complementing the actions set out in the Corncrake strategy, the Department of Agriculture, Food and Marine has had a series of corncrake measures in its agri-environment Schemes. It first introduced a corncrake measure in 2003 under the Rural Environment Protection Scheme (REPS 3). The measure involves the adoption of specific grazing management practices, restrictions on field operations and the adherence to strict cutting practices within the designated areas. The measure was continued in the REPS 4 Scheme and in successive Agri-Environmental Options Schemes (AEOS 1, 2 and 3). See

http://www.agriculture.gov.ie/media/migration/farmingschemesandpayments/ruralenvironmentprotectionschemereps/ruralenvironmentprotectionschemereps/latestreps4/REPS4FarmersHandbook_LowRes.pdf

In AEOS 3, which was launched in September 2012, the corncrake measure was targeted at the nine newly designated SPAs for Corncrakes in the northwest of the country (Donegal and Mayo), which were designated in 2011. Furthermore, applicants with Natura³ lands, including Corncrake SPAs (>0.5ha) were given priority access to the Scheme. This demonstrates DAFM's clear commitment not only to the Corncrake, but also to all other species of conservation concern throughout the Natura network. These areas are also targeted in the new Green Low-carbon Agri-environment Scheme (GLAS), under the RDP 2014 -2020.

<http://www.agriculture.gov.ie/media/migration/farmingschemesandpayments/ruralenvironmentprotectionschemereps/ruralenvironmentprotectionschemereps/aeos3/AEOS3Specification251012.pdf>

As evidenced above, DAFM is acutely aware of the ongoing threats to this species, and the specific need for a continued commitment for a corncrake measure was duly identified as a key priority in the RDP SWOT analysis and needs assessment. Accordingly, Ireland's Rural Development Programme includes a specific action for the conservation of the Corncrake within the new Agri-Environment Climate measure (GLAS). This action will promote traditional management practices which are favourable for the conservation of the corncrake. Similar to actions under previous schemes, it is targeted at priority Corncrake SPAs, but now excluding the Shannon Callows. In addition, it now affords priority 1 entry to the scheme and as such is available to all farmers in these areas. This action will be complementary to other actions within the Corncrake framework strategy.

As with previous measures, this action involves the adoption of specific grazing management practices, restrictions on field operations and the adherence to strict cutting practices within

³ Natura areas refer to areas designated as Special Areas of Conservation (SAC) under the Habitats Directive or Special Protection Areas (SPA) under the Birds Directive.

the designated areas. Furthermore, this action is now mandatory for any farmers applying to GLAS who have land in corncrake SPAs. This obliges farmers to choose this action before any other actions on the farm, thus favouring a greater uptake of the action than in previous schemes.

Some of the targets in the Corncrake Strategy have been reached well ahead of the deadline. It is recognised that ultimately, the success of the Strategy depends on positive engagement by farmers and non-farming landowners. To that end, a series of meetings with farmers and landowners is being held in August 2015 to promote the schemes available to farmers and to address the concerns of landowners affected by designation. This work is being afforded high priority by DAHG.

Compensatory Habitat - Dublin Bay

The Court found that Ireland should have designated the inner part of the Tolka estuary, and that an area of 2.2 ha had been lost due to the Dublin Port Tunnel development. The Commission indicated that Ireland must provide compensatory habitat to cover the loss of this area to redshank, curlew and oystercatcher.

The Irish authorities were committed to compensating for this habitat loss. All suitable areas within Dublin Bay were already designated and included relevant habitats or species of interest (sites 800004006, North Bull Island, SI 212/2010, and 800004024, South Dublin Bay and River Tolka Estuary, SI 211/2010).

The possibility of converting *Spartina*-infested saltmarsh to mudflat at sites such as Baldoyle and Rogerstown was also considered, but rejected on the grounds of potential damage to habitats which are qualifying interests for the SAC designation of these sites.

All sites with the potential for compensatory designation on the east and south east coasts were considered. The sites reviewed (given here with the last 4-digit site code) include Carlingford Lough (4078), Dundalk Bay (4026), Boyne Estuary (4080), Nanny estuary (4158), Wexford harbour (4076), Bannow (4033) and Tramore (4027) Bays, Ballyteigue (4020), Dungarvan (4032) and Ballymacoda (4023). No mudflats remaining undesignated, and with the relevant species, were identified.

A suitable site was eventually found in Ringabella Estuary in Cork and the Cork Harbour SPA (4030) has been extended by 74.14 hectares to include an area of intertidal mudflat that can support a similar waterbird assemblage as the area that was in-filled in Dublin Bay. This extension to the Cork Harbour SPA was advertised and notified on the 11th March 2015. The current Statutory Instrument for Cork Harbour (S.I. 237/2010) will be revoked and redrafted to include Ringabella Estuary at the close of the appeals period.

More comprehensive information on Ringabella and the Tolka are provided in Appendix 3 below.

Ireland will shortly make a notification to the Commission in the context of Article 6(4), paragraph 1, about the undertaken compensatory measures.

The Second Complaint was rejected by the Court.

Third Complaint

- 3. The Court found that Ireland had failed to apply the provisions of the first sentence of Article 4 (4) of the Birds Directive to the areas that should have been classified as SPA, i.e. to take appropriate steps to avoid deterioration of habitats or disturbance of birds within these areas.**

To address this complaint and a number of other legal transposition issues in relation to this judgment and other judgments against Ireland in relation to the implementation of the Habitats Directive, the Minister for Arts, Heritage and the Gaeltacht made comprehensive new transposition regulations in September, 2011 – the European Communities (Birds and Natural Habitats) Regulations, 2011 – referred to in this document as the 2011 Regulations. (Complementary transposition provisions are to be found in the Planning and Development (Amendment) Act, 2010.

Regulation 15 of the 2011 Regulations provides for the identification and notification to landholders and to the public of “candidate special protection areas”. The Minister may make a direction specifying activities that may not be carried out without his or her consent, and the provisions of Regulation 42 (appropriate assessment).

Regulation 27(4) obliges public authorities in the exercise of their functions, to “take the appropriate steps to avoid, in candidate special protection areas, pollution and deterioration of habitats and any disturbances affecting the birds insofar as these would be significant in relation to the objectives of Article 4 of the Birds Directive”. Also, Regulation 35 (General provisions for the prevention of damage to European Sites) applies to candidate SPAs. These provisions combine to provide a strong legal mechanism for the protection of unclassified sites as required Article 4(4).

Fourth Complaint

- 4. The Court found that Ireland had failed to transpose and apply obligations to protect birds in the wider countryside as required by Article 4(4) of the Birds Directive**

Wider Countryside Measures

In response Ireland has introduced new measures, and built upon existing activity to benefit the conservation of birds in the wider countryside.

Under the new Rural Development Programme, DAFM has developed a range of targeted actions within GLAS to assist in the conservation of threatened species where they pertain to farmland. These measures which have been developed in tandem with DAHG, are tailored to complement existing actions for a wide range of species. GLAS is a highly targeted scheme, and key to its design was the identification of a number of Priority Environmental Assets, primarily related to vulnerable habitats including Natura and uplands/commonages, but also including others such as high status and vulnerable water sites which are key to maintaining aquatic biodiversity. The corncrake action is one seven key bird groupings having a specific spatially targeted action, with the others being Grey partridge, chough, breeding waders, twite, geese and swans and hen harrier. All holdings with these physical assets have been pre-identified and the areas of importance mapped at farm level. The presence of one or more of these assets on any farm guarantees priority access to the new scheme.

Apart from the 7 bird actions prioritised under GLAS in the RDP, which have many indirect benefits for other bird species, a range of other actions have been included in the Scheme to enhance the availability and quality of farmland habitats for birds. For example the hedgerow planting and rejuvenation actions (coppicing and laying) will improve the range and quality of nesting and foraging habitat for a number of bird species including owls and kestrels. The wild bird cover action, which involves planting wild bird cover seed mixture, will benefit a range of birds but will particularly benefit seed eating birds such as yellowhammer and skylark. This action has been given tier 1 priority status to ensure a high level of uptake. The low input permanent pasture and traditional hay meadow actions, which support the development of more traditional rough grazing areas and meadows, will have wide ranging benefits for a number of species but will especially benefit ground nesting species such as snipe and , whinchat. Another action supports a range of species through the installation of bird boxes. The GLAS specification also encourages farmers to think wildlife at all times and follow the code of good practice for the responsible use of rodenticides to minimise the impacts on non-target species such as owls and other birds of prey.

In addition to the above, key actions for water quality include riparian margins and the protection of watercourses action.

See GLAS terms and conditions and specifications for further details.

<http://www.agriculture.gov.ie/media/migration/farmingschemesandpayments/glas/GLASTermsConditions27February2015.pdf>

<http://www.agriculture.gov.ie/media/migration/farmingschemesandpayments/glas/GLASSpecification14April2015.pdf>

Other relevant activities include:

- Ongoing active engagement between relevant Government Departments (such as the Department of Agriculture, Food and the Marine (DAFM), the Department of the Environment, Community and Local Government (DECLG) and the Department of Arts, Heritage and the Gaeltacht (DAHG)) public agencies and others, on key issues such as the Rural Development Programme and the GLAS

scheme. This engagement is informed by a Prioritised Action Framework which identifies Ireland's priorities for nature conservation related to the EU Nature Directives. See below for further details.

- Engagement between the Forest Service of DAFM and DAHG on biodiversity elements in the management of forestry.
- The Grey Partridge Project in Co. Offaly and the inclusion of a grey partridge action as a priority 1 action in GLAS. The eligible areas for this action have been extended from the previous AEOS area.
- Two curlew surveys contracted by NPWS in 2015.
- The EU-funded “Results-based agri-environment pilot scheme (RBAPS)” project has been launched and in Ireland will focus on Lowland semi-natural grasslands in County Leitrim and the Shannon Callows
- Cooperation between a range of key groups to produce a species action plan for red grouse – see <http://www.greypartridge.ie/conservation/irish-red-grouse-species-action-plan.429.html>; and collaboration at 14 sites around the country between hunters, farmers, NGOs and the State sector on habitat management to benefit the red grouse.
- Cooperation between DAHG, the DAFM's Regional Veterinary Service and Pesticide Registration and Control Division, the State Laboratory, the Golden Eagle Trust and BirdWatch Ireland in relation to the reduction of poisoning risks to reintroduced large raptors and other native raptors and owls.
- The publication of Ireland's first report on poisoning/persecution of birds of prey – see <http://www.npws.ie/publications/archive/2011%20Bird%20of%20Prey%20Poison%20and%20Persecution%20Report-July2013.pdf>. The reports for 2012-2014 will be published shortly..
- The launch of the *Campaign for Responsible Rodenticide Use in Ireland* (CRRU Ireland) in September 2013.
- Ongoing implementation of the Wildlife Acts and the Birds and Habitats Regulations, 2011
- Implementation of the EIA Agriculture Regulations of 2011.
- State-funded awareness and other activities by key NGOs including Birdwatch Ireland, Irish Raptor Study Group, Golden Eagle Trust, Irish Red Grouse Association etc.

An Action Plan for the Wider Countryside

DECLG and DAHG continue to grant aid BWI's implementation programme of group species action plans for birds in Ireland. A further meeting is planned for late August 2015.

The overall project aims are to facilitate and deliver on the implementation of Action Plans (previously funded by DEHLG 2009 – 2011). As part of its co-ordinating role BirdWatch Ireland aims to:

- facilitate development of multi-stakeholder-based funding applications and identify partnership working opportunities;
- communicate effectively the outputs of the plans and follow on steps with all stakeholders;
- assist in the incorporation of actions assigned to the stakeholders into their respective business plans;
- assist in the reporting on the status of Irish birds across the national territory; and
- assist in wider policy development areas that require particular focus such as land management and species protection.

This on-going body of work takes a cross-sectoral approach to addressing the conservation requirements of wild birds by helping to ensure the sustainable development of sectors while also addressing biodiversity needs. It covers all nationally important Red and Amber listed birds of conservation concern in Ireland and all Annex I listed species which regularly occur here. Specifically, the on-going project addresses requirements of wild birds in the wider countryside – a specific concern identified by the European Court of Justice in its findings against Ireland (C418-04). In response to this judgement BirdWatch Ireland co-ordinated a multi-stakeholder approach which led to the development of a series of habitat-based action plans for Irish birds. These plans are now carried forward into their implementation phase through this work.

The 10 Group Species Action plans were reviewed by BirdWatch Ireland where species-specific priorities and other priority issues/policies were identified. The review was provided in the report “BirdWatch Ireland’s Group Species Action Plans for Irish Birds: Prioritisation of actions, species priorities and implementation” and can be accessed at <http://www.birdwatchireland.ie/LinkClick.aspx?fileticket=a%2bb%2fvdQUngs%3d&tabid=1426>

As BirdWatch Ireland’s action plans span 10 individual but overlapping groups of birds covering some 450 actions this prioritisation approach was a necessary step to ensure that the correct species and the appropriate actions attracted the most conservation focus. The report includes a review of implementation to date.

The prioritisation exercise identified two groups breeding waders (including Curlew, Lapwing and Dunlin) and farmland birds (including Skylark, Whinchat, Twite, Corncrake, Grey Partridge and Barn Owl) that would most benefit from management measures.

The finalisation of the GLAS Scheme has been a critical element in progressing the actions. In the coming weeks, DAHG will engage in discussions with BWI and DAFM to review progress and set out future steps.

Fifth Complaint

5. The Court found that Ireland had not adequately transposed or applied of Article 6(2)-(4) of the Habitats Directive, i.e. to ensure that SPAs were not subject to deterioration, to ensure that plans or projects which could have an adverse impact on SPAs were subject to appropriate assessment in the decision making process.

5a) Birds and Natural Habitats Regulations

In response to this element of the judgment DAHG and DECLG have undertaken a programme of legislative changes to address the transposition issues. As referred to above these include a comprehensive revision of the the planning code and of the 1997 Habitats Regulations. See revised European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. 477/2011)

<http://www.irishstatutebook.ie/2011/en/si/0477.html>

and the Planning and Development (Amendment) Act, 2010

<http://www.irishstatutebook.ie/2010/en/act/pub/0030/>

4b) The Court specifically found inadequate transposition of Article 6(2) in relation to the controls of recreational activities in protected sites.

Control of Recreational Activities

In response, on 18th June 2010, new regulations were issued governing recreational activity (in particular, the use of recreational vehicles and watercraft).

See: European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010 (S.I. No. 293/2010). These are now incorporated within the 2011 Regulations.

<http://www.irishstatutebook.ie/2010/en/si/0293.html>

4c) The Court further found that Ireland had failed to comply with Article 6 (3) and (4) of the Habitats Directive in respect of plans.

Planning and Development Amendment Act

The Planning and Development (Amendment) Act 2010 includes amendments to underpin the legal basis for Appropriate Assessment to be carried out for any plan or project which may impact on the integrity of a Natura site: these provisions have been commenced.

See: **Planning and Development (Amendment) Act 2010**

<http://www.irishstatutebook.ie/2010/en/act/pub/0030/index.html>

DECLG contacted planning authorities by way of circular letter (PSSP 5/2011 on 1 July 2011) to ensure compliance of existing development plans and local area plans with the Directive, notwithstanding the ongoing variations and reviews of existing plans by planning authorities in the context of their statutory reviews and core strategy

obligations under the Planning and Development (Amendment) Act 2010, all of which are also subject to the Habitats Directive appropriate assessment process under the 2010 Act delivering comprehensive compliance in this regard thus further expediting the elimination of any residual 'existing plans'. There are also existing time-bound requirements for periodic review of forward plans, independent of the Department's specific instruction regarding any non-compliant plans or part of a plan. Any non-compliant plans therefore are subject to a statutory sunset in addition to the Department's efforts to expedite the elimination of 'existing plans'.

The Department contacted planning authorities by way of circular letter (PL 16/2013 of 28 August 2013) reminding all planning authorities to ensure that any non-compliant plans are brought into compliance in a timely manner. The Department specifically requested those planning authorities who have 'existing plans' in place which encompass Hen Harrier SPAs to fully satisfy themselves as to the compliance of their land use plans (both development plans and local area plans) that pre-dated the commencement of the relevant 2010 Act provisions, paying particular attention to the zoning of environmentally sensitive lands for major developments, e.g. wind farms, where there are sensitivities in regards to the Hen Harrier SPAs. The Department reported the outcome of this analysis to the Commission (Letter from Planning Section on 19 November 2013 – see position as set out below) and confirmation from the relevant planning authorities regarding compliance of their land use plan objectives with the Planning and Development (Amendment) Act 2010. In this context, it is not deemed necessary and accordingly not proposed to make further amendments to primary legislation on this issue, especially as the existing provisions in the Planning and Development (Amendment) Act 2010 are being implemented sufficiently. However, the Department continues to keep the matter under consideration and monitors compliance of both existing and new plan objectives.

Hen Harrier SPAs (Laois, Offaly, Cork, Kerry, Limerick, Tipperary, Monaghan, Clare and Galway)

The position in regard to the nine planning authorities with Hen Harrier SPAs (Laois, Offaly, Cork, Kerry, Limerick, Tipperary, Monaghan, Clare and Galway) is as follows:

Eight of the planning authorities (Laois, Offaly, Kerry, Limerick, Tipperary, Monaghan, Clare and Galway) concerned have confirmed that their relevant plans are fully compliant with the Habitats and Birds Directives.

In the case of Cork County Council, the Council has outlined that, in relation to the existing County Development Plan 2009-15, the plan does not contain wind energy land-use zoning maps. However, it does contain a Wind Energy Strategy which includes an indicative map (unscaled) identifying certain parts of the county as “strategic search” areas, where developers are encouraged to focus efforts in the identification of suitable sites for wind energy initiatives. Some of these search areas partially overlap with mountainous and upland areas running from the Stacks to Mullaghareirks and West Limerick Hills Special Protection Area which is designated for the protection of Hen Harriers. Importantly, the objective relating to the strategic search area (INF 7-4) states that, in considering the merits of particular planning applications in such areas, the Planning Authority will have regard to ‘the impact of nature conservation, in particular avoiding designated and proposed European sites’.

Furthermore, the Council’s wind energy strategy is currently being reviewed in the context of the review of the County Development Plan (the draft plan was published for first round of public consultation in January 2014).

The County Cork Hen Harrier SPAs (Sites 4161 and 4162) are all within the Normally Discouraged Zones as identified on the Wind Energy Strategy Map in the draft County Development Plan as published in December 2013. In addition, it has been proposed through the material amendments to include a 500m buffer around these sites to be included in the Normally Discouraged Zone.

It is further proposed through the material amendments

- to include all Natura 2000 sites within the Normally Discouraged Zone (some parts of some Natura 2000 sites had not been included within this zone on publication of the draft CDP); and
- to include an 800m buffer around SPAs designated for the protection of Wetlands and Waterbirds within the Normally Discouraged Zone.

The proposed policy for the Normally Discouraged Zone is as follows:

ED 3-6 Commercial wind energy developments will be discouraged in these area which are considered to be sensitive to adverse impacts associated with this form of development (either individually or in combination with other developments). Only in exceptional circumstances where it is clear that adverse impacts do not arise will proposals be considered.

The Public Consultation phase for the proposed material amendments on the draft Cork County Development Plan closed on 2 October, 2014. Following this the Cork County Development Plans scheduled to be adopted before 8 January, 2015.

Remaining Planning Authorities and Compliance with the Habitats Directive

The focus of the Commission to date has been on the existing plans relating to the hen harrier (i.e. the 9 counties which was the basis of the original concerns of the Commission) which are reported on above. In October 2013 the Department made a commitment to provide information on all counties compliance with the Directive. In this regard, the Department contacted the remaining 19 planning authorities specifically requesting those authorities who have 'existing plans' in place to fully satisfy themselves as to the compliance of their land use plans (both development plans and local area plans) that pre-dated the commencement of the relevant provisions of the Planning and Development (Amendment) Act 2010.

The position established in regard to these 19 planning authorities (Carlow, Cavan, Donegal, Dun Laoghaire Rathdown, Fingal, Kildare, Kilkenny, Leitrim, Longford, Louth, Mayo, Meath, Roscommon, Sligo, South Dublin, Waterford, Westmeath, Wexford and Wicklow) is summarised as follows (including in the table below):

- A total of 12 planning authorities (Cavan, Dun Laoighaire Rathdown, Kilkenny, Leitrim, Louth, Mayo, Meath, Roscommon, Sligo, South Dublin, Waterford and Westmeath) have confirmed that their relevant plans are fully compliant with the Habitats and Birds Directive.
- A total of 8 planning authorities (Carlow, Cork, Donegal, Fingal, Kildare, Longford, Wexford and Wicklow) indicated that they have made town or village plans that are being revised to include statements to the effect that these plans are in full compliance. Screening of all planning applications for AA will be strictly applied in the areas covered by these plans. However, it is very important to note that the plans of these planning authorities are for **urban areas** that do not contain relevant habitats and the revisions will be primarily aimed at demonstrating that any adverse effects on the relevant habitats are not anticipated.

