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An Bord Pleanála,
64 Marlborough Street,
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14th February, 2019.

RE: PL28.303247 Morrison's Island, Cork City. Applicant: Cork City Council

Dear Sir/Madam,

I am an elected member of Cork County Council and a resident of Passage West in Cork's Lower Harbour. I have grave concerns that Cork City Council's proposed works at Morrison's Island currently under assessment by the Board may have significant potential to impact on the Cork Harbour environment and in particular, the designated Special Protection Area (SPA) of Lough Mahon.

Cork Harbour has been designated an SPA because of its ornithological significance. It provides shelter for over 20,000 wintering waterfowl. Specifically, the SPA site comprises most of the intertidal areas of the Harbour including Lough Mahon. Lough Mahon stretches from Blackrock to Passage West and includes the estuary of the Douglas River. The extensive mudflats and salt marshes around Lough Mahon and the Douglas Estuary shelter wildlife habitats that are of national importance. The estuary is considered to be the second most valuable bird habitat in the Harbour. You can see the NPWS official synopsis for the Cork Harbour SPA at:

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004030.pdf>.

Cork City Council has recognised the legislative need to protect the Cork Harbour SPA in the Cork City Development Plan (see para 10.43, for example). In fact the AA Screening for the City Development Plan states for Cork Harbour that "*the significance of this SPA and SAC is fully recognised by the council and it is committed to protecting the SPA and SAC together with all other ecological corridors and areas of natural heritage within and adjacent to Cork's administrative area*". The Cork City Council publication, *Nature in the City; a Guide to Biodiversity in Cork City*, produced as an action of the Cork City Biodiversity Plan 2009 – 2014 regards Lough Mahon as one of four sites of particular biodiversity importance in Cork City.

The River Lee discharges to Cork Harbour through Lough Mahon. Both the river and the harbour are part of a single integrated waterbody. The relationship between discharge into the river at the City and subsequent impact on the Harbour was examined in detail by Van Oord on behalf of the Port of Cork (*Environmental*

Impact of Cork Harbour Dredging, 2012). When they released tracer dye in the City, it was subsequently found several days later over a wide area downstream. Their observation was that overall, most of the tracer particles released in the City were found in the Harbour. They demonstrated transport of the tracer released in the City to “particularly the extensive inter-tidal mudflats in Lough Mahon as well as other depositional areas” and dispersion in other places along the estuary within only a few tidal cycles. They produced the following diagram to illustrate the pattern of dispersion in the Harbour when material is released into the River at the City:

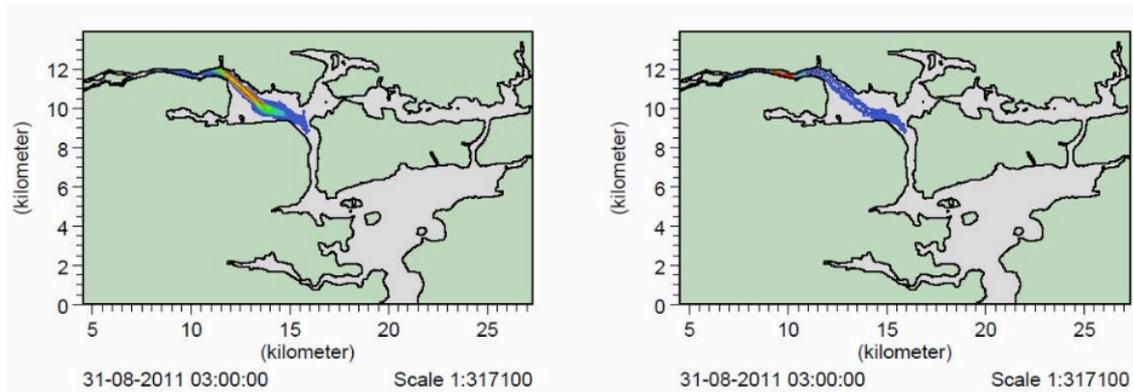


Figure 14: Snapshots of suspended sediment (left) and net sedimentation (right) 7 hours after the Cork tracer release, at the first low water slack after the tracer release. Blue indicates very low relative concentration / sedimentation, green medium and red indicates the highest values.