The Department will continue to monitor both existing and new plan objectives to ensure of their compliance with **Article 6 (3) and (4) of the Habitats Directive**

The table below sets out in more detail the position for each planning authority:

COMPLIANCE OF EXISTING LAND USE PLANS WITH THE EU HABITATS DIRECTIVE				
Local Authority		Full Compliance	Compliance Statement Required	Plans to be revised to ensure full compliance
1	Carlow		☐	<p>Borris LAP; Muinebheag / Royal Oak Local Area Plan; Tullow Local Area Plan; Rathvilly Local Area Plan; Tinnahinch Local Area Plan; Leighlinbridge Local Area Plan. All of these plans will commence a review process by mid-2015 and will comply with the Habitats Directive.</p> <p>Carrickduff Local Area Plan 2009 – 2015 will not, however, be reviewed and will be allowed to elapse – covered by the County Plan which complies with the Habitats Directive.</p>
2	Cavan	☐		
3	Clare	☐		
4	Cork (City & County)		☐	<p>County Development Plan 2009-15 is currently under review and the new plan is due to be adopted in January 2015 (see above).</p> <p>Clonakilty, Fermoy, Mallow and Youghal Town DP will be replaced by Local Area Plans as part of review of existing Electoral Area LAPs for Cork County – due to commence in 2015.</p>
5	Donegal		☐	<p>Ballyshannon LAP - Work has commenced in the making of a new plan for Ballyshannon which will comply with Habitats Directive. It is anticipated that the Local Area Plan will be made no earlier than March 2015.</p>
6	Dun Laoghaire Rathdown	☐		
7	Fingal		☐	<p>Dublin Airport LAP – Review of this LAP due to commence end of 2014 and will comply with Habitats Directive.</p>
8	Galway	☐		

9	Kerry	?		
10	Kildare		?	Sallins LAP – Currently under review, due for display end 2014 and will comply with the Habitats Directive.
11	Kilkenny	?		
12	Laois	?		
13	Leitrim	?		
14	Limerick (City & County)	?		
15	Longford		?	The Northern Environs LAP – Review of this Plan due to commence in 2015 and will comply with the Habitats Directive.
16	Louth	?		
17	Mayo	?		
18	Meath	?		
19	Monaghan	?		
20	Offaly	?		
21	Roscommon	?		
22	Sligo	?		
23	South Dublin	?		
24	Tipperary	?		
25	Waterford	?		
26	Westmeath	?		
27	Wexford		?	Wexford Town and Environs Dev. Plan and Enniscorthy Town and Env. Plan. Both of these Plans do not have AA but have been reviewed by Consultants under the terms of the Department’s Circular Letter and found to comply with the Habitats Directive. Review of both Plans due to commence in 2017.
28	Wicklow		?	Newtownmountkennedy LAP and Rathdrum LAP. Both not screened for AA. However, no development will be permitted on foot of these plans that would have a significant adverse impact on any Natura 2000 site or Natura network. Review of both Plans due to commence in 2017.

Plans can be accessed on the websites of the relevant planning authorities.

www.myplan.ie

Contact : Eoin Bennis Tel . 0035318882823

Email: Eoin.Bennis@environ.ie

4d) The Court further found that Ireland had failed to comply with Article 6 (3) and (4) in regard to aquaculture licensing.

This concerns management of fisheries and aquaculture activities in Natura 2000 sites in Ireland. The judgement resulted in restrictions on the aquaculture industry due to the inability of the State to issue licenses until the European Commission was satisfied that a rigorous system was in place to determine license applications, supported by comprehensive ecological data on each site.

A roadmap to compliance was agreed with the Commission in 2009, and the Department of Agriculture, Food and the Marine, as competent national authority for aquaculture and sea-fisheries licensing, working closely with the Marine Institute, BIM, and the Department of Arts, Heritage and the Gaeltacht, put in place a comprehensive new regulatory system to achieve full compliance with this part of the judgment.

A full progress update, dated September 2014, is provided in Appendix 5.

Contact: Aquaculture

Batt.Whelton@agriculture.gov.ie Pat.Corcoran@agriculture.gov.ie

Contacts: Data collection and appropriate assessments

Aengus.Parsons@Marine.ie

Fisheries

roni.hawe@agriculture.gov.ie

Sixth Complaint

6. Failure to transpose Article 10 of the Birds Directive (Obligation on the Minister to encourage Research)

Regulation 57, of the Birds and Natural Habitats Regulations, 2011 - notably paragraphs (c), (d) and (e), assign to the Minister the responsibilities that arise under Article 10 of the Birds Directive.

<http://www.irishstatutebook.ie/2011/en/si/0477.html>

Update of the programme

The Programme will be updated every six months (April and October) to reflect the measures undertaken.

APPENDIX 1

List of Sites classified 2002-2013

** shows sites where the SPA boundaries were extended to match or exceed the IBA boundary. The Colour coding legend is at the end of the Appendix

List of 2002 SPAs classified

Code	Site	County	Date of Classification
004137	DOVEGROVE CALLOWS SPA	OFFALY	27-Feb-02
004142	CREGANNA MARSH SPA	GALWAY	27-Feb-02
004096	MIDDLE SHANNON CALLOWS SPA **	GALWAY/OFFALY/ ROSCOMMON TIPPERARY WESTMEATH	22-Nov-02 C
Total	3		

List of 2004 SPA Sites classified

Code	Site	County	Date of Classification
004052	CARROWMORE LAKE SPA	MAYO	17-Nov-04
004072	STAGS OF BROADHAVEN SPA	MAYO	17-Nov-04
004074	ILLANMASTER SPA**	MAYO	17-Nov-04
004098	OWENDUFF/NEPHIN COMPLEX SPA**	MAYO	17-Nov-04 M GP
Total	4		

List of 2006 SPA Sites classified

Code	Site	County	Date of Classification
004084	INISHGLORA AND INISHKEERAGH SPA**	MAYO	13-Sep-06
004093	TERMONCARRAGH LAKE & ANNAGH MACHAIR SPA	MAYO	13-Sep-06 D C
004177	BILLS ROCKS SPA	MAYO	13-Sep-06
004082	GREER'S ISLAND SPA	DONEGAL	15-Nov-06
004057	LOUGH DERG SPA **	DONEGAL	15-Nov-06
004066	THE BULL & THE COW ROCKS SPA**	CORK	15-Nov-06
004002	SALTEES SPA **	WEXFORD	15-Nov-06
004003	PUFFIN SPA**	KERRY	15-Nov-06
004021	OLD HEAD OF KINSALE SPA**	CORK	15-Nov-06
004194	HORN HEAD TO FANAD HEAD SPA**	DONEGAL	22-Nov-06 CH P
004192	HELVICK HEAD TO BALLYQUINN SPA**	WATERFORD	22-Nov-06 CH P
004005	CLIFFS OF MOHER SPA **	CLARE	22-Nov-06 CH
004136	CLARE ISLAND SPA**	MAYO	22-Nov-06 CH
004150	WEST DONEGAL COAST SPA	DONEGAL	22-Nov-06 CH P
004153	DINGLE PENINSULA SPA**	KERRY	22-Nov-06 CH P
004154	IVERAGH PENINSULA SPA	KERRY	22-Nov-06 CH P
004155	BEARA PENINSULA SPA	CORK	22-Nov-06 CH
004156	SHEEPS HEAD TO TOE HEAD SPA	CORK	22-Nov-06 CH P

004187	SLIGO/LEITRIM UPLANDS SPA	LEITRIM/SLIGO	22-Nov-06 CH P
004189	KERRY HEAD SPA	KERRY	22-Nov-06 CH
004190	GALLEY HEAD TO DUNEEN POINT SPA	CORK	22-Nov-06 CH
004191	SEVEN HEADS SPA	CORK	22-Nov-06 CH
004193	MID-WATERFORD COAST SPA	WATERFORD	22-Nov-06 CH P
Total	23		

APPENDIX 1 (continued)

List of 2007 SPA Sites classified

Code	Site	County	Date of Classification
004007	SKELLIGS SPA**	KERRY	19-Feb-07
004134	LOUGH REA SPA**	GALWAY	19-Feb-07
004170	CRUAGH ISLAND SPA	KERRY	19-Feb-07
004160	SLIEVE BLOOM MOUNTAINS SPA	LAOIS/OFFALY	07-Nov-07 HH
004161	STACK'S TO MULLAGHAREIRK MOUNTAINS, WEST LIMERICK HILLS and MOUNT EAGLE SPA	CORK/KERRY /LIMERICK	07-Nov-07 HH
004162	MULLAGHANISH TO MUSERAMORE MOUNTAINS SPA	CORK	07-Nov-07 HH
004165	SLIEVEFELIM TO SILVERMINES MOUNTAINS SPA	LIMERICK/ TIPPERARY	07-Nov-07 HH
004167	SLIEVE BEAGH SPA	MONAGHAN	07-Nov-07 HH
004168	SLIEVE AUGHTY MOUNTAINS SPA	CLARE/GALWAY	07-Nov-07 HH M
004076	WEXFORD HARBOUR and SLOBS SPA**	WEXFORD	21-Nov-07
004063	POULAPHOUCA RESERVOIR SPA**	WICKLOW	21-Nov-07
004009	LADYS ISLAND SPA**	WEXFORD	21-Nov-07
004020	BALLYTEIGUE BURROW SPA	WEXFORD	21-Nov-07
004186	THE MURROUGH SPA**	WICKLOW	21-Nov-07
004022	BALLYCOTTON BAY SPA **	CORK	05-Dec-07
004081	CLONAKILTY BAY SPA	CORK	05-Dec-07
00	LOUGH FERN**	DONEGAL	19-Dec-07
004008	BLASKETS SPA**	KERRY	19-Dec-07
004151	DONEGAL BAY SPA	DONEGAL	19-Dec-07
004175	DEENISH ISLAND and SCARIFF ISLAND SPA	KERRY	19-Dec-07
Total	20		

List of 2008 SPA Sites classified

Code	Site	County	Date of Classification
004107	COOLE/GARRYLAND**	GALWAY	23-Jan-08
004047	LOUGH OWEL SPA**	WESTMEATH	23-Jan-08
004046	LOUGH IRON SPA**	WESTMEATH	23-Jan-08
004068	INISHMURRAY	SLIGO	23-Jan-08
004095	KILCOLMAN BOG	CORK	30-Jan-08
004158	NANNY ESTUARY and SHORE SPA**	MEATH	30-Jan-08

004182	MID-CLARE COAST SPA	CLARE	30-Jan-08
004004	INISHKEA ISLANDS SPA**	MAYO	13-Feb-08 D
004024	SOUTH DUBLIN BAY AND RIVER TOLKA ESTUARY**	DUBLIN	28-May-08
004006	NORTH BULL ISLAND**	DUBLIN	28-May-08
004113	HOWTH HEAD COAST**	DUBLIN	28-May-08
004030	CORK HARBOUR	CORK	27-Aug-08
Total	12		

APPENDIX 1 (continued)

List of 2009 SPA Sites classified

Code	Site	County	Date of Classification
004100	INISHTRAHULL**	DONEGAL	4- March- 09
004115	INISHDUFF	DONEGAL	4- March- 09
004116	INISHKEEL	DONEGAL	4- March- 09
004120	RATHLIN O' BIRNE ISLAND	DONEGAL	4- March- 09
004121	ROANINISH**	DONEGAL	4- March- 09
004132	ILLANCRONE AND INISHKEERAGH **	DONEGAL	4- March- 09
004111	DUVILLAUN ISLANDS**	MAYO	18- March-09
004212	CROSS LOUGH (KILADOON)**	MAYO	18- March-09 T
004023	BALLYMACODA BAY **	CORK	18- March-09
004124	SOVEREIGN ISLANDS**	CORK	18- March-09
004135	ARDBOLINE AND HORSE ISLAND**	SLIGO	18- March-09
004118	KEERAGH ISLANDS**	WEXFORD	18- March-09
004041	BALLYALLIA LOUGH	CLARE	18- March-09
004114	ILLAUNONEARAUN	CLARE	18- March-09
004061	LOUGH KINALE AND DERRAGH LOUGH	LONGFORD CAVAN WESTMEATH	18- March-09
004045	GLEN LOUGH**	LONGFORD WESTMEATH	18- March-09
004119	LOOP HEAD	CLARE	26-August -09
004056	LOUGH CUTRA	GALWAY	26-August -09
004080	BOYNE ESTUARY	MEATH	26-August -09
004152	INISHMORE	GALWAY	26-August -09
004117	IRELAND'S EYE**	DUBLIN	8-November-09
004172	DALKEY ISLANDS**	DUBLIN	8-November-09
004069	LAMBAY ISLAND	DUBLIN	8-November-09
004122	SKERRIES ISLANDS**	DUBLIN	8-November-09
004015	ROGERSTOWN ESTUARY**	DUBLIN	8-November-09
004016	BALDOYLE BAY **	DUBLIN	8-November-09
004025	MALAHIDE ESTUARY (B/ SWORDS)**	DUBLIN	8-November-09
Total	27		

APPENDIX 1 (continued)

List of 2010 SPA Sites classified

Code	Site	County	Date of Classification
004033	BANNOW BAY**	WEXFORD	17 March 2010
004035	CUMMEEN STRAND	SLIGO	17 March 2010
004044	LOUGH ENNELL	WESTMEATH	17 March 2010
004065	LOUGH SHEELIN**	CAVAN,MEATH WESTMEATH	17 March 2010
004090	SHESKINMORE LOUGH	DONEGAL	17 March 2010
004032	DUNGARVAN HARBOUR **	WATERFORD	26 May 2010
004219	COURTMACSHERRY BAY	CORK	26 May 2010
004027	TRAMORE BACK STRAND	WATERFORD	26 May 2010
004129	BALLYSADARE BAY	SLIGO	26 May 2010
004043	LOUGH DERRAVARAGH**	WESTMEATH	26 May 2010
004092	TACUMSHIN LAKE	WEXFORD	26 May 2010
004228	LOUGH CONN / LOUGH CULLIN	MAYO	5 July 2010
004051	LOUGH CARRA **	MAYO	5 July 2010
004062	LOUGH MASK**	MAYO /GAL	5 July 2010
004145	DURNESH LOUGH	DONEGAL	5 July 2010
004221	ILLAUNNANOON	GALWAY	5 July 2010
004086	RIVER LITTLE BROSNA CALLOWS	OFFALY/ TIPP	5 July 2010
004028	BLACKWATER ESTUARY**	CORK/WATERF	4 August 2010
004050	LOUGH ARROW**	SLIGO/	4 August 2010
004139	LOUGH CROAN TURLOUGH	ROSCOMMON	4 August 2010
004029	CASTLEMAINE HARBOUR**	KERRY	4 August 2010
004084	LOUGH GARA	ROSC/SLIGO	4 August 2010
004143	CAHORE MARSHES	WEXFORD	4 August 2010
004140	FOUR ROADS TURLOUGH	ROSCOMMON	4 August 2010
004034	TRAWBREAQA BAY **	DONEGAL	4 August 2010
004110	LOUGH NILLAN BOG	DONEGAL	4 August 2010 M GP D
004031	INNER GALWAY BAY **	GALWAY/ CLARE	22 September 2010
004089	RAHASANE TURLOUGH**	GALWAY	22 September 2010
004144	HIGH IS, INISHARK, DAVILAUN**	GALWAY	22 September 2010
004220	COROFIN WETLANDS	CLARE	22 September 2010
004036	KILLALA BAY/MOY ESTUARY	MAYO/SLIGO	22 September 2010
004075	LOUGH SWILLY	DONEGAL	22 September 2010
004097	RIVER SUCK CALLOWS	GALWAY/ROSC	22 September 2010
004026	DUNDALK BAY **	LOUTH	22 September 2010
004091	STABANNAN- BRAGANSTOWN	LOUTH	22 September 2010
004019	THE RAVEN**	WEXFORD	22 September 2010
004040	WICKLOW MOUNTAINS	WICKLOW/ DUBLIN	15 December 2010 M P
004094	BLACKWATER CALLOWS	CORK / WATERFORD	15 December 2010
004039	DERRYVEAGH AND GLENDOWAN MOUNTAINS **	DONEGAL	15 December 2010 M RTD GP D P
004049	LOUGH OUGHTER COMPLEX**	CAVAN	15 December 2010
004087	LOUGH FOYLE SPA	DONEGAL	15 December 2010
Total	41		

APPENDIX 1 (continued)

List of 2011 SPA Sites classified

Code	Site	County	Date of Classification
004233	RIVER NORE	LAOIS/ KILKENNY	8-June- 2011 K
004232	RIVER BOYNE AND BLACKWATER	CAVAN, LOUTH, MEATH, WESTMEATH	8-June- 2011 K
004077	RIVER SHANNON AND RIVER FERGUS ESTUARIES SPA **	CLARE/ KERRY/ LIMERICK	8-June- 2011
004181	CONNEMARA BOG COMPLEX **	GALWAY	22-June-2011 M GP
004037	BLACKSOD BAY / BROADHAVEN	MAYO	22-June-2011 D GP
004231	INISHBOFIN, OMEY, TURBOT ISLANDS**	GALWAY	6-July-2011 C
004149	FALCARRAGH TO MEENLARAGH	DONEGAL	6-July-2011 C
004073	TORY ISLAND	DONEGAL	6-July-2011 C
004083	INISHBOFIN, INISHDOOEY, INISHBEG	DONEGAL	6-July-2011 C
004146	MALIN HEAD	DONEGAL	6-July-2011 C
004230	WEST DONEGAL ISLANDS **	DONEGAL	6-July-2011 C
004148	FANAD HEAD	DONEGAL	6-July-2011 C
004227	MULLET PENINSULA	MAYO	6-July-2011 C
004064	LOUGH REE	LONGFORD / WESTMEATH/ ROSCOMMON	27-July-2011
004058	LOUGH DERG (SHANNON)	CLARE/TIPPERARY/ GALWAY	27-July-2011
004234	BALLINTEMPLE AND BALLYGILGAN	SLIGO	27-July-2011
004013	DRUMCLIFF BAY	SLIGO	27-July-2011
004014	ROCKABILL	DUBLIN	17- Aug-2011
004125	MAGHAREE ISLANDS	KERRY	17- Aug-2011
004153	DINGLE PENINSULA EXTENSION ***	KERRY	17- Aug-2011
004188	TRALEE BAY COMPLEX	KERRY	17- Aug-2011
004123	SLYNE HEAD TO ARDMORE POINT ISLANDS	GALWAY	26-Oct-2011
004042	LOUGH CORRIB	GALWAY	26-Oct-2011
004078	CARLINGFORD LOUGH	LOUTH	23-Nov 2011
Total	23		Overall Total 153

*Not to be counted as an additional site – it is an extension of the current Dingle Peninsula

List of 2013 SPA Sites classified

004037	BLACKSOD BAY / BROADHAVEN*	MAYO	3-June-2013 D
004235	DOOGORT MACHAIR	MAYO	27 -July-2013 D
Total	2		Overall Total 154

* Not to be counted as an additional site – it is an extension of the current Blacksod/ Broadhaven SPA

COLOUR CODED KEY - IDENTIFYING 42 SPA SITES FOR THE PROTECTION OF SPECIFIC SPECIES MENTIONED IN THE BIRDS CASE JUDGMENT

D	Dunlin Site	CH	Chough Site
C	Corncrake Site	HH	Hen Harrier Site
M	Merlin Site	GP	Golden Plover Site
K	Kingfisher Site	T	Tern Site
RTD	Red-Throated Diver Site	P	Peregrine Site

APPENDIX 2 STATUTORY INSTRUMENTS

Site Code	Name	Date of Signature	S.I. Number
800004052	CARROWMORE LAKE	10-Nov-05	S.I. 713/2005
800004072	STAGS OF BROADHAVEN**	10-Nov-05	S.I. 716/2005
800004074	ILLANMASTER	10-Nov-05	S.I. 714/2005
800004098	OWENDUFF/NEPHIN COMPLEX M GP **	10-Nov-05	S.I. 715/2005
800004084	INISHGLORA AND INISHKEERAGH **	5-Feb-2007	S.I. 047/2007
800004093	TERMONCARRAGH LAKE & ANNAGH MACHAIR SPA C D	5-Feb-2007	S.I. 046/2007
800004177	BILLS ROCKS SPA	5-Feb-2007	S.I. 048/2007
800004022	BALLYCOTTON BAY**	19-Feb-2010	S.I. 59/2010
800004041	BALLYALLIA LOUGH	19-Feb-2010	S.I.58/2010
800004060	LOUGH FERN**	19-Feb-2010	S.I. 70/2010
800004063	POULAPHOUCA RESERVOIR**	19-Feb-2010	S.I. 73/2010
800004066	THE BULL AND THE COW ROCKS**	19-Feb-2010	S.I. 76/2010
800004134	LOUGH REA **	19-Feb-2010	S.I. 72/2010
800004045	GLEN LOUGH **	19-Feb-2010	S.I. 65/2010
800004114	ILLAUNONEARAUN	19-Feb-2010	S.I.67/2010
800004118	KEERAGH ISLANDS**	19-Feb-2010	S.I.68/2010
800004132	ILLANCRONE AND INISHKEERAGH **	19-Feb-2010	S.I. 66/2010
800004047	LOUGH OWEL **	19-Feb-2010	S.I. 71/2010
800004135	ARDBOLINE ISLAND AND HORSE ISLAND **	19-Feb-2010	S.I. 57/2010
800004170	CRUAGH ISLAND	19-Feb-2010	S.I. 62/2010
800004175	DEENISH ISLAND AND SCARIFF ISLAND	19-Feb-2010	S.I. 63/2010
800004187	SLIGO/LEITRIM UPLANDS CH P	19-Feb-2010	S.I. 75/2010
800004212	CROSS LOUGH (KILLADOON) T **	19-Feb-2010	S.I. 61/2010
800004009	LADY'S ISLAND LAKE**	19-Feb-2010	S.I. 69/2010
800004081	CLONAKILTY BAY	19-Feb-2010	S.I. 60/2010
800004111	DUVILLAUN ISLANDS**	19-Feb-2010	S.I. 64/2010

800004007	SKELLIGS **	19-Feb-2010	S.I. 74/2010
800004003	PUFFIN ISLAND**	12-Mar-2010	S.I. 111/2010
800004021	OLD HEAD OF KINSALE **	12-Mar-2010	S.I.110/2010
800004082	GREERS ISLE	12-Mar-2010	S.I.105/2010

Appendix 2 - continued			
Site Code	Name	Date of Signature	S.I. Number
800004061	LOUGH KINALE AND DERRAGH LOUGH	12-Mar-2010	S.I. 108/2010
800004100	INISHTRAHULL **	12-Mar-2010	S.I. 107/2010
800004115	INISHDUFF	12-Mar-2010	S.I. 106/2010
800004120	RATHLIN O'BIRNE ISLAND	12-Mar-2010	S.I. 112/2010
800004121	ROANINISH **	12-Mar-2010	S.I. 113/ 2010
800004124	SOVEREIGN ISLANDS**	12-Mar-2010	S.I. 114/2010
800004182	MID CLARE COAST	12-Mar-2010	S.I. 109/2010
800004024	SOUTH DUBLIN BAY AND RIVER TOLKA ESTUARY **	11-May-2010	S.I. 211/2010
800004006	NORTH BULL ISLAND **	11-May-2010	S.I. 212 /2010
800004030	CORK HARBOUR	26 May 2010	S.I. 237 / 2010
800004107	COOLE-GARRYLAND**	26 May 2010	S.I. 236 /2010
800004056	LOUGH CUTRA	26 May 2010	S.I. 243 / 2010
800004069	LAMBAY ISLAND	26 May 2010	S.I. 242 /2010
800004117	IRELAND'S EYE**	26 May 2010	S.I. 240 / 2010
800004122	SKERRIES ISLANDS**	26 May 2010	S.I. 245 /2010
800004172	DALKEY ISLANDS**	26 May 2010	S.I. 238 / 2010
800004057	LOUGH DERG (DONEGAL)**	26 May 2010	S.I. 244 / 2010
800004116	INISHKEEL	26 May 2010	S.I. 239 /2010
800004154	IVERAGH PENINSULA CH P	26 May 2010	S.I. 241 / 2010
800004192	HELVICK HEAD TO BALLYQUIN CH P **	4 June 2010	S.I. 277/ 2010
800004002	SALTEE ISLANDS**	4 June 2010	S.I. 274 / 2010
800004005	CLIFFS OF MOHER CH **	4 June 2010	S.I. 269 / 2010
800004046	LOUGH IRON**	4 June 2010	S.I. 270 / 2010
800004136	CLARE ISLAND CH **	4 June 2010	S.I. 273 /2010
800004015	ROGERSTOWN ESTUARY**	4 June 2010	S.I. 271 /2010

800004016	BALDOYLE BAY**	4 June 2010	S.I. 275 /2010
800004008	BLASKET ISLANDS**	4 June 2010	S.I. 272 / 2010
800004190	GALLEY HEAD TO DUNEEN POINT CH	4 June 2010	S.I. 276 / 2010
800004191	SEVEN HEADS CH	4 June 2010	S.I. 268 / 2010
800004150	WEST DONEGAL COAST CH P	30 July 2010	S.I. 389 / 2010
800004090	SHESKINMORE LOUGH	30 July 2010	S.I. 388 /2010
800004156	SHEEP'S HEAD TO TOE HEAD CH P	30 July 2010	S.I. 387/2010
800004095	KILCOLMAN BOG	30 July 2010	S.I. 386 /2010

Appendix 2 - continued			
Site Code	Name	Date of Signature	S.I. Number
800004189	KERRY HEAD CH	30 July 2010	S.I. 385 / 2010
800004137	DOVEGROVE CALLOWS	30 July 2010	S.I. 384 / 2010
800004020	BALLYTEIGUE BURROW	30 July 2010	S.I. 383 / 2010
800004048	LOUGH GARA	16 June 2011	S.I. 288/2011
800004050	LOUGH ARROW **	16 June 2011	S.I. 289/2011
800004065	LOUGH SHEELIN**	16 June 2011	S.I. 290/2011
800004139	LOUGH CROAN TURLOUGH	16 June 2011	S.I. 292/2011
800004143	CAHORE MARSHES	16 June 2011	S.I. 293/2011
800004219	COURTMACSHERRY BAY	16 June 2011	S.I. 296/2011
800004221	ILLAUNNANOON	16 June 2011	S.I. 297/2011
800004145	DURNESH LOUGH	16 June 2011	S.I. 294/2011
800004027	TRAMORE BACK STRAND	16 June 2011	S.I. 286/2011
800004043	LOUGH DERRAVARAGH**	16 June 2011	S.I. 287/2011
800004129	BALLYSADARE BAY	16 June 2011	S.I. 291/2011
800004186	THE MURROUGH**	16 June 2011	S.I. 298/2011
800004025	MALAHIDE ESTUARY **	16 June 2011	S.I. 285/2011
800004151	DONEGAL BAY	16 June 2011	S.I. 295/2011

800004051	LOUGH CARRA SPA**	30 June 2011	S.I.340/2011
800004087	LOUGH FOYLE SPA	30 June 2011	S.I.341/2011
800004035	CUMMEEN STRAND SPA	12 July 2011	S.I.376/2011
800004036	KILLALA BAY / MOY ESTUARY	11 October 2011	S.I.522/2011
800004068	INISHMURRAY	14 October 2011	S.I.534/2011
800004019	THE RAVEN**	14 October 2011	S.I. 533/2011
800004091	STABANNAN-BRAGANSTOWN	26 October 2011	S.I.546/2011
800004193	MID-WATERFORD COAST CH P	28 October 2011	S.I. 558 /2011
800004165	SLIEVE FEILIM TO SILVERMINES MTS HH	15- Nov-2011	S.I. 587/2011
800004004	INISHKEA ISLANDS SPA D **	15- Nov-2011	S.I.588/2011

Appendix 2 - continued			
Site Code	Name	Date of Signature	S.I. Number
800004140	FOUR ROADS TURLOUGH	15- Nov-2011	S.I. 589/2011
800004228	LOUGH CONN AND LOUGH CULLIN	15- Nov-2011	S.I. 590/2011
800004119	LOOP HEAD SPA	15- Nov-2011	S.I. 591/2011
800004033	BANNOW BAY**	15- Nov-2011	S.I. 592/2011
800004167	SLIEVE BEAGH HH	29- Nov-2011	S.I. 617/2011
800004044	LOUGH ENNELL	29- Nov-2011	S.I.618/2011
800004080	BOYNE ESTUARY	5-Dec-2011	S.I. 626/2011
800004162	MULLAGANISH TO MUSERAMORE MTS HH	5- Dec -2011	S.I. 627/2011
800004110	LOUGH NILLAN BOG SPA M D GP	7- Dec-2011	S.I. 633/2011
800004086	RIVER LITTLE BROSNA CALLOWS (100)	15- Dec-2011	S.I. 652/2011
800004013	DRUMCLIFF BAY	9-Feb-2012	S.I. 40/2012
800004096	MIDDLE SHANNON CALLOWS C **	9-Feb-2012	S.I. 41/2012
800004168	SLIEVE AUGHTY MTS HH M	21-Mar-2012	S.I.83/2012
80004062	LOUGH MASK **	21-Mar-2012	S.I.84/2012
80004014	ROCKABILL	21-Mar-2012	S.I. 94/2012
800004220	COROFIN WETLANDS	28-Mar-2012	S.I. 117 /2012
800004158	RIVER NANNY ESTUARY AND SHORE **	26- Apr-2012	S.I.140/2012
800004125	MAGHAREE ISLANDS	26-Apr-2012	S.I.139/2012
800004076	WEXFORD HARBOUR & SLOBS**	16-May-2012	S.I. 194/2012
800004094	BLACKWATER CALLOWS	16-May-2012	S.I. 191/2012
800004144	HIGH ISLAND, INISHARK AND DAVILAUN**	16-May-2012	S.I.192/2012
800004233	RIVER NORE K	16-May-2012	S.I.193/2012
800004160	SLIEVE BLOOM MTS HH	29- May-2012	S.I.184/2012
800004092	TACUMSHIN LAKE SPA	29- May-2012	S.I.178/2012
800004159	SLYNE HEAD TO ARDMORE POINT ISLANDS SPA	29- May-2012	S.I. 177/2012
800004113	HOWTH HEAD COAST **	29- May-2012	S.I. 185/2012
800004029	CASTLEMAINE HARBOUR**	3-Jul-2012	S.I. 244/2012
800004034	TRAWBREAGA BAY**	4-Jul-2012	S.I. 261/2012

800004026	DUNDALK BAY **	3-Aug-2012	S.I. 310/2012
800004089	RAHASANE TURLOUGH**	4-Aug-2012	S.I. 311/2012
800004097	RIVER SUCK CALLOWS	2- Oct-2012	S.I. 397/2012
800004075	LOUGH SWILLY	22- Oct-2012	S.I. 592/2012

Site Code	Appendix 2 - continued Name	Date of Signature	S.I. Number
800004042	LOUGH CORRIB	22-Oct-2012	S.I. 455/2012
800004064	LOUGH REE	13-Nov-2012	S.I. 456/2012
800004028	BLACKWATER ESTUARY **	13-Nov-2012	S.I. 590/2012
800004078	CARLINGFORD LOUGH	22-Nov-2012	S.I. 464/2012
800004232	RIVER BOYNE & RIVER BLACKWATER K	21-Nov-2012	S.I. 462/2012
800004234	BALLINTEMPLE & BALLYGILGAN	21-Nov-2012	S.I. 463/2012
800004153	DINGLE PENINSULA CH P **	23-Nov-2012	S.I. 480/2012
800004161	STACK'S TO MULLAGHAREIRK MOUNTAINS, WEST LIMERICK HILLS AND MOUNT EAGLE HH	23-Nov-2012	S.I. 591/2012
800004049	LOUGH OUGHTER COMPLEX **	20-Dec-2012	S.I. 585/2012
800004040	WICKLOW MOUNTAINS M P	20-Dec-2012	S.I 586/ 2012
800004155	BEARA PENINSULA CH	20-Dec-2012	S.I 587/ 2012
800004227	MULLET PENINSULA C	25-Feb-13	S.I. 83/ 2013
800004146	MALIN HEAD C	25-Feb-13	S.I. 84 /2013
800004194	HORN HEAD TO FANAD HEAD CH P **	23-Jul-13	S.I. 281 /2013
800004023	BALLYMACODA BAY	28-Aug13	S.I. 338/13
800004148	FANAD HEAD C	19-Nov-13	S.I.439/13
800004073	TORY ISLAND C	17-Dec-2013	S.I.585/13
	Signed S.I.s 139		1 May 2015

SPA Sites Pending Signature

Site Code	Name	Date of Signature	S.I. Number
800004032	DUNGARVAN HARBOUR**	<i>drafting</i>	
800004037	BLACKSOD BAY/BROADHAVEN	<i>drafting</i>	
800004058	LOUGH DERG	<i>drafting</i>	
800004142	CREGGANNA MARSH	<i>drafting</i>	

800004188	TRALEE BAY COMPLEX	drafting	
800004235	DOOGORT MACHAIR D	drafting	

COLOUR CODED KEY - IDENTIFYING 42 SPA SITES FOR THE PROTECTION OF SPECIFIC SPECIES MENTIONED IN THE BIRDS CASE JUDGMENT

D	Dunlin Site	CH	Chough Site
C	Corncrake Site	HH	Hen Harrier Site
M	Merlin Site	GP	Golden Plover Site
K	Kingfisher Site	T	Tern Site
RTD	Red-Throated Diver Site	P	Peregrine Site

Appendix 2 - continued
SPA Sites under Appeal

Site Code	Name
800004039	DERRYVEAGH AND GLENDOWAN MOUNTAINS**
800004031	INNER GALWAY BAY**
800004231	INISHBOFIN, OMEY ISLAND AND TURBOT ISLAND **
800004152	INISHMORE
800004230	WEST DONEGAL ISLANDS**
800004083	INISHBOFIN, INISHDOOEY AND INISHBEG
800004149	FALCARRAGH TO MEENLARAGH
800004181	CONNEMARA BOG COMPLEX **
800004077	RIVER SHANNON AND RIVER FERGUS ESTUARIES**

APPENDIX 3

RINGABELLA ESTUARY, CO CORK
and its potential inclusion into the SPA Network



August 2014

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1.0 BACKGROUND

In response to the judgment of the Court of Justice of the European Communities (Case C-418/04) Ireland has agreed to identify and include a suitable area of coastal wetland into Ireland's Special Protection Area (SPA) Network as compensation for an area of intertidal habitat (circa of 2.2ha) of the inner Tolka Estuary, Co Dublin. This area ought to have been included in the South Dublin Bay and River Tolka Estuary SPA but was subject to in-filling as part of the Dublin Port Tunnel works.

The broad criteria that was agreed to identify a suitable compensatory site were:

1. it must contain at least 2.2 ha of suitable habitat (i.e. intertidal mudflat);
2. it should be able to support a similar waterbird assemblage as the area that was in-filled;
3. the site boundaries are to be defined on an ecological basis;
4. for the purposes of on-going appropriate protection and management the area in question should be incorporated into an existing SPA designated for wintering waterbirds; and
5. ideally the compensatory area is to be located as close as practicable to the area where the habitat was lost.

After an investigation of Dublin Bay and the series of wetland sites immediately to the north and south no suitable areas were identified. This was due to the fact that all suitable habitats in these areas were already included in the SPA network. After further investigation, Ringabella Estuary in Co Cork was identified as a strong candidate and this document outlines its suitability and the consequences should it be successfully designated.

2.0 RINGABELLA ESTUARY CO CORK

2.1 Ecological description of site

Ringabella Estuary (Grid reference W 771 569) is a narrow north-east facing estuary, 3km south of Roches Point at the mouth of Cork Harbour.

The estuary receives the waters of the Minane River which flows through the village of Minane Bridge to the east. The inner estuary is modified with a tidal barrage and sea wall built for flood defence in the mid 1900's; the land upstream of the barrage is polderland comprising wet grassland, wet woodland (e.g. Willow) and scrub. Below the barrage the estuary comprises mudflats but the sediment become progressively sandier along the estuarine gradient towards the mouth. A sand spit (bar) extends across half of the width of the estuary in the outer reaches adding to the sheltered nature of the site. Saltmarsh is present in several places including on the spit, but is most dominant in the inner reaches where *Spartina* sp occurs. Exposed bedrock (reef) habitat supporting Egg Wrack (*Ascophyllum nodosum*) occurs along the southern outer shore.



Inner estuary mudflats

The outer southern shoreline is bounded by tree-lined cliffs while the inner/mid estuary is largely bordered by sea walls and treelines and backed by agricultural grassland. The inner estuary is particularly well sheltered and secluded with access only possible through private agricultural land.

A small beach at Fountainstown in the outer estuary allows access to the site by recreational users; walking and dog exercising being popular. However the largely inaccessible and uninhabited nature of the inner and mid estuary leads to this site being generally secluded and disturbance-free.

2.2 Waterbirds of Ringabella Estuary

Ringabella Estuary (Ringabella Creek) has been counted as part of the Irish Wetland Bird Survey (I-WeBS) since the season 1997/98. A total of 44 waterbird species have been recorded at the site including 15 waterfowl (and allies), 19 waders, seven gulls and three others. During the 15-year count period (1997/98 – 2011/12) the site has regularly supported numbers of Black-tailed Godwit that have exceeded the all-Ireland threshold. The wader species that have occurred in greatest numbers (peak annual maxima in brackets) are Lapwing (317), Dunlin (253), Black-tailed Godwit (430), Curlew (269), and Redshank (125).

Ringabella Estuary was counted as part of the 2010/11 Waterbird Survey programme of Cork Harbour. The estuary was divided into two count subsites; the inner subsite covering the area from the inner estuary sea wall east as far as the sand spit; and the outer subsite covering the outer estuary from the sand spit to the proposed seaward extent of the site. The total count area was 122 ha.

A total of 22 waterbird species were recorded (Table 1) including nine wader species. Numbers of Black-tailed Godwit that exceeded the all-Ireland threshold were recorded in the inner estuary subsite during two low tide surveys (Table 1). Agricultural fields to the north of the estuary (counted separately to the estuary) were notable for regularly holding flocks of foraging Black-tailed Godwits and Lapwings; peak numbers recorded were 86 and 179 individuals respectively.

Table 1. Ringabella Estuary – data from the 2010/11 Waterbird Survey Programme of Cork Harbour (grey shading represents numbers of all-Ireland importance*)

Subsite	Species	Low Tide Count #1	Low Tide Count #2	Low Tide Count #3	Low Tide Count #4	High Tide Count
Ringabella Inner Creek	Black-headed Gull	20	75	6	130	17
Ringabella Inner Creek	Black-tailed Godwit	157	359	21	126	25
Ringabella Inner Creek	Cormorant	3	1	6		2
Ringabella Inner Creek	Common Gull	12	31	11	21	4
Ringabella Inner Creek	Curlew	19	61	5	78	11
Ringabella Inner Creek	Dunlin	33	42	18		
Ringabella Inner Creek	Little Egret	1	1	2		
Ringabella Inner Creek	Great Black-backed Gull	16	5	4	13	
Ringabella Inner Creek	Greenshank	6	7	5	3	3
Ringabella Inner Creek	Grey Heron	3	3	5		1
Ringabella Inner Creek	Herring Gull	1	1	1	2	
Ringabella Inner Creek	Lapwing		116	7		307
Ringabella Inner Creek	Lesser Black-backed Gull	125	67	4	17	
Ringabella Inner Creek	Oystercatcher	2	4	6	7	6
Ringabella Inner Creek	Redshank	83	90	77	31	5
Ringabella Inner Creek	Ringed Plover			2	6	
Ringabella Inner Creek	Shelduck			7	68	27
Ringabella Inner Creek	Teal	6	149	130	59	2
Ringabella Inner Creek	Sandwich Tern	1				
Ringabella Inner Creek	Turnstone				2	1
Ringabella Inner Creek	Wigeon		9	41	61	29
Ringabella Outer creek	Black-headed Gull	14	10	19		4
Ringabella Outer creek	Cormorant		1			
Ringabella Outer creek	Common Gull	25	17	5	15	1
Ringabella Outer creek	Curlew	2	2		1	7
Ringabella Outer creek	Little Egret	1				
Ringabella Outer creek	Great Black-backed Gull	1			2	

Ringabella Outer creek	Greenshank	3	1	2	1	1
Ringabella Outer creek	Grey Heron	3				
Ringabella Outer creek	Herring Gull	10	1	2		
Ringabella Outer creek	Lesser Black-backed Gull		3			
Ringabella Outer creek	Mallard					20
Ringabella Outer creek	Oystercatcher	20	12	13	11	1
Ringabella Outer creek	Redshank	1	3	3	1	2
Ringabella Outer creek	Sandwich Tern	2				

* numbers of all-Ireland importance follow thresholds in Crowe & Holt (2013).

3.0 TOLKA ESTUARY, SOUTH DUBLIN BAY

3.1 Ecological description of the site

The Tolka Estuary is situated to the north of the River Liffey in Dublin Bay and is part of the South Dublin Bay and River Tolka Estuary SPA (Site Code 4024).

The estuary is relatively shallow with extensive mud/sand flats and extends over an area of 3.58km². The vast majority of riverbank, shoreline and channel in the estuary has been modified and manipulated over time to allow for urban development (e.g. channelisation of the river, building of retaining walls, Dublin Port Company). Sediments vary from soft muds with a high organic content in the inner estuary to exposed, well-aerated sands off the Bull Wall (NPWS, 2012). The benthic community was classified (by data extrapolation) as 'fine sand to sandy mud with *Pygospio elegans* and *Crangon crangon*' by NPWS (2013), a community that occurs in the 'muddier' sections of Dublin Bay, including the mudflats on the landward side of Bull Island.

3.2 Waterbird species associated with the Tolka Estuary

The Tolka Estuary was counted as part of the 2011/12 Waterbird Survey Programme of Dublin Bay. The estuary as a whole encompasses intertidal and subtidal estuarine habitats extending from the inner estuary eastwards to the Bull Wall; a total count area of 405 ha. The estuary was subdivided into five subsites, of which the inner subsite (OUL43) extends into the inner estuary as far as a bridge. The area upstream of the bridge, that once contained the 2.2ha of intertidal mudflat which is now in-filled, was not counted. Summary data for the Tolka Estuary are provided in Table 2. A total of 27 waterbird species were counted across the estuary as a whole.

The Tolka Estuary count area described above is comparable with an area surveyed in the 2012/13 season by Nairn (2013) for Dublin Port Company.

Whole estuary low tide counts during the 2011/12 season (NPWS) yielded total counts ranging from 1,994 to 5,659 waterbirds, while Nairn (2013) recorded whole site counts ranging from 2,601 to 7,929 waterbirds. An additional count in March 2013 recorded a total of 15,563 waterbirds which was dominated by 8,573 Black-headed Gulls (Nairn, 2013). Table 2 shows summary data for the Tolka Estuary from the 2011/12 season (NPWS) and peak counts recorded by Nairn (2013). Five species occur regularly in numbers exceeding the threshold of all-Ireland importance.

Table 2. Tolka Estuary – low tide data from the 2011/12 Waterbird Survey Programme of Dublin Bay (peak low tide count in bold; light grey shading represents numbers of all-Ireland importance) plus peak counts from Nairn, 2013.

Species	Low Tide Count #1	Low Tide Count #2	Low Tide Count #3	Low Tide Count #4	Peak 2012/13 (Nairn, 2013)
Mute Swan	1	2			2
Light-bellied Brent Goose		349	80	230	270
Shelduck			9	15	20
Wigeon			11	36	26
Teal			2		0
Goldeneye				3	6
Red-breasted Merganser	13	34	17	43	21
Great Northern Diver		1			0
Little Grebe			3	1	0
Great Crested Grebe	5	28	6	2	16
Cormorant	16	12	4	10	7
Grey Heron	15	17	7	7	9
Oystercatcher	305	243	245	229	286
Grey Plover	38	7	10	143	51
Knot		14	1750	1135	3680
Sanderling				3	29
Dunlin	1	82	817	773	2299
Black-tailed Godwit	16	38	38	239	159
Bar-tailed Godwit	48	156	105	759	1664
Curlew	225	169	129	250	461
Redshank	203	237	94	207	559
Turnstone	38	53	39	45	54
Black-headed Gull	700	378	444	1213	8573
Common Gull	4	24	9	109	81
Lesser Black-backed Gull		1			28
Herring Gull	363	200	211	198	530
Great Black-backed Gull	3	8	12	9	9
TOTAL	1994	2053	4042	5659	

3.3 Waterbird species associated with the inner Tolka Estuary

While the Tolka Estuary supports a large number of waterbirds, not all of these birds will distribute across the whole area.