This is as would be expected. The river flows quickly in its channel and sediments or pollutants entrained within the water column largely flow with it until it slows. That slowing happens when it enters the much larger water body of Lough Mahon where sediments and/or pollutants, no longer carried by velocity, fall out of the water column. You can see the full Van Oord study at:

https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=4&ved=0ahUKEwjimu2YsoTbAhVQF8AKHaR6BEwQFgg8MAM&url=http%3A%2F%2Fwww.portofcork.ie%2Findex.cfm%2Fpage%2Fforeshore_licence_application%3Ftwfld%3D502%26download%3Dtrue&usg=AOvVaw3-hOGojO-phowVOtMkRRfi

This practical work carried out by Van Oord shows that the River Lee at the City and the Cork Harbour SPA are very much connected and that there is a clear and effective pathway for pollutant transfer between the River Lee at the City and Cork Harbour.

Questions 11, 12, 13 and 14 of the Screening Assessment contained in Table 5.2 of the Environmental Impact Assessment Screening Report state clearly that the proposed Morrison’s Island project poses no risk of impact to the River Lee or to the protected areas of Cork Harbour downstream. Yet Table 5.1 of the Natura Impact Statement equally clearly states that this proposed project does indeed pose a significant potential impact “as a result of sediment or pollution runoff”. It again affirms this potential pollution pathway in Sections 5.3, 6.1, 6.2 and 6.3.

Despite the attempts of Section 8 of the Natura Impact Statement to propose mitigation measures such that no residual adverse impacts on the protected areas of Cork Harbour arise from the Morrison’s Island project, two significant sources of concern remain:

1. The proposed mitigation measure is presumed to be effective

The sole mitigation measure proposed to eliminate any impact arising from the proposed quayside works is preparation of a Construction Pollution Control Plan (CPCP) incorporating best practice guidance. It is extraordinary how when a capitalised acronym is assigned to any plan, it immediately confers it with an air of competence. Confirmed by Section 5.5, a Natura Impact Statement is to contain “*complete, precise and definitive findings and include an examination, analysis, evaluations, findings, conclusions and a final determination*” so as to adequately inform the subsequent Appropriate Assessment. Yet the proposed CPCP is little other than a list of random aspirations, all fine on paper but none of which have been assessed for practical implementation in the context of the proposed Morrison’s Island works. What sort of netting would adequately prevent silt from falling into the water? How would the netting be affixed such that it would be effective whilst continuing to permit the planned work to proceed? The IFI recommends decking for capturing falling pollutants during construction, not netting [IFI, 2016, Section 10.6]. Why has this not been considered? If draining the landward side of a quay wall such that concrete can be poured, where would the proposed silt trap be located? Would there be sufficient distance between the drainage area and the river such that a buffer zoned could be maintained between the silt trap and the flowing water in accordance with IFI requirements [IFI, 2016, Section 7.4.5]? If sealing of joints is to be completed in the dry, how would this recommendation of the CPCP deal with a rising tide? In fact, so imprecise are the aspirations of the CPCP that whilst they advise site personnel will be advised of the “*importance of site management and the freshwater environment*”, they neglect to mention that the River Lee is tidal as far as the weir at the Waterworks and consequently has a significant saline content.

So much information is omitted from this planning application that is critical in the context of determining the potential impact of the proposed works on the designated areas of Cork Harbour. The Board is not presented with analysis of the material on the existing quay walls which, when cleaned, will fall into the River Lee. It is not advised of the type of grout that would be pressed between the hewn limestone blocks that have never heretofore seen grout of any kind. It has not been presented with any analysis of the currents that connect the river at Morrison’s Island to the Lough Mahon SPA. There is no borehole analysis of the quality of silts nor of the ground behind the quay walls which is proposed to be excavated for the pouring of the concrete flood defences.

In its guidance document, *Guidelines for the Assessment of Indirect and Cumulative Impacts as well as Impact Interactions* (1999), the European Commission is clear that “*particular attention needs to be given to defining the baseline conditions of the affected environment. These baseline conditions then provide the context for evaluating the environmental impact of a project ...*”. Yet neither the Environmental Report nor the Natura Impact Statement associated with this planning application contains a single measure of current water quality in the River Lee either at Morrison’s Island or downstream. How can the efficacy of the proposed CPCP for protecting water quality be evaluated if there are no baseline measurements? Nor does the planning application contain even a description of the current health of the Lough Mahon SPA. This is in direct contrast to the strong caution of the NPWS that “*the significance of the impact that results from even a short-term displacement [of waterbirds] should not be underestimated. In terms of foraging habitat, displacement from feeding opportunities not only reduces a bird’s energy intake but also leads to an increase in energy expenditure as a result of the energetic effect of flying to an alternative foraging area ... In areas subject to heavy or ongoing disturbance, waterbirds may be disturbed so frequently that their displacement is equivalent to habitat loss*” [Cork Harbour Special Protection Area: Conservation Objectives Supporting Document Version 1, 2014]. The European Commission agrees. Its abovementioned 1999 guidance advises that data collection would include a focus on determining the current and future status of the environmental resource, historical trends and the resource threshold. Again, without specific knowledge of the current measurement of the environmental asset, how can one determine the measure of possible environmental impact or the effectiveness of proposed mitigation?