The inner Tolka Estuary is likely to follow the general patterns of any estuary receiving a main river channel, in that the inner sections will be characterised by 'muddier' sediment and the marine infauna are likely to be restricted to those species capable of tolerating the widely fluctuating salinity levels. Marine biotopes⁴/communities are likely to include *Hediste diversicolor* and oligochaetes in littoral mud (LS.LMu.UEst.Hed.ol) and Polychaete/oligochaete dominated upper estuarine mud shores (LS.LMu.UEst) which are species-poor biotopes found typically in low salinity conditions at the head of estuaries. Waterbird species that occur in association with inner estuarine benthic communities tend to include wading birds e.g. Black-tailed Godwit, Redshank, Curlew and Dunlin, although this latter species has a site-specific distribution and does not always follow this pattern. Some waterfowl species including Wigeon, Teal and Mallard can often be attracted to inner estuary freshwater flows (Ravenscroft & Beardall, 2003).

Data from the 2011/12 Waterbird Survey Programme of Dublin Bay for the inner Tolka Estuary (subsite 0UL43) show Black-tailed Godwit, Redshank and Curlew to be among the most numerous wading birds within the inner estuary, along with Bar-tailed Godwit (Table 3), although the latter species does not tend to be recorded in the extreme inner reaches. Dunlin have occurred in good numbers within subsite 0UL43 on occasion but Nairn (2013) suggests they prefer the mid to outer estuary. Oystercatchers are widely distributed across the whole estuary but between 1% and 16% of the total numbers can occur within the inner estuary subsite.⁵ Turnstones are likely to occur on a regular basis. Good numbers of Light-bellied Brent Goose are also recorded in the inner estuary (peak count 230, 2011/12). Waterfowl species are not recorded very often and in low numbers only within the wider Tolka Estuary. Gull species, and particularly Black-headed Gulls occur in good numbers in the inner estuary.

From these data it can be conjectured that the aforementioned waterbird community, namely Black-tailed Godwit, Redshank, Curlew, Oystercatcher and Turnstone as well as various gull species may well have utilised the mudflat area that was subject to the infilling. Light-bellied Brent Goose may have used the area as part of a much wider intertidal and terrestrial distribution, if suitable resources e.g. macroalgae were present.

⁴ A biotope is defined as the physical habitat together with its characteristic community of plants and/or animals. Marine habitats are assessed and mapped using the Marine Biotope Classification (Connor *et al.*, 2004).

⁵ Calculated based on numbers recorded in subsite 0UL43 compared to numbers across Tolka Estuary as a whole using data from the 2011/12 Waterbird Survey Programme.

Table 3. Tolka Estuary – inner estuary subsite OUL43 - low tide data from the 2011/12 Waterbird Survey Programme of Dublin Bay

Species	Low Tide Count #1	Low Tide Count #2	Low Tide Count #3	Low Tide Count #4
Mute Swan	1	1		
Light-bellied Brent Goose		211	60	230
Red-breasted Merganser		1	2	5
Great Crested Grebe		9		
Cormorant	1	4	3	
Grey Heron	10	8	2	3
Oystercatcher	37	21	26	25
Grey Plover				3
Dunlin	1	82	7	
Black-tailed Godwit	10	28		174
Bar-tailed Godwit	1	30	52	142
Curlew	97	37	45	43
Redshank	112	161	50	78
Turnstone	3	3	4	11
Black-headed Gull	631	323	285	466
Common Gull		2	1	6
Lesser Black-backed Gull		1		
Herring Gull	186	71	88	67
Greater Black-backed Gull		1	8	9

4.0 COMPENSATORY HABITAT – FULFILLMENT OF REQUIREMENTS

Does the habitat and species composition of Ringabella Estuary adequately compensate for the loss of 2.2ha in Tolka Estuary?

As concluded above, the waterbirds species that utilise the inner Tolka Estuary and potentially utilised the 2.2ha area subject to infilling are Black-tailed Godwit, Redshank, Curlew, Oystercatcher, Turnstone, gull species (particularly Black-headed Gulls) with some potential although likely irregular use by Light-bellied Brent Goose and Bar-tailed Godwit.

Therefore compensatory habitat should aim to fulfil habitat requirements (foraging and roosting) for Black-tailed Godwit, Redshank, Curlew, Oystercatcher, Turnstone and gull species, particularly Black-headed Gulls.

The habitat requirements i.e. mudflats and benthic communities associated with mudflats, are fulfilled at Ringabella Estuary. As described in Section 2.1, wader species that have occurred in greatest numbers at Ringabella Estuary are Lapwing, Dunlin, Black-tailed Godwit, Curlew, and Redshank, with numbers of Black-tailed Godwit regularly exceeding the all-Ireland threshold. Oystercatchers occur in relatively low numbers (peak number of 64 (1997/98 – 2010/11, I-WeBS); low tide peak count of 22 (2010/11, NPWS)), but these numbers are comparable with those that utilise the inner Tolka Estuary.



wide expanse of mudflats

Further justification for inclusion

Ringabella Estuary comprises 122 ha of mud and sandflats in a secluded valley to the south of Cork Harbour. It supports a diversity of wintering waterbirds including numbers of Black-tailed Godwit that exceed the threshold of all-Ireland importance. Numbers of Redshank recorded during the 2010/11 NPWS

Waterbird Survey Programme equate to a peak density of 0.8 Redshank ha⁻¹, which is a relatively high density (e.g. the whole site average intertidal foraging density of Redshank at Dublin Bay which occurs in internationally important numbers, is 0.5 Redshank ha⁻¹). The waterbird community recorded at Ringabella Estuary is considered typical for a river-valley estuary that exhibits a gradient of fine muds to coarser sediments at the estuary mouth. The estuary is currently counted as part of I-WeBS and is accessible and relatively easy to monitor during both high and low tide periods.

Overall, in terms of habitat and waterbird species use, Ringabella Estuary appears to fulfil the necessary criteria for inclusion in the SPA network as a compensatory measure for the loss of 2.2 ha in the Tolka Estuary.

5.0 LINK WITH CORK HARBOUR SPA

Ringabella Estuary can be considered to be ecologically connected to Cork Harbour and it is thought that birds that use this estuary are likely to distribute across the wider sections of the Cork Harbour complex. This is confirmed by the sightings of colour-ringed Black-tailed Godwits at Ringabella Estuary that have also been observed at Lough Beg in Cork Harbour.

Should Ringabella Estuary be progressed to the designation stage it would be appropriate that the protective regime that is framed by Cork Harbour SPA is extended to this new subsite.

Cork Harbour SPA is currently listed for the following species:

- Little Grebe
- Great Crested Grebe
- Cormorant
- Grey Heron
- Shelduck
- Wigeon
- Teal
- Pintail
- Shoveler
- Red-breasted Merganser
- Oystercatcher
- Golden Plover
- Grey Plover
- Lapwing
- Dunlin
- Black-tailed Godwit
- Bar-tailed Godwit
- Curlew
- Redshank
- Black-headed Gull
- Common Gull
- Lesser Black-backed Gull
- Common Tern

The protective regime associated with these aforementioned species (or any future change to the listed species of Cork Harbour SPA) should then be extended to the Ringabella Estuary subsite.

Cork Harbour SPA is also listed for its wetland habitat in its own right as a resource for the regularly-occurring migratory waterbirds that utilise it. It would therefore follow that the extent of the wetland habitat contained within the Ringabella Estuary subsite be incorporated into the overall listed wetland extent of Cork Harbour SPA.

As this area is regularly counted as part of the larger Cork Harbour complex through I-WeBS there should be no significant increase in the effort required to monitor the constituent birds if it was designated as an SPA.

6.0 REFERENCES

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ANNEX 1 – BOUNDARY MAPPING

Ringabella Bay Site Boundary

B11 (N1) – other boundary, edge of pavement that runs along the upper shore;

B12 (N2) – unmarked boundary, unmarked gap between pavement and wall (slip);

B12 (N3) - unmarked boundary, unmarked gap between pavement and wall;

B4 – wall;

B4/B11 (N4) – wall/rock armour;

B11 (N5) – high water mark. Shoreline is 'messy' although walls and linear features in places, these are not consistent so no continual boundary is present; HWM considered the best;

B12 (N6) – unmarked boundary, unmarked gap due to a slip;

B1 – hedge;

B2 – treeline;

B11/B2 – take as high water mark or line of vegetation;

B12 (N7) - unmarked boundary across road;

B11 (N8) – HWM, cliff-lined shoreline;

B2/B4 (N9) – sea wall and treeline, where there are gaps in the seawall, use treeline;

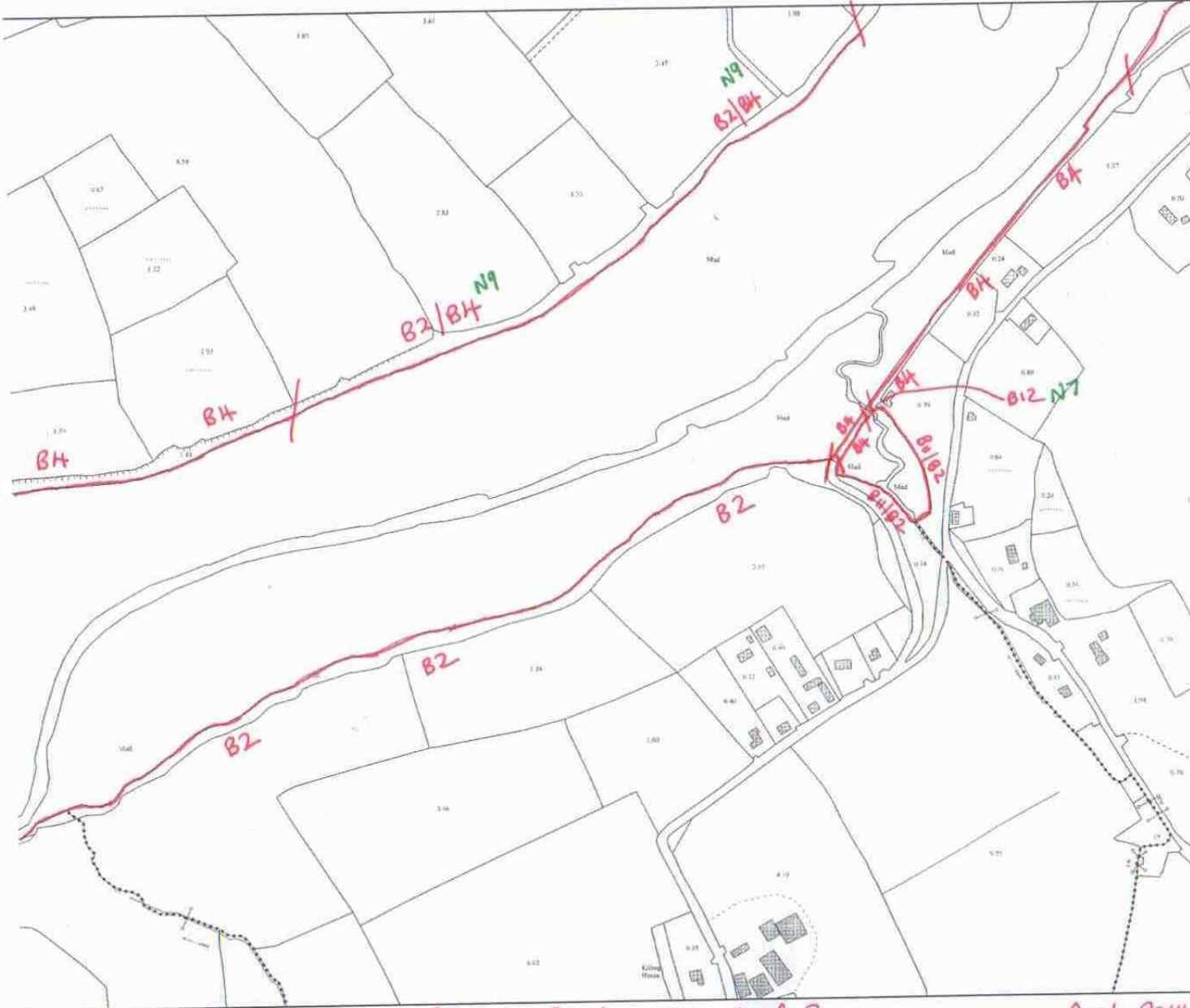
B11 (N10) – unmarked boundary take HWM;

B11 (N11) – embankment/barrage. Likely has a stone interior but is a grassy embankment for much of its length.



Ringabella Bay Boundary Map 1 of 3

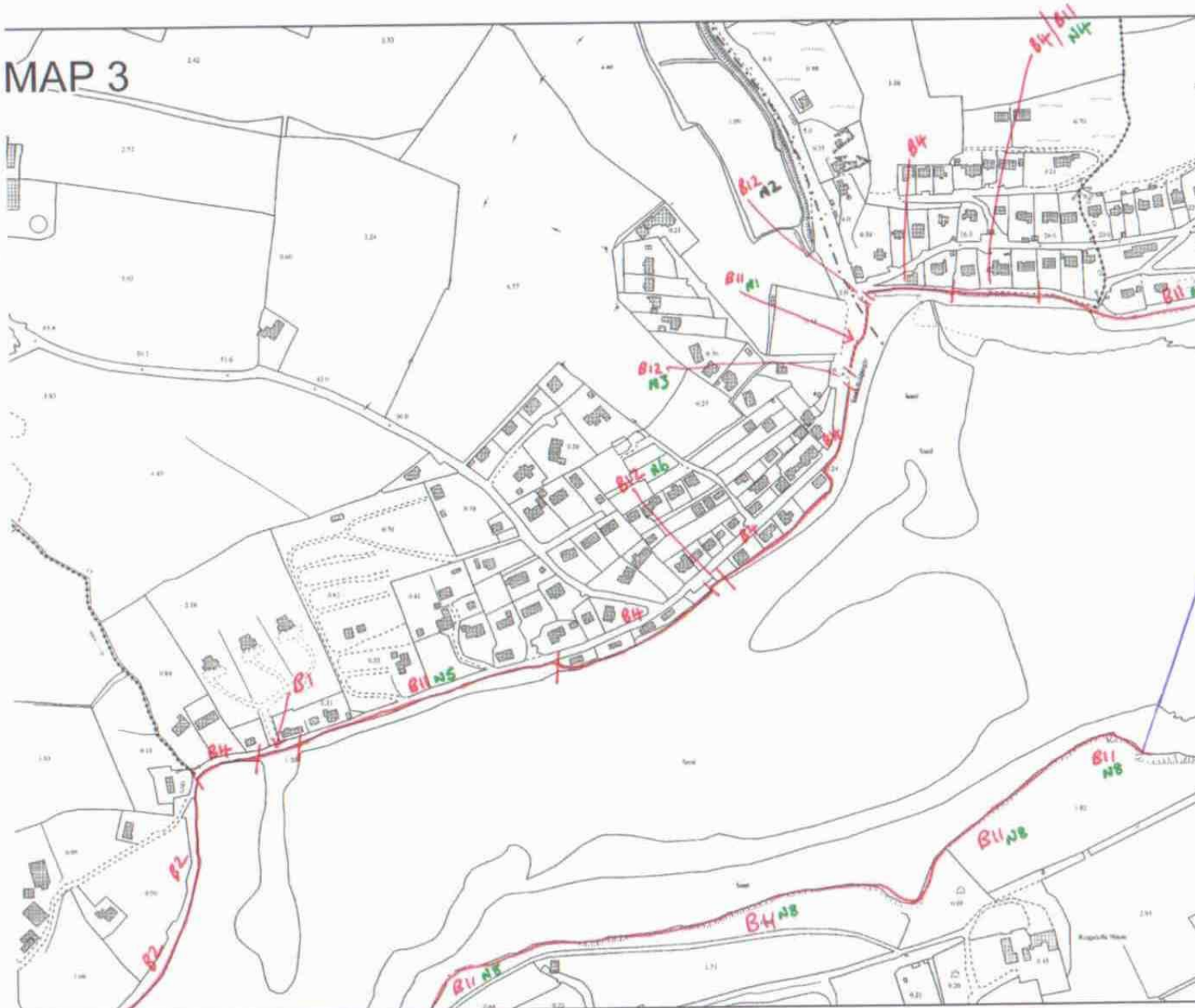
April 2011



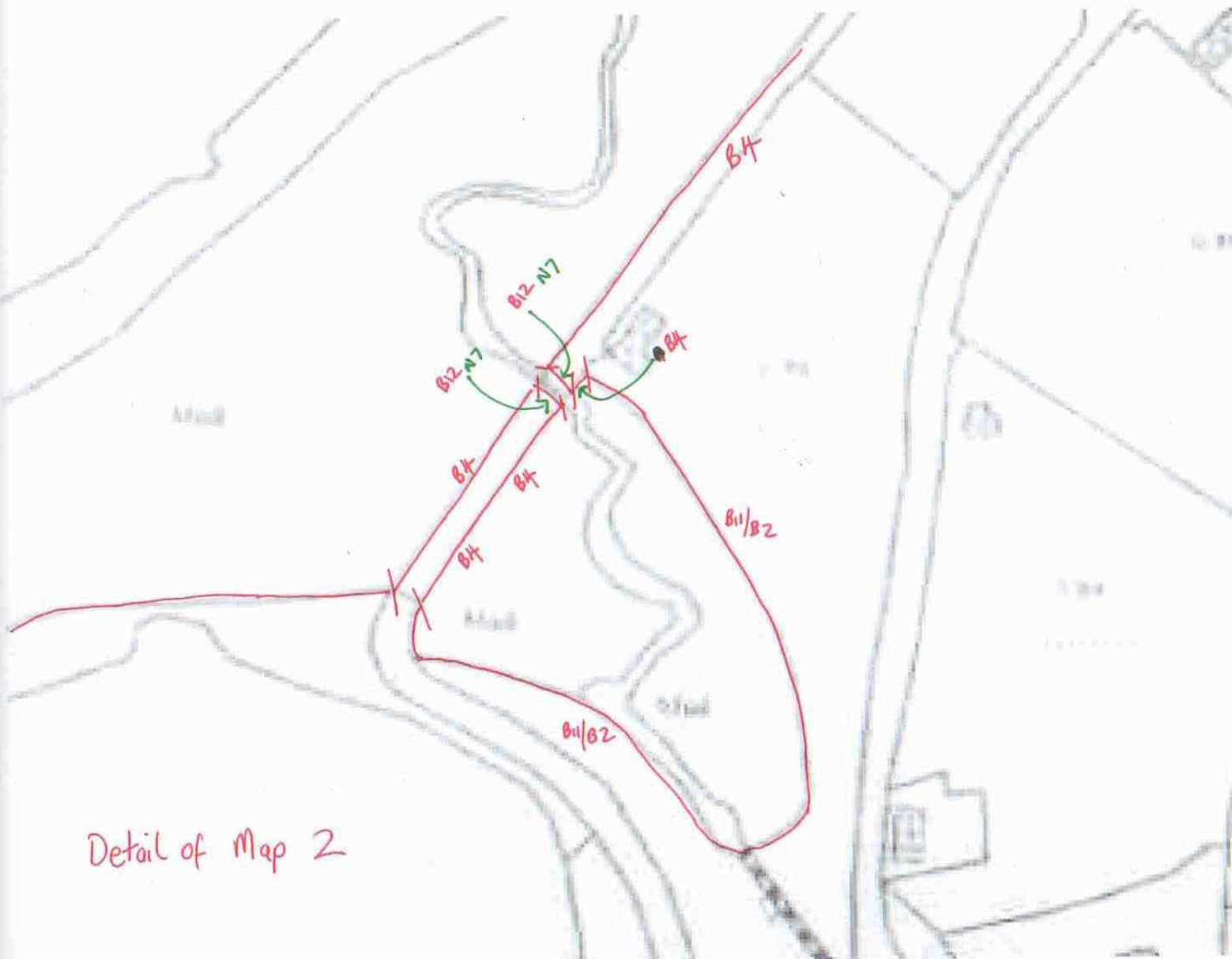
Ringabella Boundary Map 2 of 3

April 2014

MAP 3



Ringabella Bay Boundary Map 3 of 3



Detail of Map 2

APPENDIX 4 ACTION GRID

CION Infringement Reference	Article of the Directive	Specific Infringement Issue	Action being taken (to address each specific issue)	Timescale for completion of each issue
C 418/04	1st Complaint Article 4 (1) and (2) Birds Directive	Confirmation of Classification through Statutory Instrument	Of Ireland's 154 SPA sites, 139 are currently protected by S.I., 2 are being prepared for the Minister's signature. The remaining 13 SPAs are within the appeals process.	Owing to certain difficulties encountered in the appeals process, it is now foreseen that completion of all 154 SPA sites will be achieved by end 2016.
		The inclusion of an additional SPA site for the breeding Dunlin (<i>Calidris alpina schinzii</i>)	An extension to Blacksod Bay SPA was classified in June, 2013 and a further new site for this species - Dugort Machair SPA, was also classified in July 2013.	Statutory Instruments to be signed by the end of 2015.
		Enhanced measures for the protection of the Corncrake	Corncrake strategy published. New Corncrake measure in GLAS; other schemes continue	Ongoing
		Compensatory Habitat for Dublin Bay	Ringabella Estuary in County Cork has been identified as the most suitable site to compensate for the Dublin Bay infill. The site has been advertised and notified in March 2015 and will be included in the Cork Harbour SPA (4030) when the appeal process has concluded.	Designation to be complete by end 2015.

CION Infringement Reference	Article of the Directive	Specific Infringement Issue	Action being taken (to address each specific issue)	Timescale for completion of each issue
	4th Complaint Article 4 (4) of the Birds Directive	Failure to transpose and apply wider countryside requirements as set out in Article 4 (4) of the Birds Directive	Details of ongoing actions in main text.	Ongoing

CION Infringement Reference	Article of the Directive	Specific Infringement Issue	Action being taken (to address each specific issue)	Timescale for completion of each issue
	5th	Failure to	See Appendix 5 for details	Detail provided in

	<p>Complaint Article 6(2)-(4) of the Habitats Directive</p>	<p>ensure appropriate assessment of aquaculture projects</p>	<ul style="list-style-type: none"> • Detailed data collection in 91 Bays/Estuaries • Detailed analysis of raw data collected • Setting Conservation Objectives to be met in each site • Carrying out Appropriate Assessments of each licence application/fishery plan against the detailed Conservation Objectives set • Determination of Licences/Fisheries on the basis of the AA & other relevant factors 	<p>Appendix 5</p>
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Appendix 5: Management of Fisheries and Aquaculture Activities in Natura 2000 sites in Ireland

Progress update, May 2015

Background

Since 2009 Ireland has, with the agreement of the Commission, been working on bringing its aquaculture and fisheries in Natura 2000 sites into full compliance with the Habitats and Birds Directives in order to comply with the decision of the European Court of Justice in case C418/04.

Ireland's work programme for this objective is defined in the 2009 document - *A Roadmap towards the Management of Fisheries and Aquaculture Activities in Natura 2000 sites in Ireland*. The document identified 3 key elements i.e. Technical, Policy & Regulation and Interim Arrangements as part of the Roadmap to Compliance.

This document provides an update on the progress made to date on each of these elements. The document headings reflect the sequence of steps involved in the implementation of Article 6 at each designated site from the initial step of collection of baseline ecological data for setting of conservation objectives, the profiling of industry activity, development of fishery plans, research to support assessment of significant effects, appropriate assessment (art 6.3) and risk assessment (art 6.2), the consultation process, legislation to implement findings of assessments and enhanced ecological and regulatory monitoring where required.

The Roadmap

The main deliverable identified in the roadmap was the production of Appropriate Assessments for Article 6.3 of the Habitats Directive of Fisheries and Aquaculture activities in Natura 2000 sites in Ireland.

This document follows the following structure:

1. Programme of collection of benthic data on Natura 2000 sites
Programme of collection of data in SPAs on habitat use by waterbirds
2. Setting of Conservation objectives
3. Research to support AA, risk assessment and recommendations
4. Aquaculture
 - Framework legislation
 - Procedures operated in relation to aquaculture licensing
 - Profiling of industry activity
 - Appropriate Assessments
 - Consultation process
 - Policy and regulation following assessment
 - Enhanced regulatory monitoring
 - Work programme 2013-2015
5. Fisheries
 - Framework legislation
 - Procedures operated in relation to sea-fisheries in Natura 2000
 - Profiling of industry activity

Article 6 assessments
Consultation and publication of information
Licensing following appropriate assessment
Monitoring and control following licensing
Work programme 2013-2015
6. Post Assessment Monitoring Activities

Annex 1: Appropriate Assessment and Risk Assessment of Sea-Fisheries

Annex 2: List of baseline benthic surveys in SACs and SPAs

1. Programme of collection of benthic data on in Natura 2000 sites

Surveys were carried out in SACs designated for intertidal mudflats and sandflats, large shallow inlets and bays, estuaries, reefs and sea caves as well as in SPAs designated for wading water birds and for scoter populations. The purpose of these data collection exercises was to provide baseline information on species and habitat extent within the feature of interest. These data are in turn used to generate Conservation Objectives for the features present within the Natura site.

The programme of data collection is complete. All data has been submitted to the Marine Institute and following internal QA/QC and validation it is transferred to NPWS who use it to set Conservation Objectives. The list of sites with completed surveys and their status is provided in Annex 2.

Programme of collection of data in SPAs on habitat use by water birds

This involved collection of low tide count data that provided spatial information on habitat use by birds. In addition the annual high tide roost counts (iWeBs) were continued at all SPAs.

Fieldwork for all of the relevant sites (i.e. primarily intertidal sites designated for non-breeding waterbirds) has now been completed by the baseline survey team (Table 1).

Table 1. SPAs where low tide counts of waterbirds were completed

Site Code	Site name	Winter
800004075	LOUGH SWILLY	2009/2010
800004029	CASTLEMAINE HARBOUR	2009/2010
800004032	DUNGARVAN HARBOUR	2009/2010
800004026	DUNDALK BAY	2009/2010
800004076	WEXFORD HARBOUR AND SLOBS (incl RAVEN 4019)	2009/2010
800004031	INNER GALWAY BAY	2009/2010
800004033	BANNOW BAY	2009/2010
800004034	TRAWBREAGA BAY	2009/2010
800004151	DONEGAL BAY	2009/2010
800004188	TRALEE BAY COMPLEX	2009/2010
800004037	BLACKSOD BAY/BROADHAVEN	2009/2010
800004028	BLACKWATER ESTUARY	2009/2010
800004020	BALLYTEIGUE BURROW	2011/2012
800004022	BALLYCOTTON BAY	2010/2011
800004023	BALLYMACODA BAY	2010/2011
800004081	CLONAKILTY BAY	2010/2011
800004027	TRAMORE BACK STRAND	2010/2011
800004030	CORK HARBOUR	2010/2011
800004077	RIVER SHANNON AND RIVER FERGUS ESTUARIES	2010/2011
800004219	COURTMACSHERRY BAY	2010/2011
800004182	MID CLARE COAST	2010/2011
800004013	DRUMCLIFF BAY	2010/2011
800004035	CUMMEEN STRAND	2010/2011

800004036	KILLALA BAY/MOY ESTUARY	2010/2011
800004078	CARLINGFORD LOUGH	2010/2011
800004087	LOUGH FOYLE	2011/2012
800004129	BALLYSADARE BAY	2010/2011
800004006	N. BULL IS. (& S. DUBLIN BAY,R.TOLKA EST. 4024)	2011/2012
800004015	ROGERSTOWN	2011/2012
800004016	BALDOYLE BAY	2011/2012
800004025	BROADMEADOW/SWORDS ESTUARY	2011/2012
800004080	BOYNE ESTUARY	2011/2012
800004158	RIVER NANNY ESTUARY AND SHORE -	2011/2012

2. Setting of Conservation Objectives

Specific conservation objectives for designated features have been developed by the National Parks & Wildlife Service for 114 sites (77 SACs; 37 SPAs). (Table 2).

Table 2. Sites for which conservation objectives were developed

Code	Name
0020	Black Head-Poulsallagh Complex SAC
0077	Ballymacoda (Clonpriest and Pillmore) SAC
0090	Glengarriff Harbour and Woodland SAC
0091	Clonakilty Bay SAC
0097	Lough Hyne Nature Reserve and Environs SAC
0101	Roaringwater Bay and Islands SAC
0133	Donegal Bay (Murvagh) SAC
0147	Horn Head and Rinclevan SAC
0181	Rathlin O'Birne Island SAC
0191	St. John's Point SAC
0194	Tranarossan and Melmore Lough SAC
0199	Baldoyle Bay SAC
0204	Lambay Island SAC
0205	Malahide Estuary SAC
0206	North Dublin Bay SAC
0208	Rogerstown Estuary SAC
0210	South Dublin Bay SAC
0212	Inishmaan Island SAC
0213	Inishmore Island SAC
0268	Galway Bay Complex SAC
0328	Slyne Head Islands SAC
0335	Ballinskelligs Bay and Inny Estuary SAC
0343	Castlemaine Harbour SAC
0455	Dundalk Bay SAC
0458	Killala Bay/Moy Estuary SAC
0470	Mullet/Blacksod Bay Complex SAC
0472	Broadhaven Bay SAC
0495	Duvillaun Islands SAC
0507	Inishkea Islands SAC
0622	Ballysadare Bay SAC
0625	Bunduff Lough and Machair/Trawalua/Mullaghmore SAC
0627	Cummeen Strand/Drumcliff Bay (Sligo Bay) SAC
0671	Tramore Dunes and Backstrand SAC
0696	Ballyteige Burrow SAC
0697	Bannow Bay SAC
0707	Saltee Islands SAC
0710	Raven Point Nature Reserve SAC
0764	Hook Head SAC
0781	Slaney River Valley SAC
1021	Carrowmore Point to Spanish Point and Islands SAC
1040	Barley Cove to Ballyrisode Point SAC
1058	Great Island Channel SAC
1090	Ballyness Bay SAC
1141	Gweedore Bay and Islands SAC

1190	Sheephaven SAC
1230	Courtmacsherry Estuary SAC
1275	Inisheer Island SAC
1482	Clew Bay Complex SAC
1680	Streedagh Point Dunes SAC
1741	Kilmuckridge-Tinnaberna Sandhills SAC
1957	Boyne Coast and Estuary SAC
2012	North Inishowen Coast SAC
2070	Tralee Bay and Magharees Peninsula, West to Cloghane SAC
2074	Slyne Head Peninsula SAC
2111	Kilkieran Bay and Islands SAC
2158	Kenmare River SAC
2159	Mulroy Bay SAC
2161	Long Bank SAC
2162	River Barrow and River Nore SAC
2165	Lower River Shannon SAC
2170	Blackwater River (Cork/Waterford) SAC
2172	Basket Islands SAC
2250	Carrowmore Dunes SAC
2259	Tory Island Coast SAC
2261	Magharee Islands SAC
2262	Valencia Harbour/Portmagee Channel SAC
2263	Kerry Head Shoal SAC
2264	Kilkee Reefs SAC
2265	Kingstown Bay SAC
2268	Achill Head SAC
2269	Cansore Point SAC
2274	Wicklow Reef SAC
2283	Rutland Island and Sound SAC
2287	Lough Swilly SAC
2306	Carlingford Shore SAC
2953	Blackwater Bank SAC
3000	Rockabill to Dalkey Island SAC
4002	Saltee Islands SPA
4006	North Bull Island SPA
4013	Drumcliff Bay SPA
4014	Rockabill SPA
4015	Rogerstown Estuary SPA
4016	Baldoyle Bay SPA
4019	The Raven SPA
4020	Ballyteige Burrow SPA
4022	Ballycotton Bay SPA
4023	Ballymacoda Bay SPA
4024	South Dublin Bay and River Tolka Estuary SPA
4025	Malahide Estuary SPA
4026	Dundalk Bay SPA
4027	Tramore Dunes and Back Strand SPA
4028	Blackwater Estuary SPA
4029	Castlemaine Harbour SPA
4030	Cork Harbour SPA
4031	Inner Galway Bay SPA
4032	Dungarvan Harbour SPA

4033	Bannow Bay SPA
4034	Trawbreaga Bay SPA
4035	Cummeen Strand SPA
4036	Killala Bay/Moy Estuary SPA
4037	Blacksod Bay/Broad Haven SPA
4075	Lough Swilly SPA
4076	Wexford Harbour and Slobs SPA
4077	River Shannon and River Fergus Estuaries SPA
4078	Carlingford Lough SPA
4080	Boyne Estuary SPA
4081	Clonakilty Bay SPA
4087	Lough Foyle SPA
4129	Ballysadare Bay SPA
4151	Donegal Bay SPA
4158	River Nanny Estuary and Shore SPA
4182	Mid-Clare Coast SPA
4188	Tralee Bay Complex SPA
4219	Courtmacsherry Bay SPA

3. **Research to support AA, risk assessment and recommendations**

– *Compilation of habitat sensitivity reports*

As new habitats were being classified and mapped by the benthic surveys, with particular sets of characterising species, we needed to determine the sensitivity of these habitats to disturbance and in particular to disturbance that may be caused by fisheries and aquaculture. Again we commissioned literature reviews that resulted in habitat sensitivity assessments as a resource that was then available to the AA process. This exists as a series of 8 reports which constitute habitat reviews or ‘pro-formas’.

Habitat sensitivity ‘pro-formas’ have been prepared for 17 habitat types (listed below). The habitat pro-formas are mainly structured by sediment type, each sediment type has a very high-level introduction followed by more detailed biotope/habitat level assessments which are accompanied by individual species sensitivity analysis.

Habitat types for which sensitivity analysis ‘pro-formas’ have been prepared are:

1. Muddy sand -sublittoral
2. Fine sand -littoral
3. Muddy sand -littoral
4. Fine sand -sublittoral
5. Mixed sediment –sublittoral (coarse)
6. Mud -littoral
7. Mixed sediment -littoral
8. Mixed sediment –sublittoral (polychaetes and bivalves)
9. Saltmarsh
10. Reef –littoral (exposed)
11. Reef-littoral (sheltered)
12. Reef-sublittoral (exposed)
13. Maerl
14. Zostera
15. Ostrea edulis dominated community
16. Reef-subtidal (sheltered)
17. Reef-sublittoral (Laminaria dominated-exposed)

The habitat pro-formas are produced as a series of 8 reports. These are available to view or download from the open access repository of the Marine Institute library (<http://oar.marine.ie/>)

– *New research to support AA process where necessary*

Prior to beginning the AA process at particular sites, and using the industry activity profiles, we identified activity-habitat-species interactions for which there were no suitable scientific data to support evaluation of significance in the AA process. Where information for such assessment was completely lacking in the literature i.e. no case studies, we commissioned original research. This was mainly in relation to the potential disturbance of aquaculture activity, such as oyster culture, which is a widespread activity, and intertidal mussel relaying on bird habitat use. Notable outputs of this research include

- **Study of waterbird use of the intertidal mussel nursery area at Castlemaine Harbour**, which was undertaken to examine the effect of an intertidal mussel fishery on waterbird utilisation of intertidal habitat in Castlemaine Harbour. Results of this study are available at http://www.fishingnet.ie/media/fishingnet/content/fisheriesinnaturaareas/fisheriesnaturaplanconsultations/Annex_V_%20Mussels_Gittings_and_ODonohue_2011a.pdf
- **Strategic study of the relationship between waterbird distribution and oyster trestles**, the aim of which was to identify consistent patterns across sites of associations between waterbird distribution and the presence of oyster trestles on the shore. This study was carried out at 6 sites including Bannow Bay, Co. Wexford; Waterford Harbour & Dungarvan, Co. Waterford; Ballymacoda, Co. Cork; Castlemaine, Co. Kerry; and Poulmasherry, Co. Clare. A more detailed study of the relationship between waterbird distribution and oyster trestles was carried out in Dungarvan Harbour. Results of these studies are available in *Gittings & O'Donoghue (March 2012). The effects of intertidal oyster culture on the spatial distribution of waterbirds*. Unpublished report for the Marine Institute
- **Effects of oyster trestles on marine benthos**. A study is ongoing whereby benthic infauna will be estimated in and around the structures used for intertidal oyster culture. The study is designed to delineate the extent of the impact of the activities (i.e. trestles and access mechanisms – tractors) on infaunal biota. These data will be compared with control locations reflective of similar habitats yet away from any likely impact. The goal of the study is to inform assessment of intertidal oyster culture activities and provide increased certainty in the conclusions drawn. This study is completed and has been published in the Marine Pollution Bulletin - <http://dx.doi.org/10.1016/j.marpolbul.2015.04.013>.

4. Aquaculture

Framework Legislation

The obligation to undertake Appropriate Assessment (AA) derives from Article 6(3) of the Habitats Directive. The Habitats Directive is transposed in Ireland in the European Communities (Birds and Natural Habitats) Regulations 2011 (SI No. 477 of 2011) and this legislation is utilised to determine whether screening for AA or a full AA is required in a Natura or adjacent site.

In broader terms, the carrying out of aquaculture is regulated by the Fisheries (Amendment) Act 1997. The licensing authority (i.e. the Minister, an officer to whom functions have been delegated by the Minister, or the Aquaculture Licence Appeals Boards) may, if it is satisfied to do so, license a person, at a place or in waters specified in the licence, to engage in aquaculture or such operations in relation to aquaculture, and subject to such conditions, as it thinks fit and specifies in the licence.

The Minister for Agriculture, Food and the Marine has two distinct roles in respect of aquaculture:

- (i) A general policy role – the Minister can issue general policy directives under section 62 of the Fisheries (Amendment) Act, 1997
- (ii) A regulatory role – making determinations in respect of aquaculture licence applications.

In accordance with regulation 5.2 of SI No. 236 of 1998 the Minister may require the applicant, in relation to each individual aquaculture licence application, to submit an Environmental Impact Statement (EIS) if the Minister considers that the proposed aquaculture is likely to have significant effects on the environment. The Minister's determination as to whether or not an EIS is required is published on the Department's website.

The Foreshore Act 1933, for which the Minister has power to grant leases / licences, regulates the placement of structures on the foreshore associated with the carrying out of licensed aquaculture.

Licensees, whose licences have expired, but who have applied for renewal of their aquaculture licences have their continued aquaculture operations authorised by section 19A (4) of the Fisheries (Amendment) Act 1997. This allows aquaculturists, who have submitted valid renewal applications, to continue aquaculture activities, subject to the terms and conditions of their old licences, pending a decision on their renewal applications. The significant work involved in implementing the Appropriate Assessment process has resulted in delays in the aquaculture licensing process with the result that a significant element of the industry is now relying on this section of the Act. However, the Irish authorities are committed to repealing section 19A (4) following the completion of the agreed 'Roadmap' process, thus ensuring that all aquaculture will be licensed in accordance with the requirements of the Birds and Habitats Directives.

Procedures operated in relation to Aquaculture Licensing

The procedural steps relating to aquaculture licensing, including public and statutory consultation, are set out in SI No. 236 of 1998 – Aquaculture (Licence Application) Regulations, 1998. Notice of aquaculture licence applications are published in a newspaper circulating in the vicinity of the proposed aquaculture. This notice specifies where the documentation relating to the application may be inspected. A person may make written submissions or observations within a prescribed time period (as set out in the Statutory Instrument). In addition, aquaculture licence applications are sent to statutory consultees (as prescribed in regulation 10 of SI No. 236 of 1998).

These procedures are illustrated below:

Step 1	Aquaculture licence application received.
Step 2	Application checked – if location in or adjacent to Natura 2000 area, sent for Appropriate Assessment
Step 3	Appropriate Assessment carried out by the Marine Institute (Department’s scientific advisors) following the setting out of the conservation objectives by the NPWS
Step 4	On receipt of the Appropriate Assessment (AA) the Department in conjunction with its scientific and technical advisors carries out an Environmental Impact Assessment (EIA) pre-screening to ensure compliance with EU Environmental Directives (for some aquaculture activities, e.g. marine finish, an EIS is compulsory)
Step 5	Submission of set of policy recommendations for entire bay/Natura site for Ministerial approval
Step 6(a)	All applications accompanied by the Appropriate Assessment and EIA pre-screening (or EIS) are sent to Statutory Consultees (this includes NPWS, An Taisce, County Councils, Department of Environment etc)
Step 6(b)	All applications accompanied by the Appropriate Assessment and EIA pre-screening (or EIS) are sent to Public consultation - allowing members of the public to comment
Step 7	All information received is evaluated by Department Officials and a recommendation made to the Minister
Step 8	Ministerial Decision to either grant or refuse the application
Step 9	Publication of Ministerial Decision
Step 10	Decision may be appealed to the Aquaculture Licences Appeals Board (ALAB) - the independent appeals body
Step 11	Aquaculture Licences Appeals Board (ALAB) publish their decision (Aquaculture Licences Appeals Board (ALAB) decision can be judicially reviewed)

Profiling of industry activity

Although in the case of aquaculture the list of licences and applications in each site is known, details of the actual activities at each site, such as access routes, species in production, level of production and spatial use of the site were profiled for each licence holder to inform the AA process. Profiling of aquaculture has been completed in

- Dundalk Bay
- Castlemaine Harbour and inner Dingle Bay
- Roaringwater Bay
- Lough Swilly
- Donegal Bay
- Clew Bay
- Galway Bay
- Dungarvan Harbour
- Valentia / Portmagee Channel
- Tralee Bay
- Kenmare River
- Trawbreaga Bay
- Wexford Harbour
- Ballycotton Bay
- Lower River Shannon
- Cummeen Strand / Drumcliff Bay
- Blacksod / Broadhaven Bays

Appropriate Assessments

As the roadmap indicated, aquaculture operations were to be assessed under Article 6.3 (appropriate assessment).

The current situation is as follows:

- Dundalk Bay (2 Natura sites) (2011)
<http://www.fishingnet.ie/fisheriesinnaturaareas/sitessubjectedtoappropriateassessmentriskassessment/dundalkbay/>
Dundalk Bay primarily covers wild fisheries, for example, cockles and is dealt with under the “Fisheries segment” of the Programme of Measures.
- Castlemaine Harbour (2 Natura sites) (2011)
<http://www.fishingnet.ie/fisheriesinnaturaareas/sitessubjectedtoappropriateassessmentriskassessment/castlemaineharbour/>
The Appropriate Assessment process and 43 aquaculture licensing determinations (based on the applications available at the time of assessment) have been completed for Castlemaine Harbour.
- Roaringwater Bay (1 Natura site) (2013)
<http://www.agriculture.gov.ie/media/migration/fisheries/aquacultureforeshoremanagement/aquaculturelicensing/RoaringWaterBayAssessment011013.pdf>
The Appropriate Assessment process and including final licence determinations have been completed for Roaringwater Bay (74 licensing determinations).

- Lough Swilly (2 Natura sites) (2013)
<http://www.agriculture.gov.ie/fisheries/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessmentscarriedout/>
 The examination, analysis, evaluation and findings phase of the Appropriate Assessment for Lough Swilly has been completed, but final licensing determinations have yet to be made. The licensing implications are currently being actively examined by the Department in conjunction with its scientific and technical advisors.
- Donegal Bay (3 Natura sites) (2013)
<http://www.fishingnet.ie/fisheriesinnaturaareas/sitessubjectedtoappropriateassessmentriskassessment/donegalbay/>
 The Appropriate Assessment process and final aquaculture licensing determinations have been completed for Donegal Bay in respect of the majority of the applications. Additional data collection and monitoring is being carried out in respect of the outstanding applications.
- Dungarvan Harbour
<http://www.agriculture.gov.ie/fisheries/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessmentscarriedout/>
 The examination, analysis, evaluation and findings phase of the Appropriate Assessment for Dungarvan Harbour has been completed, but final licensing determinations have yet to be made pending investigations in relation to underwater archaeology. The majority of the applications have gone to public and statutory consultation and certain issues raised during the statutory consultation phase are currently being examined. Additional monitoring is required in relation to the balance of the applications. It is anticipated that licensing determinations will be achieved in the short to medium term.
- Clew Bay
<http://www.agriculture.gov.ie/fisheries/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessmentscarriedout/>
 The examination, analysis, evaluation and findings phase of the Appropriate Assessment for Clew Bay has been completed. The public and statutory consultation phase of the licensing process has also been completed in respect of applications in this bay. It is anticipated that licensing determinations will be achieved shortly.
- Valentia / Portmagee Channel
<http://www.agriculture.gov.ie/fisheries/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessmentscarriedout/>
 The examination, analysis, evaluation and findings phase of the Appropriate Assessment for Valentia / Portmagee Channel has been completed. The licensing implications are currently being actively examined by the Department in conjunction with its scientific and technical advisors.
- Ballycotton Bay
<http://www.agriculture.gov.ie/fisheries/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessmentscarriedout/>
 The Appropriate Assessment process has been completed for Ballycotton. The licensing implications are currently being actively examined by the Department in conjunction with its scientific and technical advisors.
- Galway Bay
<http://www.agriculture.gov.ie/fisheries/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessmentscarriedout/>

The Appropriate Assessment for Galway Bay has been received and the Department is currently carrying out EIA Screenings in compliance with EU EIA requirements.

- Kenmare Bay
<http://www.agriculture.gov.ie/fisheries/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessmentscarriedout/>
The Appropriate Assessment for Kenmare Bay has been received and the Department is currently examining its findings.
- Drumcliff Bay/Cummeen Harbour
The Appropriate Assessment for Drumcliff/Cummeen Harbour has been recently received by the Department and is under examination.

Consultation Process

From an aquaculture perspective, the AA is based on a list of licensed aquaculture activities and applications. Consultation takes place with technical and scientific advisors with a view to transferring the AA findings into specific licence conditions. There is a formal public and statutory consultation for each individual application which is set out in legislation.

Policy and regulation following Appropriate Assessment

The next step in the process is the carrying out of Environmental Impact Screening (for some aquaculture operations e.g. marine finfish an Environmental Impact statement is compulsory). The Minister may require applicants to submit an Environmental Impact Statement if he considers that the proposed aquaculture is likely to have significant effects on the environment. The Ministerial determination, on whether an EIS is required or not, is published. This requirement (under EU EIA Directives) is separate from the Habitats requirements.

Each application goes to public and statutory consultation.

Specific draft licence conditions are prepared taking account of the Appropriate Assessment (AA) carried out by the Marine Institute and other information such as that received in the public/statutory consultation phase, as well as additional technical observations. Licences contain a clear reference to the AA and the Natura 2000 interests.

A Conclusion Statement is prepared by the 'Licensing Authority' (i.e. Minister for Agriculture, Food and the Marine) which outlines how aquaculture activities in the Natura site are being licensed in compliance with the Birds and Habitats Directives and is published on the Department's website. The Licensing Authority has to be satisfied, given the conclusions and recommendations of the Appropriate Assessment process and, if required, the implementation of measures that will mitigate certain pressures on Natura features, that the proposed aquaculture licensed activities are not likely to have a significant effect on the integrity of the relevant Natura site. The Conclusion Statement outlines the timescale and mechanisms through which mitigation measures, as required, will be secured, implemented and monitored.

Notwithstanding that the AA takes place on a Bay/Natura site basis, each aquaculture application is the subject of an individual recommendation to the Minister. In the case of a positive recommendation to the Minister, the draft licence incorporating the specific conditions is also sent for Ministerial approval.

The Ministerial decisions are published in newspaper/s circulating in the area of the aquaculture. The relevant public notice also provides a link to the Department's website, which outlines the reasons for

the Minister's decision in each individual case. To summarise, the following material is available in relation to all aquaculture licence decisions:

- a) the general conditions attaching to all licences as set out in the licence templates which are available on the Department's website;
- b) reasons for the Minister's decision in individual cases which are also available on the Department's website;
- c) Licensing Authority's Appropriate Assessment Conclusion Statement which outlines how aquaculture in the particular 'Natura' site/s is being licensed in accordance with the requirements of the Birds/Habitats Directives (also on the Department's website).

The publishing of the above material on the Department's website provides information to enable an informed decision to be made on any possible appeal. This addresses the concerns raised in relation to the accessibility of documentation supporting the Minister's decision in sufficient time to enable an appeal to be made to Aquaculture Licensing Appeals Board (ALAB).

The Ministerial decision may be appealed to ALAB. The function of the Board is to provide an independent authority for the determination of appeals against decisions of the Minister for Agriculture, Food and the Marine on aquaculture licence applications. A person aggrieved by a decision of the Minister on an aquaculture licence application, or by the revocation or amendment of an aquaculture licence, may make an appeal within one month of publication (in the case of a decision) or notification (in the case of revocation / amendment).

In addition, ALAB also publishes its decision. Decisions of the State are open to judicial review in the normal way.

Marine fin fish and land based aquaculture licences are currently available online as part of the Department's upgrading of its online provision of services in respect of all aquaculture licences. Measures are in place to make all other current aquaculture licences available online as soon as possible consistent with available resources.

Enhanced regulatory monitoring

A dedicated Monitoring and Compliance Unit has been established within the Department to strengthen the adherence to the terms and conditions of all Aquaculture Licences. The Unit brings greater coherence to the existing monitoring system leading to enhanced monitoring and regulatory standards, practices and procedures. A structure for the systematic audit of licence conditions has been put in place. This is a very substantial enhancement of the existing regulatory procedure and supplements all other inspections of sites.

The Unit avails of services provided by representatives of DAFM, MI, Engineering Division (DAFM), SFPA, MSO and BIM as necessary.

The areas targeted for audit include the following:-

Site:

- Navigational marking
- Location (within licenced boundaries)
- Cleanliness/redundant structures
- Access routes
- Planning permissions (if appropriate)

Structures

- Type of structure
- Alignment
- Moorings (if appropriate)
- Spacing

Stocking and Records

- Species and source
- Stocking density
- Stock movements
- Fish health
- Predator control
- Chemical usage
- Disposal of mortalities
- Fallowing
- Escapes

Environmental Monitoring

- Water quality
- Effluent discharge (if appropriate)
- Chemical discharge
- Benthic monitoring
- Waste management
- Emergency action plan

Specific Monitoring arising from Appropriate Assessment

The Department of Agriculture, Food and the Marine together with the Marine Institute are actively identifying specific monitoring requirements in the context of the AA conclusions and licence conditions for Natura 2000 sites over and above ongoing monitoring. This is to ensure that issues of special priority identified in the AA are the subject of enhanced post-licensing monitoring and controls.

Monitoring that is recommended in the Appropriate Assessment will take the form of a licence condition and will have the primary goal to provide additional certainty relating to the assessment conclusions. Monitoring is considered a mitigation measure as long as it is allied with specific and clear management measures. Any such monitoring protocols will be tailored to the specific issue at hand and will focus upon the likely interaction between the feature of interest (e.g. wading birds) and the activity licensed (e.g. oyster trestle culture). Furthermore, monitoring may take the form of capture of additional baseline information (e.g. Castlemaine) in order to provide a more robust data with which to estimate likely interactions (e.g. species displacement).

The current situation is as follows:-

- Ecological monitoring and additional research was recommended as a consequence of the Castlemaine Appropriate Assessment process; these were translated into conditions in Schedule 4 of the aquaculture licences. The circumstances that will invoke ecological (e.g. bird) monitoring or the establishment of a monitoring framework at any of the aquaculture sites **has not been reached**. Monitoring at Castlemaine will be invoked following a request to exceed the 10% oyster trestle or 12% mussel seed cover by the aquaculture licence holder and this request is granted. Site usage will then be monitored and if significant change in site usage is realised, a bird

monitoring / impact program will be initiated by the Marine Institute. As part of the ongoing activities at the licensed aquaculture sites, the Monitoring and Compliance Unit of DAFM and the MI are tasked to ensure that the operators are complying with the 10% and 12% licence thresholds.

- Additional research was also recommended in the Castlemaine Appropriate Assessment and this was completed in 2012 and comprised studies at 6 oyster trestle locations (including Castlemaine). The purpose of the study was to identify different bird species responses to structures. Validation of the findings of the assessment in Castlemaine was an additional output of this study. The output of a study focusing on the impact of oyster trestles on habitats has been published in the Marine Pollution Bulletin - <http://dx.doi.org/10.1016/j.marpolbul.2015.04.013>. This study was carried out at a range of oyster growing areas with the view to determining the likely influence the structures have on habitat features (species abundance, diversity as measured by composite indices). Similarly, this study was initiated in order to provide certainty to the conclusions in this and other assessments and validate the findings of other studies (these reports are referred to in the Programme of Measures - April 2014).
- In relation to Roaringwater Bay, there are no specific ecological monitoring requirements relating to aquaculture activities.
- Donegal Bay – During the Appropriate Assessment process it became apparent that insufficient data was available on Sanderling abundance and site usage within the outer portions of the SPA. In order to fully assess the sites, more accurate information relating to Sanderling stocks at these sites was required. Five sub-sites were surveyed (Mountcharles, Eddrim Estuary, Murvagh, Rossnowlagh, Aughrus Pt – Bundoran) with semi-monthly counts of Sanderling throughout the intertidal area of Donegal Bay undertaken between September 2014 and February 2015. The data will allow an update of the assessment as to the likely interactions between oyster trestle culture activity in the Mountcharles area and Sanderling. Surveying has been completed and a report is currently in preparation.
- Dungarvan Harbour – Following the Appropriate Assessment report it was recommended that further field survey work be undertaken to examine the numbers / location of roosting Golden Plover, Knot and Dunlin relative to trestles; notably to further examine recent trends in site usage. A program of investigation was carried out whereby a series of tidal cycle monitoring of bird distribution (Grey Plover, Knot and Dunlin, Bar-tailed Godwit) within Whitehouse Bank, and bird movements onto/off Whitehouse Bank, across the tidal cycle. A monitoring regime targeted three monitoring days per month, during neap, mean and spring low tide. The monitoring period also covered the full duration of exposure of Whitehouse Bank. Surveying has been completed and a report has just been received. The outputs will be used to inform licensing decisions at a number of locations in Dungarvan.
- Dundalk Bay - Monthly Oystercatcher counts between September - March have been completed annually since 2011. In addition, studies of the feeding behaviour and diet of Oystercatcher have been undertaken. Dundalk monitoring is primarily in response to the 5-year fishery plan for cockles, while the Donegal and Dungarvan programmes are specifically related to aquaculture (oyster trestle culture) activities.

Work Programme 2013-2016

The following is the draft schedule for the completion of Appropriate Assessments/Licensing Decisions for aquaculture to Q1 - 2016.

Tranche	Approximate No. Aquaculture Sites (to be) Considered	AA Status	*Aquaculture licence decisions
Tranche 1	200	Complete	Q1 2014 some completed
Tranche 2	120	<i>In Progress (Q4-2013)</i>	Q1 / Q2 2014
Tranche 3	200	Q1-2014	Q2 / Q3 2014
Tranche 4	200	Q2-2014	Q3 / Q4 2014
Tranche 5	100	Q3-2014	Q4 2014 / Q1 2015
Tranche 7	50	Q4-2014	Q1/Q2 2015
Tranche 8	50	Q1-2015	Q2 /Q3 2015
Tranche 9	20	Q2-2015	Q3 /Q4 2015
Tranche 11	10	Q3 2015	Q4 2015 /Q1 2016

*It is not possible to specify a specific timeframe for licensing decisions, having regard to all the circumstances, including responses from public and statutory consultation, which may require further investigation.

5. Fisheries (note that additional information dated July 2015 is at p57 below)

Framework Legislation

Ireland amended and replaced its framework legislation for managing sea-fisheries in Natura 2000 sites in 2013. The new framework legislation is the European Union (Birds and Natural Habitats) (Sea-Fisheries) Regulations 2013 (S.I. 290 of 2013). This legislation can be accessed at the following link.

<http://www.irishstatutebook.ie/2013/en/si/0290.html>

These regulations have been drafted to implement the responsibilities of the Minister for Agriculture Food and the Marine in relation to sea-fisheries in Natura 2000 sites, in accordance with the Habitats and Birds Directives as transposed by the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. 477 of 2011).

A brief summary of S.I. 290 of 2013 is as follows:

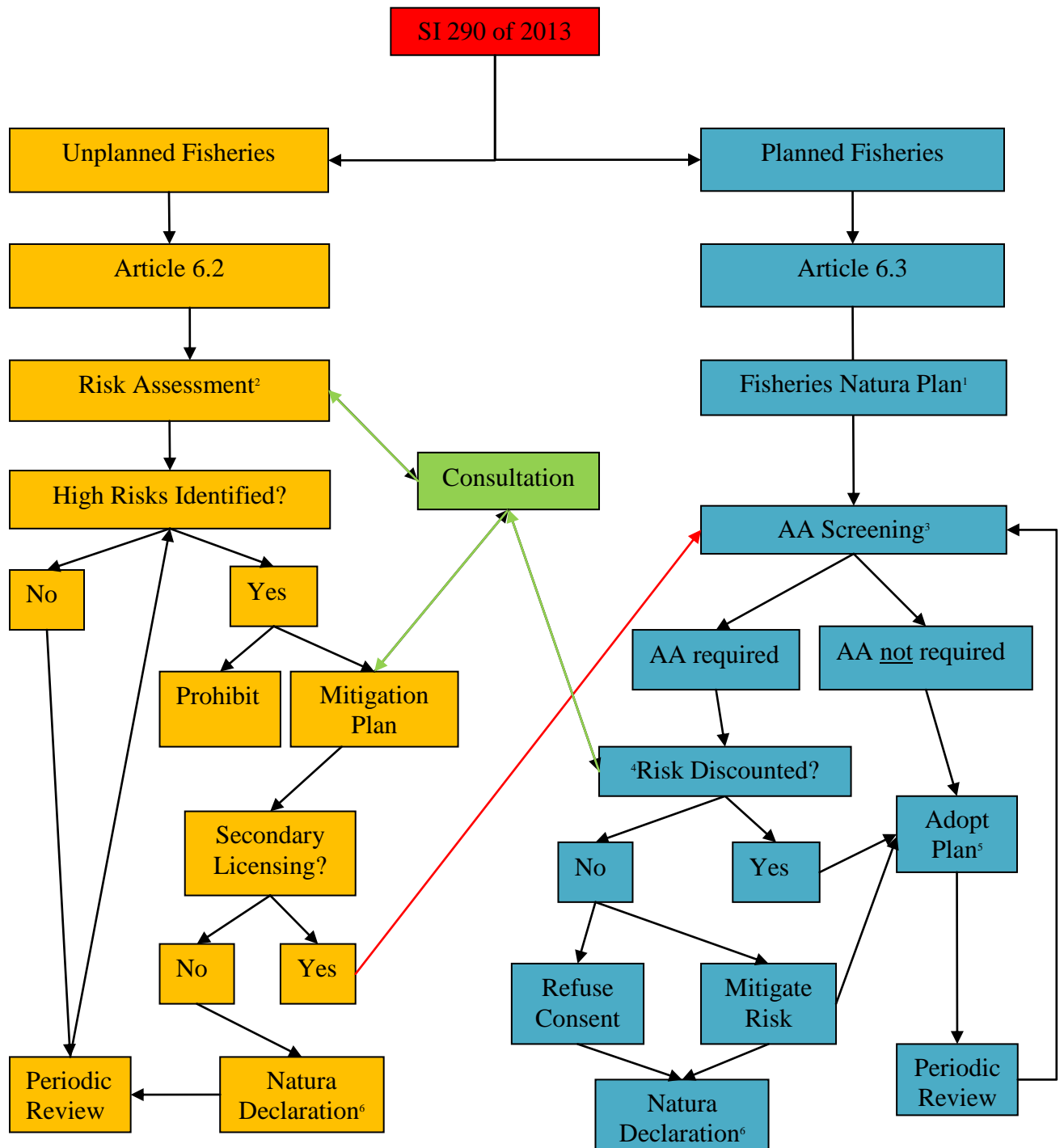
- Regulation 3 provides for the submission of a Fisheries Natura Plan in relation to planned fisheries.
- Regulation 4 provides for a screening of a Fisheries Natura Plan to determine whether or not an appropriate assessment is required.
- Regulation 5 provides for an Appropriate Assessment of a Fisheries Natura Plan and also provides for public and statutory consultation.
- Regulation 6 provides for the Minister to make a determination to adopt a Fisheries Natura Plan. The Minister may amend, withdraw revoke a plan.
- Regulation 7 provides for publication of the adopted Fisheries Natura Plan.
- Regulation 8 provides for a Risk Assessment of unplanned fisheries and also provides for public and statutory consultation on the assessment.
- Regulation 9 provides for the issue of a Natura Declaration to prohibit, restrict including restricting by permit, control, etc. of sea-fishing activities.
- Regulation 10 provides for Natura Permits to be issued where required by Natura Declaration.
- Regulations 11 to 31 deal with functions of authorised officers and related matters, offences, etc.

Procedures operated in relation to sea-fisheries in Natura 2000

The procedures operated by the Department are published at the following link:

<http://www.fishingnet.ie/media/fishingnet/content/fisheriesinnaturaareas/siteassessments/proceduresandmethodology/NATURA%202000%20procedures%2011-9-2013.pdf>

These procedures are illustrated overleaf.



Explanatory Notes

1. A Fisheries Natura Plan is prepared in accordance with Regulation 3 SI 290 of 2013
2. Risk Assessment of unplanned fisheries under Regulation 8 SI 290 of 2013
3. Screening for appropriate assessment under Regulation 4 SI 290 of 2013
4. Appropriate Assessment under Regulation 5 and Ministerial Determination under Regulation 6 of SI 290 of 2013
5. Adoption of a Fisheries Natura Plan under Regulation 6 SI 290 of 2013. Plan may be modified.
6. Natura Declaration made under Regulation 9 SI 290 of 2013 regulating fishing.

Profiling of industry activity

For planned fisheries (art. 6.3), profiling of fishing activity is twofold. Operators quantify and map their proposed activity in their Fisheries Natura Plan. This is the plan submitted for appropriate assessment. Additional profiling is done using logbook data, VMS data, Marine Institute survey data showing the distribution of shellfish resources and expert opinion.

For unplanned fisheries (art 6.2), profiling is done using logbook data, VMS data, expert opinion, Marine Institute survey data showing the distribution of shellfish resources, supplemented by surveying of selected fishermen.

Fishery profiling has been completed for all SACs and SPAs

Article 6 Assessments

As the roadmap indicated, and as agreed with the Commission, planned fisheries were to be assessed under Article 6.3 (appropriate assessment).

Following communications and discussions with the Commission in 2012 and 2013, and in order to fulfil the obligations arising under article 6.2 in relation to all activities, planned or unplanned, a Risk Assessment Framework and Work Programme were put in place in 2013. The Risk Assessment programme seeks to establish scientifically, and in accordance with Commission guidance, the degree of risk, if any, posed by each type of fishing activity on the designated habitats and species in each site. Where significant risk is identified, mitigation measures are implemented. The Department is continuing to give priority to bringing the management of inshore fisheries into full compliance with the Habitats and Birds Directives and with the judgment of the European Court of Justice in case C418/04.

Appropriate Assessments

Article 6.3 appropriate assessments are required prior to fisheries in Natura 2000 areas that are licensed (via fishing authorisations). Such assessments require detailed information on the operation of the particular activity to be licensed in order to carry out the assessment. However, many sea-fishing activities are not subject to specific fishing authorisation requirements, and detailed data is unavailable for appropriate assessments. Appropriate Assessments have been carried out for Castlemaine Harbour (mussel seed), Dundalk Bay (cockles) and the Irish Sea (mussel seed fishery, taking in 44 Natura sites). Planned fisheries in a further 4 sites are expected to be subjected to appropriate assessment over 2014/2015.

The Dundalk cockle fishery operates under the terms of the Fisheries Natura Plan and was subject to regulatory measures put in place under Fisheries Natura Declaration No. 2 of 2013. A review of the environmental performance of the fishery has been prepared and is reviewed as part of the permitting decision process. The above Declaration was revoked, however, by Fisheries Natura Declaration No 1 of 2014 (Dundalk Bay) which closed the fishery in 2014 as the stock was at a low level, although it was above the limit reference point for opening as laid out in the management plan. When it is deemed appropriate to re-open the fishery, regulatory measures similar to those introduced in 2013 will be implemented again through another Declaration.

In line with the conclusion of the appropriate assessment, the mussel seed fishery in the Irish Sea (participation in the mussel fishery requires authorisation) operated under a Fisheries Natura Declaration which manages the fishery in accordance with the outcome of the assessment. The management measures involve continued closure of a significant part of the Wicklow Reef SAC as the risks to the qualifying features posed by the fishery could not be mitigated. Sites which have not yet been assessed remain closed to fishing for seed mussel on a precautionary basis. After remaining closed in 2013, due to lack of suitable seed, the mussel seed fishery in Castlemaine Harbour opened again for the 2014 fishery.

Risk Assessments

In the December 2013 programme of measures, Ireland aimed to complete risk assessments for all sites (approx 158) by the first quarter of 2014. A risk assessment for 'unplanned' fisheries in the Irish Sea, from Carnsore to Carlingford, which takes in 44 Natura sites, underwent public consultation in 2013. Mitigation proposals for sites off the Wexford coast underwent consultation during mid 2014 and implementation commenced December 2014. Documents can be viewed here: <http://www.fishingnet.ie/sea-fisheriesinnaturaareas/natura2000sitesundermanagement/wexford-rosslareandcahore/>.

The assessment of Roaringwater Bay was revised from an Article 6.3 to a 6.2 assessment during 2013. The proposed mitigation responses arising from the risk assessment of fishing activities in Roaringwater Bay underwent public consultation in Q4 2013. Following subsequent modifications to the mitigation responses, direct consultation was held with representatives of the local fishing industry during 2014. A Fisheries Natura Declaration is now in place to give legal effect to regulatory measures. Details of the mitigation plan and the Declaration can be viewed here: <http://www.fishingnet.ie/sea-fisheriesinnaturaareas/natura2000sitesundermanagement/roaringwaterbay/>.

The assessments for all other SACs (habitats and species taking in the remaining coastline from Wexford to Donegal) were completed in 2014 using the available conservation objectives and have been the subject of workshops with the relevant State bodies to ensure that all available data is correctly taken into account. These assessments are now in the process of being updated in line with the progress made on publishing Specific Conservation Objectives for all marine SACs. An assessment for all other SPAs (birds) is being undertaken separately by contractors on behalf of the MI. Reports on individual fisheries interactions with SPA qualifying interests have been drafted.

Due to the volume of sites and the range of fisheries involved in this assessment, it is considered necessary to prioritise the development of mitigation measures in relation to the level of estimated risk. A prioritisation exercise is being developed and will be issued for stakeholder consultation during 2015 along with the updated SAC assessment report. Mitigation of some risks arising in the awaited reports is already being developed as a result of implementation experience from completed assessments and consultation on mitigation of those risks will proceed quickly (e.g. closure of sensitive habitats to mobile gear; reporting obligations are in development for razor clam fisheries in the Irish Sea to monitor potential activity in/adjacent to Natura 2000 sites; tenders are being prepared for studies of the potential impacts of potting on certain habitats to further inform mitigation response to risks).

The Institute's 2013 Article 6.3 assessment for the Irish Sea identified potential impacts the Wexford razor clam fishery could have on nearby Natura sites. A mitigation response plan was developed for the fishery, taking into account the assessed risks. It proposed new and revised management measures to mitigate the fishery's potential impacts on nearby Natura sites. It was published in Q2 2014 as part of a public consultation. On the basis of submissions received, and advice from the various marine agencies, the Minister in December approved a package of measures for this fishery. Key mitigation measures introduced for the fishery include closing sensitive habitats to mobile gear and new reporting obligations (including GPS tracking of vessels) to monitor activity adjacent to Natura 2000 sites.

Stakeholder involvement in considering assessments and designing mitigation has been reviewed to ensure consistency with both the Common Fisheries Policy and the Aarhus Convention. In May 2014, the Minister announced the establishment of a National Inshore Fisheries Forum (NIFF) to provide inshore fishermen with their own space for convening and bringing common initiatives forward. A network of Regional Inshore Fisheries Forums (RIFFs), based on and linked to the six community-led Fisheries Local Action Groups (FLAGs) around the Irish coast, have nominated

delegates to the NIFF to bring forward regional proposals to that body for wider industry discussion. The purpose of the Forums will primarily be to develop and facilitate implementation of policies and initiatives relating to the sustainable management of the inshore fisheries within six nautical miles; this will include consideration of relevant fisheries management measures for Natura 2000 sites.

While the Forums are primarily aimed at developing a stakeholder group for inshore fishermen, up to one third of the membership of the Regional Inshore Forums also comprise other marine stakeholders including environmental interest groups. The Forums are not intended to replace statutory and wider public consultation. Each of the 6 Regional Inshore Fisheries Forums has been briefed on Natura 2000. Presentations including case studies and progress updates have also been given at the National Inshore Fisheries Forum meetings (January and April 2015). A programme of risk mitigation planning is now underway and as a first step the Regional Forums are receiving information on interactions relevant to their areas during Q2-Q3 2015 so that risk mitigation strategies can be developed with appropriate stakeholders.

Completed Appropriate Assessments⁶

- River Barrow and River Nore (Waterford Estuary) (1 site) (planned surf clam dredge fishery) – AA screening out
<http://www.fishingnet.ie/sea-fisheriesinnaturaareas/concludedassessments/barrownorewaterfordestuary-clamfishery-sac/#d.en.72196>
- Dundalk Bay (2 sites) (2011) (planned cockle and mussel seed dredge fisheries)
<http://www.fishingnet.ie/sea-fisheriesinnaturaareas/concludedassessments/dundalkbay-sacspa/#d.en.72078>
- Castlemaine Harbour (2 sites) (2011) (planned mussel seed dredge fishery)
<http://www.fishingnet.ie/sea-fisheriesinnaturaareas/concludedassessments/castlemaineharbour-sacspa/#d.en.72077>
- Lough Swilly (2 sites) (2013) (planned oyster dredge fishery)
<http://www.agriculture.gov.ie/fisheries/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessmentscarriedout/loughswillyappropriateassessment/>
- Irish Sea (6 sites) (Aug 2013) (planned mussel seed dredge fishery)
<http://www.fishingnet.ie/sea-fisheriesinnaturaareas/concludedassessments/irishsea-includingmusselseedfishery/#d.en.72197>

Completed Risk Assessments

- Roaringwater Bay (SAC) (2013) (all unplanned fisheries)
<http://www.fishingnet.ie/sea-fisheriesinnaturaareas/natura2000sitesundermanagement/roaringwaterbay/>
- Donegal Bay (SAC & 2 SPA's)
<http://www.fishingnet.ie/sea-fisheriesinnaturaareas/concludedassessments/donegalbay-sac2spas/#d.en.72195>
- Irish Sea (24 SACs and 20 SPAs) (all unplanned fisheries)
<http://www.fishingnet.ie/sea-fisheriesinnaturaareas/concludedassessments/irishsea-includingmusselseedfishery/#d.en.72197>

⁶ Appropriate assessment includes screening for appropriate assessment

- South & West Coasts (37 SACs)(all unplanned fisheries)

Consultation and publication of information

S.I. 290 of 2013 provides in Regulation 5 for a mandatory process of inter-service and public consultation on the fisheries elements of an appropriate assessment and on the related Fisheries Natura Plan (FNP) which was the subject of that appropriate assessment. Note that the FNPs are drafted in the first instance by fishing interests and so are privately drafted plans.

Regulation 8 similarly provides for consultation on article 6.2 Risk Assessment reports.

Stakeholders are required to be given one month to make submissions in both cases.

A response is provided to each submission addressing all relevant issues raised in the submission. These are published on the Department's fishingnet.ie website.

In accordance with the requirements of S.I. 477 of 2011, the Minister's determination on a planned fishery and related appropriate assessment is published on the Department's website, setting out the reasons for the Minister's decision on the plan.

The Department's website for fisheries in Natura 2000 sites was re-designed in 2013 to present all information relevant to the Department's functions in this area, including all legislation, guidance, plans, assessment reports, Determinations, Natura Declarations, template permits and periodic review reports. See <http://www.fishingnet.ie/sea-fisheriesinnaturaareas/>

The newly established Regional Inshore Fisheries Forums and National Inshore Fisheries Forum provide an additional platform for direct stakeholder consultation on risk assessment, appropriate assessment and mitigation planning.

Licensing following appropriate assessment

S.I. 290 of 2013 provides for the making of legal instruments called Natura Declarations following appropriate assessment/risk assessment. A comprehensive range of regulatory interventions can be implemented through Natura Declarations, including prohibitions on fishing activity and restriction of fishing by permitting regimes.

Following appropriate assessments in 2011 of Castlemaine Harbour SAC/SPA and Dundalk Bay SAC/SPA and in 2013 of 6 Irish Sea sites, Natura Declarations were issued enforcing conditions of fishing.

In respect of Castlemaine Harbour SAC/SPA, the Natura Declaration restricted mussel seed fishing to permit holders. Permits in turn restricted fishing to defined coordinates and imposed catch limits in order to preserve a percentage of the mussel biomass for over-wintering birds.

Likewise, the 2013 Natura Declaration for Dundalk Bay imposed a minimum landing size for cockles, restricted cockle fishing to permit holders, for both dredge fishing and hand raking from the shore and specified mechanisms for triggering closure of the fishery to preserve a percentage of cockles for over-wintering birds. It also provided that registered buyers can only purchase cockle from Dundalk bay from holders of Natura Permits. Fishing for cockles did not take place during 2014.

The Natura Declaration in relation to fishing for mussel seed in the 6 Irish Sea sites assessed in 2013 prohibited mussel fishing in the sensitive reef habitat of Wicklow Reef SAC and imposed conditions on fishing for mussel seed within a buffer zone around the prohibited area. The Declaration also prohibited mussel fishing in 16 other Natura 2000 sites around the coast pending

appropriate assessment. A further 3 Natura 2000 sites were added to the Declaration in 2014 on a precautionary basis.

Monitoring and control following licensing

For each Natura site within which a fishery was opened following appropriate assessment, a requirement was put in place for Periodic Reviews. These reviews consider if any circumstances have changed that may warrant an amendment to the related Fisheries Natura Plan or the appropriate assessment report. Management arrangements are reviewed to ensure that the Plan continues to have no adverse effects on the Natura sites concerned. Reviews were completed in 2012 and 2013 and are published at the following links.

<http://www.fishingnet.ie/sea-fisheriesinnaturaareas/natura2000sitesundermanagement/dundalkbay/#d.en.72180>

<http://www.fishingnet.ie/sea-fisheriesinnaturaareas/natura2000sitesundermanagement/castlemaineharbour/#d.en.72179>

In addition, in related to fishery opened following appropriate assessment, a unique and comprehensive fishery control plan was drafted by Ireland's Sea Fisheries Protection Authority. In Castlemaine Harbour, each vessel active in the fishery was required to operate an onboard vessel positioning system, which continuously reported the vessels position within the site and on the seed bed external to the site. Each vessel was required to make requisite returns using gatherers docketts and logbook records of quantities of seed taken onboard and re-laid. Inspections at sea were conducted.

In Dundalk Bay for 2013, the number of vessels fishing cockles was restricted by permit. Each vessel was required to make returns showing the time, location, the gross catch and the permit number. Hand gatherers active in this fishery were issued permits and required to complete gatherers docketts for any cockle taken. Inspections by SFPA officers took place throughout the period of the fishery. No cockle fishing took place in Dundalk Bay in 2014.

In the Irish Sea mussel seed fishery, participating vessels were prohibited from the sensitive reef habitat of the Wicklow Reef SAC. A geo-fenced buffer zone was imposed around the closed area and vessels fishing for mussel seed in the buffer zone were required to report their position through a Vessel Monitoring System (VMS) every 5 minutes.

Work Programme 2015

Risk Assessment of unplanned fisheries

Article 6.2 risk assessment for all fisheries not subject to secondary licensing in all SACs was completed in 2014 and is now being updated to take account of recently published Specific Conservation Objectives. Spatial analysis of overlap between fisheries and marine communities in these sites commenced in September 2014 and has proceeded incrementally as COs are published.

Preparation of responses to risks is being developed on a prioritised basis taking account of the risk scores and the particular features deemed to be at risk. Mitigation of risks will undergo consultation in keeping with the Aarhus Convention.

Appropriate Assessment of planned fisheries

Appropriate assessment of all remaining known planned fisheries will be completed by 2015 in accordance with the following schedule.

2015

- Dredging for mussel seed in 3 sites, i.e. Saltees Islands SAC, Carnsore Point SAC and Hook Head SAC.

Post Assessment Monitoring Activities

Findings of non-significant effects during AA can be derived with different levels of confidence. Where the level of confidence in findings was not high and where the consequences of ‘getting it wrong’ could be significant targeted environmental monitoring programmes were put in place. The two AAs that were completed in Dundalk Bay and Castlemaine Harbour were followed by extensive effects monitoring programmes. Outputs include:

- Assessment of the potential effects of cockle harvesting in Dundalk Bay, Co. Louth on shorebirds, the aim of which was to examine the effect of cockle fishing on waterbird utilisation of intertidal habitat in Dundalk Bay. Results of this study are available at <http://www.fishingnet.ie/media/fishingnet/content/fisheriesinnaturaareas/siteassessments/dundalkbay/AA%20Annex%20IV%20waterbirds%20and%20cockles.pdf>
- Monitoring of Oystercatcher numbers, spatial distribution & diet in Dundalk Bay SPA, Co. Louth (2011 - 2013) the aim of which is to monitor numbers of Oystercatcher at Dundalk to quantify the composition of the diet of the Dundalk Bay Oystercatcher population and to use these data to inform the licensing of a cockle fishery in the bay. This work is ongoing.
- BACI effects monitoring of hydraulic dredging for cockles on the intertidal benthic habitats of Dundalk Bay, Ireland in 2009 and 2010. This study looked for effects of hydraulic dredging for cockles on benthos using a control impact before after experimental design. The report is available from the Marine Institute,
- Annual monitoring of bivalve distribution and abundance in Dundalk Bay 2010-2012. Annual surveys are conducted to detect any changes in distribution or abundance of characterising bivalves in the bay which supports a cockle fishery. Reports are available from the Marine Institute.
- Impact of dredging on undersized discard cockle and bivalves; a study was completed in Dundalk Bay prior to the opening of the 2013 fishery
- Annual monitoring of mussel cover on intertidal marine habitats in Castlemaine Harbour using aerial imagery
- Monitoring distribution of seabirds by aerial survey in coastal waters of the western Irish Sea in relation to inshore dredge fisheries for bivalves. Two surveys were completed by contractors to the Marine Institute in March and December 2014 .

Annex 1
Appropriate Assessment and Risk Assessment of Sea-Fisheries

The following is a schedule of completed and planned Appropriate Assessments and Risk Assessments for Sea-Fisheries.

Fisheries - Article 6 Assessment Status			
Sites	Designation	Appropriate Assessment⁷	Risk Assessment
Castlemaine Harbour	SPA	Complete	-
Castlemaine Harbour SAC	SAC	Complete	-
Dundalk Bay	SAC	Complete	-
Dundalk Bay	SPA	Complete	-
Roaringwater Bay and Islands	SAC	-	Complete
Donegal Bay (Murvagh)	SAC	-	Complete
Donegal Bay	SPA	-	Complete
Donegal Bay (Durnesh Lough)	SPA	-	Complete
Loughswilly	SAC	Complete	-
Lough Swilly	SPA	Complete	-
Baldoyle Bay	SAC	-	Complete
Blackwater Bank	SAC	Complete	Complete
Boyne Coast and Estuary	SAC	-	Complete
Bray Head	SAC	-	Complete
Buckroney-Brittis Dunes and Fen	SAC	-	Complete
Cahore Polders and Dunes	SAC	-	Complete
Carlingford Shore	SAC	-	Complete
Carlingford Lough	SPA	-	Complete
Clogher Head	SAC	-	Complete
Kilmuckridge-Tinnaberna Sandhills	SAC	-	Complete
Kilpatrick Sandhills	SAC	-	Complete
Lambay Island	SAC	-	Complete
Long Bank	SAC	Complete	Complete
Magherabeg Dunes	SAC	-	Complete
Malahide Estuary	SAC	-	Complete
North Dublin Bay	SAC	-	Complete
Raven Point Nature reserve	SAC	-	Complete
Rockabill to Dalkey	SAC	Complete	Complete
Rogerstown Estuary	SAC	-	Complete
Slaney River Valley SAC	SAC	-	Complete
South Dublin Bay	SAC	-	Complete
The Murrough Wetlands	SAC	-	Complete
Wicklow Reef	SAC	Complete	Complete
Baldoyle Bay	SPA	-	Complete

⁷ 'appropriate assessment' includes screening for appropriate assessment

Boyne Estuary	SPA	-	Complete
Cahore Marshes	SPA	-	Complete
Dalkey Island	SPA	-	Complete
Howth Head Coast	SPA	-	Complete
Irelands Eye	SPA	-	Complete
Lambay Island	SPA	-	Complete
Malahide Estuary	SPA	-	Complete
North Bull Island	SPA	-	Complete
River Nanny estuary and Shore	SPA	-	Complete
Rockabill	SPA	Complete	Complete
Rogerstown estuary	SPA	-	Complete
Skerries Islands	SPA	-	Complete
South Dublin Bay and River Tolka Estuary	SPA	-	Complete
The Murrough	SPA	-	Complete
The Raven	SPA	2015	Complete
Wexford Harbour and Slobs	SPA	-	Complete
Wicklow Head	SPA	Complete	Complete
Carnsore Pt	SAC	2015	Complete
Saltees Is	SPA	2015	Complete
Hook Head	SAC	2015	Complete
Achill Head	SAC	-	Complete
Akeragh, Banna and Barrow Hbr	SAC	-	Complete
Aran Island (Donegal) cliffs	SAC	-	Complete
Ardmore Hd	SAC	-	Complete
Ballinskelligs Bay and Inny Estuary	SAC	-	Complete
Ballyhoorisky Point to Fanad Head	SAC	-	Complete
Ballymacoda (Clonpriest and Pillmore)	SAC	-	Complete
Ballyness Bay	SAC	-	Complete
Ballysadare Bay	SAC	-	Complete
Ballyteigue Burrow	SAC	-	Complete
Bannow Bay	SAC	-	Complete
Barley Cove to Ballyrisode Pt	SAC	-	Complete
Black Hd Poulsallagh Complex	SAC	-	Complete
Blackwater River (Cork/Waterford)	SAC	-	Complete
Blasket Islands	SAC	-	Complete
Broadhaven Bay	SAC	-	Complete
Bunduff Lough and Machair/Trawalua/Mullaghmore	SAC	-	Complete
Carrowmore Dunes	SAC	-	Complete
Carrowmore Point to Spanish Point and Islands	SAC	-	Complete
Clew Bay complex	SAC	-	Complete
Clonakilty Bay	SAC	-	Complete
Courtmacsharry Estuary	SAC	-	Complete
Cummeen Strand/Drumcliff Bay (Sligo Bay)	SAC	-	Complete

Durnesh Lough	SAC	-	Complete
Duvillaun Islands	SAC	-	Complete
Galway Bay complex	SAC	-	Complete
Glengariff Hbr and Woodland	SAC	-	Complete
Great Island Channel	SAC	-	Complete
Gweedore Bay and Islands	SAC	-	Complete
Helvick Head	SAC	-	Complete
Hempton's Turbot Bank	SAC	-	Complete
Horn Head and Rinclevan	SAC	-	Complete
Inagh River estuary	SAC	-	Complete
Inisboffin and Inishark	SAC	-	Complete
Inismaan Island	SAC	-	Complete
Inismore Island	SAC	-	Complete
Inisoir Island	SAC	-	Complete
Inistrahull	SAC	-	Complete
Kenmare River	SAC	-	Complete
Kerry Hd shoal	SAC	-	Complete
Kilkee reefs	SAC	-	Complete
Kilkieran Bay and Islands	SAC	-	Complete
Killala Bay/Moy Estuary	SAC	-	Complete
Kingstown Bay	SAC	-	Complete
Lackan Saltmarsh and Kilcummin Hd	SAC	-	Complete
Lough Hyne Nature reserve and Environs	SAC	-	Complete
Lower River Shannon	SAC	-	Complete
Magharee Is	SAC	-	Complete
Mullet/Blacksod Bay complex	SAC	-	Complete
Mulroy Bay	SAC	-	Complete
North Inishowen Coast	SAC	-	Complete
Omey Island machair	SAC	-	Complete
Rathlin O'Beirne Island	SAC	-	Complete
River Barrow and River Nore	SAC	Complete	Complete
Rutland Island and Sound	SAC	-	Complete
Saltee Islands	SAC	-	Complete
Sheephaven	SAC	-	Complete
Slieve Tooey/Tormore Island/Loughros Beg Bay	SAC	-	Complete
Slyne Hd Islands	SAC	-	Complete
Slyne Hd peninsula	SAC	-	Complete
St. Johns Point	SAC	-	Complete
Streedagh Point Dunes	SAC	-	Complete
Tacumshin Lake	SAC	-	Complete
Tory Island coast	SAC	-	Complete
Tralee Bay and Magharees Peninsula	SAC	-	Complete
Tramore Dunes and Backstrand	SAC	-	Complete
Valentia Hbr/Portmagee Channel	SAC	-	Complete
West Connacht Coast_north	SAC	-	Complete

West Connacht Coast_south	SAC	-	Complete
West of Ardara/Maas Road	SAC	-	Complete
Ardboline Island and Horse Island	SPA	-	Q4 2015
Aughris Head	SPA	-	Q4 2015
Baera Peninsula	SPA	-	Q4 2015
Ballycotton Bay	SPA	-	Q4 2015
Ballymacoda Bay	SPA	-	Q4 2015
Ballysadare Bay	SPA	-	Q4 2015
Ballyteigue Burrow	SPA	-	Q4 2015
Bannow Bay	SPA	-	Q4 2015
Bills Rock	SPA	-	Q4 2015
Blacksod Bay/Broadhaven Bay	SPA	-	Q4 2015
Blackwater Estuary	SPA	-	Q4 2015
Blasket Islands	SPA	-	Q4 2015
Clare Island	SPA	-	Q4 2015
Cliffs of Moher	SPA	-	Q4 2015
Clonakilty Bay	SPA	-	Q4 2015
Cork Harbour	SPA	-	Q4 2015
Courtmacsherry Bay	SPA	-	Q4 2015
Cross Lough (Killadoon)	SPA	-	Q4 2015
Cruagh Island	SPA	-	Q4 2015
Cummeen strand	SPA	-	Q4 2015
Deenish Island and Scariff Island	SPA	-	Q4 2015
Dingle Peninsula	SPA	-	Q4 2015
Drumclif Bay	SPA	-	Q4 2015
Dungarvan Harbour	SPA	-	Q4 2015
Duvillaun Island	SPA	-	Q4 2015
Fanad Head	SPA	-	Q4 2015
Galley Head to Duneen Head	SPA	-	Q4 2015
Greers Island	SPA	-	Q4 2015
Helvick Head to Ballyquin	SPA	-	Q4 2015
High Island, Inishark and Davillaun	SPA	-	Q4 2015
Horn head to Fanad Head	SPA	-	Q4 2015
Illancrone and Iniskeeragh	SPA	-	Q4 2015
Illanmaster	SPA	-	Q4 2015
Illeunonearaun	SPA	-	Q4 2015
Inisbofin Inishdooley and Inishbeg	SPA	-	Q4 2015
Inisbofin, Omey Island and Turbot Island	SPA	-	Q4 2015
Inisduff	SPA	-	Q4 2015
Inisglora and Inishkeeragh	SPA	-	Q4 2015
Inishmore	SPA	-	Q4 2015
Inishmurray	SPA	-	Q4 2015
Inishtrahull	SPA	-	Q4 2015
Iniskea Islands	SPA	-	Q4 2015
Iniskeel	SPA	-	Q4 2015
Inner Galway Bay	SPA	-	Q4 2015
Iveragh Peninsula	SPA	-	Q4 2015

Keeraghs Islands	SPA	-	Q4 2015
Kerry Head	SPA	-	Q4 2015
Killala Bay/Moy Estuary	SPA	-	Q4 2015
Lady's Island Lake	SPA	-	Q4 2015
Loop Head	SPA	-	Q4 2015
Lough Foyle	SPA	-	Q4 2015
Magharees Islands	SPA	-	Q4 2015
Mid Clare coast	SPA	-	Q4 2015
mid-Waterford coast	SPA	-	Q4 2015
Mullet Peninsula	SPA	-	Q4 2015
Old Head of Kinsale	SPA	-	Q4 2015
Puffin Island	SPA	-	Q4 2015
Rathlin O'Beirne	SPA	-	Q4 2015
River Shannon and River Fergus Estuaries	SPA	-	Q4 2015
Roaninish	SPA	-	Q4 2015
Seven Heads	SPA	-	Q4 2015
Sheeps Head to Toe Head	SPA	-	Q4 2015
Sheskinmore Lough	SPA	-	Q4 2015
Skelligs	SPA	-	Q4 2015
Slyne Head to Ardmore Pt Islands	SPA	-	Q4 2015
Sovereign Islands	SPA	-	Q4 2015
Stags of Broadhaven	SPA	-	Q4 2015
Tacumshin Lake	SPA	-	Q4 2015
Termoncarragh Lake and Annagh Machair	SPA	-	Q4 2015

Annex 2.
List of baseline benthic surveys in SACs and SPAs completed in Ireland during the period 2009-2012.

MARINE INSTITUTE NATURA 2000 SITE BENTHIC SURVEYS						
SURVEY & DELIVERABLES STATUS UPDATE 26-9-12						
BENTHIC SURVEYS 2010						
Priority	Site	Survey Requirement	Contractor	Survey status	Data Submitted	Data Transferred
7	CARNSORE POINT	Intertidal Sediment	Ecoserve	Complete	Complete	Complete
		Reef		Complete	Complete	Complete
		Subtidal Reef	Aquafact	Complete	Complete	Complete
7	HOOK HEAD	Subtidal Sediment	Aquafact	Complete	Complete	Complete
		Subtidal Reef		Complete	Complete	Complete
7	SALTEE ISLANDS	Intertidal Sediment	Ecoserve	Complete	Complete	Complete
		Intertidal Reef		Complete	Complete	Complete
		Subtidal Sediment	Aquafact	Complete	Complete	Complete
		Subtidal Reef		Complete	Complete	Complete
35	KERRY HEAD SHOAL	Subtidal Reef	Aquafact	Complete	Complete	Complete

22	LWR R. SHANNON / SHANNON-FERGUS ESTUARY	Intertidal Sediment	Aquafact	Complete	Complete	Complete
		Subtidal Sediment	Aquafact	Complete	Complete	Complete
		Subtidal Reef		Complete	Complete	Complete
29	DRUMCLIFF BAY/ CUMEEN STRAND	Intertidal Sediment	ASU	Complete	Complete	Complete
		Subtidal Sediment	Aquafact	Complete	Complete	Complete
32	BALLYSADARE BAY	Intertidal Sediment	ASU	Complete	Complete	Complete
		Subtidal Sediment	Aquafact	Complete	Complete	Complete
23	KILLALA BAY/MOY ESTUARY	Intertidal Sediment	ASU	Complete	Complete	Complete
		Subtidal Sediment	Aquafact	Complete	Complete	Complete
27	CARLINGFORD LOUGH	Intertidal Sediment	ASU	Complete	Complete	Complete
19	BOYNE COAST AND ESTUARY	Intertidal Sediment	ASU	Complete	Complete	Complete
		Subtidal Sediment	Ecoserve	Complete	Complete	Complete
19	RIVER NANNY ESTUARY AND SHORE	Intertidal Sediment	ASU	Complete	Complete	Complete
28	MALAHIDE ESTUARY	Intertidal Sediment	ASU	Complete	Complete	Complete
19	BULL ISLAND	Intertidal Sediment	ASU	Complete	Complete	Complete
14	KILKIERAN BAY AND ISLANDS	Intertidal Sediment	APEM	Complete	Complete	Complete
		Intertidal Reef		Complete	Complete	Complete
	KILKIERAN BAY AND ISLANDS	Subtidal Sediment	Aquafact	Complete	Complete	Complete
		Subtidal Reef		Complete	Complete	Complete
24	MANNIN BAY	Subtidal Sediment	Aquafact	Complete	Complete	Complete
		Subtidal Reef		Complete	Complete	Complete
25	SLYNE HEAD AND ISLANDS	Subtidal Reef	Aquafact	Complete	Complete	Complete
	KINGSTOWN BAY	Subtidal Sediment	Aquafact	Complete	Complete	Complete
20	VALENTIA HARBOUR/PORTMAGEE CHANNEL	Intertidal Sediment	APEM	Complete	Complete	Complete
		Subtidal Sediment	Aquafact	Complete	Complete	Complete
		Subtidal Reef		Complete	Complete	Complete
33	BLASKET ISLANDS	Subtidal Reef	Aquafact	Complete	Complete	Complete
26	MULROY BAY	Subtidal Sediment	Aquafact	Complete	Complete	Complete
		Subtidal Reef		Complete	Complete	Complete
ADDITIONAL BENTHIC SURVEYS 2010						
21	RUTLAND ISLAND AND SOUND	Subtidal Sediment	Aquafact	Complete	Complete	Complete
		Subtidal Reef		Complete	Complete	Complete
34	GWEEORE BAY AND ISLANDS	Subtidal Reef	Aquafact	Complete	Complete	Complete
18	North Inishowen / Trawbreaga*	Intertidal Sediment	RPS	Complete	Complete	Complete
3	Lough Swilly*	Intertidal Sediment	RPS	Complete	Complete	Complete
11	Donegal Bay*	Intertidal	RPS	Complete	Complete	Complete

		Sediment				
17	Broadhaven Bay*	Intertidal Sediment	RPS	Complete	Complete	Complete
		Intertidal reef	RPS	Complete	Complete	Complete
17	Belmullet / Blacksod Bay complex*	Intertidal Sediment	RPS	Complete	Complete	Complete
		Intertidal reef	RPS	Complete	Complete	Complete
4	Clew Bay Complex*	Intertidal Sediment	RPS	Complete	Complete	Complete
8	Galway Bay Complex	Intertidal Sediment	RPS	Complete	Complete	Complete
2	Roaringwater Bay	Subtidal reef	ERM/MERC	Complete	Complete	Complete
		Intertidal reef	RPS	Complete	Complete	Complete
9	Tralee Bay	Intertidal Sediment	NUIG	Complete	Complete	Complete
		Intertidal Reef	RPS	Complete	Complete	Complete
		Subtidal Reef	Aquafact	Complete	Complete	Complete
12	Kenmare	Intertidal Reef	RPS	Complete	Complete	Complete
		Subtidal Reef	Aquafact	Complete	Complete	Complete
BENTHIC SURVEYS 2011/12						
19	Rogerstown Estuary	Intertidal Sediment	ERM/MERC	Complete	Complete	Complete
		Subtidal Sediment	ERM/MERC	Complete	Complete	Complete
57	South Dublin Bay	Intertidal Sediment	ERM/MERC	Complete	Complete	Complete
19	Baldoyle Bay	Intertidal Sediment	ERM/MERC	Complete	Complete	Complete
19	Lambay / Rockabill / Dalkey Is / Irelands Eye	Intertidal Reef	ERM/MERC	Complete	Complete	Complete
		Subtidal Reef	ERM/MERC	Complete	Complete	Complete
73	Ladys Island Lake	Intertidal Reef	ERM/MERC	Complete	Complete	Complete
		Subtidal Reef	ERM/MERC	Complete	Complete	Complete
40	Ballyteigue Burrow	Intertidal Sediment	ERM/MERC	Complete	Complete	Complete
		Subtidal Sediment	ERM/MERC	Complete	Complete	Complete
42	Black Head - Poulsallagh Complex	Intertidal Reef	ERM/MERC	Complete	Complete	Complete
		Subtidal Reef	ERM/MERC	Complete	Complete	Complete
44	Carrowmore Point to Spanish Point & Is.	Subtidal Reef	ERM/MERC	Complete	Complete	Complete
52	Kilkee Reefs	Intertidal Sediment	ERM/MERC	Complete	Complete	Complete
		Intertidal Reef	ERM/MERC	Complete	Complete	Complete
		Subtidal Reef	ERM/MERC	Complete	Complete	Complete
		Subtidal Sediment	ERM/MERC	Complete	Complete	Complete
38	Ballymacoda Bay	Intertidal Sediment	ERM/MERC	Complete	Complete	Complete
		Subtidal Sediment	ERM/MERC	Complete	Complete	Complete
63	Ballycotton Bay	Intertidal Sediment	ERM/MERC	Complete	Complete	Complete
47	Great Island Channel / Cork Harbour	Intertidal Sediment	ERM/MERC	Complete	Complete	Complete
46	Courtmacsherry Bay & Estuary	Intertidal Sediment	ERM/MERC	Complete	Complete	Complete
		Subtidal Sediment	ERM/MERC	Complete	Complete	Complete

45	Clonakilty Bay	Intertidal Sediment	ERM/MERC	Complete	Complete	Complete
	Barleycove to Ballyrisode Point	Intertidal Sediment	ERM/MERC	Complete	Complete	Complete
BENTHIC SURVEYS 2011/12						
39	Ballyness Bay	Intertidal Sediment	ERM/MERC	Complete	Complete	Complete
		Subtidal Sediment	ERM/MERC	Complete	Complete	Complete
54	Rathlin O'Beirne Island	Subtidal Reef	ERM/MERC	Complete	Complete	Complete
56	Slieve League	Subtidal Reef	ERM/MERC	Complete	Complete	Complete
58	St Johns Point	Subtidal Sediment	ERM/MERC	Complete	Complete	Complete
		Subtidal Reef	ERM/MERC	Complete	Complete	Complete
		Intertidal Sediment	ERM/MERC	Complete	Complete	Complete
60	Tory Island Coast	Subtidal Reef	ERM/MERC	Complete	Complete	Complete
62	West of Ardara / Mass Road	Intertidal Sediment	ERM/MERC	Complete	Complete	Complete
		Subtidal Sediment	ERM/MERC	Complete	Complete	Complete
55	Sheephaven	Intertidal Sediment	ERM/MERC	Complete	Complete	Complete
61	Tranarosan and Melmore Lough	Intertidal Sediment	ERM/MERC	Complete	Complete	Complete
64	Lough Foyle	Intertidal Sediment	ERM/MERC	Complete	Complete	Complete
65	Mid Clare Coast	Intertidal Sediment	ERM/MERC	Complete	Complete	Complete
		Intertidal Reef	ERM/MERC	Complete	Complete	Complete
37	Achill Head	Intertidal Sediment	ERM/MERC	Complete	Complete	Complete
		Subtidal Sediment	ERM/MERC	Complete	Complete	Complete
		Subtidal Reef	ERM/MERC	Complete	Complete	Complete
49	Inisheer Island	Subtidal Reef	ERM/MERC	Complete	Complete	Complete
50	Inishmann Island	Subtidal Reef	ERM/MERC	Complete	Complete	Complete
51	Inishmore Island	Subtidal Reef	ERM/MERC	Complete	Complete	Complete
25	Slyne Head Peninsula	Intertidal Sediment	ERM/MERC	Complete	Complete	Complete
		Intertidal Reef	ERM/MERC	Complete	Complete	Complete
		Subtidal Sediment	ERM/MERC	Complete	Complete	Complete
		Subtidal Reef	ERM/MERC	Complete	Complete	Complete
72	Conemara Bog Complex (Salt Lake)	Subtidal Reef	ERM/MERC	Complete	Complete	Complete
43	Bunduff Lough & Machair / Trawalua	Subtidal Reef	ERM/MERC	Complete	Complete	Complete
		Subtidal Sediment	ERM/MERC	Complete	Complete	Complete
		Intertidal Sediment	ERM/MERC	Complete	Complete	Complete
		Intertidal Reef	ERM/MERC	Complete	Complete	Complete
59	Streedagh Point Dunes	Intertidal Sediment	ERM/MERC	Complete	Complete	Complete
	Kish/Bray Bank	Subtidal sediment	Aquafact	Complete	Complete	Complete
	Blackwater Bank	Subtidal sediment	Aquafact	Complete	Complete	Complete
	Hempton's Bank	Subtidal sediment	ERM/MERC	Complete	Complete	Complete
49-51	Aran Islands	Sea caves	ERM/MERC	Complete	Complete	Complete

2	Roaringwater Bay	Sea caves	ERM/MERC	Complete	Complete	Complete
53	Lough Hyne & Reef	Sea caves / reef	ERM/MERC	Complete	Complete	Complete
BENTHIC SURVEYS 2012/2013						
	Wicklow reef	Reef	ERM/MERC	Complete	Complete	Complete

Legal Instruments: CFP Scope for Member States

The Common Fisheries Policy covers the conservation of marine biological resources and the management of fisheries and fleets exploiting such resources. In the context of managing sea-fisheries in Natura 2000 sites, Articles 2, 3, 11, 19 and 20 of the Common Fisheries Policy Regulation EU 1380/2013 are relevant:

Article 11.1 permits Member States to adopt conservation measures not affecting fishing vessels of other Member States that are applicable to waters under their sovereignty or jurisdiction and that are necessary for the purpose of complying with their obligations under (inter alia) Article 6 of Directive 92/43/EEC provided the measures are compatible with Article 2 (objectives of the Common Fisheries Policy), meet the objectives of the relevant Union legislation and are at least as stringent as measures under Union law.

Articles 11.2 to 11.6 set out specific procedures to address circumstances where other Member States have a direct management interest the fishery to be affected. Under those procedures, the Commission is empowered to adopt measures. In Ireland's case, this would apply to conservation measures which may affect a number of fisheries in the 6 to 12 nautical mile belt from Ireland's baselines and any fisheries beyond 12 nautical miles.

Article 19 permits Member States to adopt measures applicable solely to their own fleet and ascribes conditions for notifying other Member States concerned and making information publicly available.

Article 20 permits Member States to take non-discriminatory measures for the conservation and management of fish stocks and the maintenance or improvement of the conservation status of marine ecosystems within 12 nautical miles of its baselines provided that the Union has not adopted measures addressing conservation and management specifically for that area or specifically addressing the problem identified by the Member State concerned. The Member State measures must be compatible with the CFP objectives and be at least as stringent as measures under Union law.

Article 3 establishes the Principles of Good Governance for the CFP. Ireland must also have regard to these in adopting measures in accordance with Articles 11, 19 and 20.

The scope of measures which can be enacted under national law to control fishing activities is therefore limited by the Common Fisheries Policy in the first instance and national measures can only be applied on the basis set down above.

Legal Instruments: National Sea-Fisheries

The principle national legislation for managing sea-fisheries under the Common Fisheries Policy is the Sea-Fisheries & Maritime Jurisdiction Act 2006. The Minister for Agriculture, Food and the Marine is responsible for making policy and regulations under this Act for a wide range of sea-fisheries including management of Ireland's quotas under the CFP and management of the majority of commercial sea-fishing activities (excluding certain species under the governance of the Minister for Communications, Energy and Natural Resources).

The Sea-Fisheries Protection Authority is established under the 2006 Act as an independent control and enforcement authority. Regulations issued under the 2006 Act set down national measures to comply with CFP regulations and avail of the scope given to Ireland as a Member State under Article 19 and 20 of the CFP Regulation; regulations may apply to the activities of Irish sea-fishing boats wherever they fish or to sea-fishing activities in waters within Ireland's jurisdiction, including within 12 nautical miles of Ireland's baselines.

The European Union (Birds and Natural Habitats) (Sea-Fisheries) Regulations 2013 (S.I. 290 of 2013 as amended by SI 565 of 2014) provide the Minister for Agriculture, Food and the Marine regulatory powers to manage sea-fisheries, consistent with the responsibilities conferred under the 2006 Act and permissible to Ireland as a Member State under the Common Fisheries Policy, specifically for the purpose of the Birds and Habitats Directives. The regulations apply to the regulation of sea-fishing activity in so far as the regulation of that activity is necessary to secure compliance with the Regulations of 2011 and the objectives of the Habitats Directive. The scope of the regulations is neither constrained by nor specific to the length of sea-fishing boats.

Regulation 9 provides that the Minister may issue a declaration which will apply to sea-fishing activity which has the potential to impact on the conservation objectives of a European site. The circumstances in which the Minister may issue a Declaration are:

- to give effect to a Fisheries Natura Plan which has undergone appropriate assessment;
- in response to the conclusions of a risk assessment report prepared by the Marine Institute;
- in order to comply with Regulation 27 of the European Communities (Birds and Natural Habitats) Regulations 2011 or
- where there is an immediate and significant risk from sea-fishing to the conservation objectives of a European site.

The Declaration is the legal instrument which prescribes the measures for managing the risks posed by specific sea-fishing activities. The 2013 Sea-Fisheries Regulations identify offences including failure to comply with a Declaration (Regulation 25). The 2013 Sea-Fisheries Regulations set down the enforcement powers available to the Sea-Fisheries Protection Authority, consistent with the scope of powers available for sea-fisheries generally (Regulations 12, 13, 14, 15, 16, 17, 18).

Declarations which are in place for a number of areas are available online at:

<http://www.fishingnet.ie/sea-fisheriesinnaturaareas/natura2000sitesundermanagement/>

In the case of Blacksod Bay, the Minister has introduced a Fisheries Natura Declaration to implement spatial and temporal restrictions on the activity of fishing for scallop, as well as monitoring requirements, within the SAC.

<http://www.agriculture.gov.ie/press/pressreleases/2015/july/title,83743,en.html>

The Department has recently received the updated Risk Assessment report which takes account of all published specific conservation objectives for marine SACs. A prioritisation exercise is being developed and will be issued for stakeholder consultation during 2015 along with the updated SAC assessment report. Mitigation of some risks arising in the awaited reports is already being developed as a result of implementation experience from completed assessments and consultation on mitigation of those risks will proceed quickly (e.g. closure of sensitive habitats to mobile gear; contract in place for studies of the potential impacts of potting on certain habitats to further inform mitigation response to risks).

A systematic approach is also being taken to issues which are relevant to the Risk Assessment and Mitigation process. An important issue is that fisheries data is generally not available at a sufficiently fine resolution relative to the scale and size of habitat features. In order to improve the provision of data on the interaction between fisheries and features the Marine Institute is trialling the use of GPS monitoring technology on sea-fishing boats. Regulations were introduced in June 2015 to oblige all boats exploiting razor clams to carry fully-functioning GPS monitoring systems on board and to submit catch records so that (inter alia) the footprint of these fisheries can be monitored and managed with regard to its potential impact on the features of Natura 2000 sites.

Stakeholder Involvement

The establishment of the Inshore Forums, inter alia, supports Ireland in fulfilling its obligations under the CFP and the Aarhus Convention for (early and effective) stakeholder participation in decision-making (from inception to implementation).

The Forums are advisory in nature and decision-making on fisheries management continues to be a Ministerial responsibility. Any proposal which may impact on other stakeholders is subject to appropriate consultation in order that the decision-making process continues to take account of the views of all stakeholders, expert opinion and sustainability issues including the stock itself, the fishermen involved and the marine environment.

The Forums act as a network for the various sectors active in the inshore and for the inshore fishing community itself. The Forums have already demonstrated a capacity to mobilise local fishermen to bring management issues (both fisheries and environmental) to their attention and to work with those fishermen to develop planned approaches to previously ad-hoc fisheries.

The Terms of Reference of the Inshore Forums are available online at the following link:

<http://www.bim.ie/media/bim/content/downloads/Inshore%20Fisheries%20Forums%20Terms%20of%20Reference%2007-2014.pdf>

On announcement of the Minister's decision to establish the forums, the Environmental Pillar (the umbrella organisation for the Irish ENGOs) was notified so as to ensure the ENGOs were aware of the initiative. The process of nominations was managed by the Fisheries Local Action Groups (Community Led Local Development Groups established under the European Fisheries Fund) so that

communities were nominating their own spokespeople. BIM, the Irish Sea-Fisheries Board, provided administrative support for this process including publishing a national call for nominations to each of the 6 RIFFs. BIM's efforts were reported in the marine trade press, advertisements were published in print media as well as online.

With regard to participation by NGOs, each Regional Inshore Fisheries Forum must have at least one member that represents environmental interests. Aside from reserving at least 1 seat, there are no other specific terms which apply to the environmental representatives. Each of the 6 RIFFs established has met the criterion to have at least 1 sitting representative of environmental interests.