The conclusion of the Natura Impact Statement is equally as imprecise as the mitigation measures proposed: “*it is considered that the implementation of such a CPCP will mitigate against any residual adverse effects arising from the works ...*”. “Consideration” without informed assessment has no role in a Natura Impact Statement. Being devoid of detail or scientific analysis, this “considered” conclusion of the Natura Impact Statement is utterly unsubstantiated and therefore provides no measure of reassurance of an absence of risk to the Lough Mahon SPA and other protected areas of Cork Harbour.

2. Project splitting is undermining the potential cumulative impact on Cork Harbour SPA

The Morrison’s Island project currently before the Board is part of the larger Lower Lee (Cork City) Drainage Scheme. Although the various reports submitted with this planning application describe the proposed works as a long-desired public realm enhancement, there is little doubt that the driver behind the project is the proposed flood protection element of the scheme. Morrison’s Island formed part of the Lower Lee (Cork City) Drainage Scheme throughout the 2013 – 2016 period. It was extracted from the larger scheme in 2017 and fast-tracked for implementation when submitted for planning assessment through a Part 8 procedure in February 2018. Although required under Article 5(1)(d) of Directive 2014/52/EU as an effective means of avoiding environmental impacts, the planning documentation submitted contains no description of any reasonable alternatives to the Morrison’s Island project. If the Morrison’s Island proposals are genuinely a stand-alone piece of work, then reasonable alternatives to the walls and public realm aspects should have been detailed within the planning application currently before the Board. The only alternatives mentioned are contained in Section 2.5 of the Environmental Report. These pertain in entirety to the larger Lower Lee (Cork City) Drainage Scheme, thus proving beyond doubt that the proposed Morrison’s Island project is an indivisible part of the larger Lower Lee scheme.

The Lower Lee (Cork City) Drainage Scheme underwent screening for appropriate assessment in December 2016. The screening report concluded that impacts on the designated sites in Cork Harbour could be precluded on the basis of their distance from the proposed scheme and in the light of the mitigation measures proposed as part of construction. The Lower Lee (Cork City) Drainage Scheme is a proposal which incorporates 3,075m of new reinforced concrete walls up to 2m high, 1,815m of sheet pile wall up to 2m high, 3,000m new parapet flood defence walls on refurbished quay walls and 46 pump chambers. By comparison, the Morrison’s Island scheme includes cleaning, grouting and raising quay walls by 300 – 600 mm with concrete over a length of 550m. But whilst the potential for significant adverse impact on the Cork Harbour SPA was acknowledged in the Natura Impact Statement for the Morrison’s Island project, any potential for impact was dismissed in the massively larger Lower Lee project. This makes no sense. Section 7 of the Natura Impact Statement for the Morrison’s Island project fails entirely to either acknowledge or address the potential cumulative impact of the Morrison’s Island project and its parent Lower Lee scheme.

No justification for screening out negative downstream effects from the proposed Lower Lee (Cork City) Drainage Scheme has been proven. That the works areas are > 4 km from the designated Cork Harbour sites is no measure of protection. Van Oord’s work has proven beyond doubt that pollution potential exists. Moreover, in C-323/17 *People Over Wind and Peter Sweetman v Coillte*, the Court of Justice of the European Union ruled that mitigation measures could not be taken into account at the screening stage of Appropriate Assessment. Therefore the screening methodology for the Lower Lee (Cork City) Drainage Scheme has been undertaken in a way that is unacceptable in the context of Directive 2014/52/EU and contains conclusions that have not been validated. Consequently, the presumption of no cumulative impact contained in Section 7 of the Natura Impact Statement for the Morrison’s Island project is unjustified.

Conclusion

Unfounded conclusions of no adverse impact have been deemed unacceptable by the European Court. In Case C43/10, *Commission v Greece*, the Court concluded that “*in the light, in particular of the precautionary principle, which is one of the foundations of the high level of protection pursued by Community policy on the environment, in accordance with the first subparagraph of Article 174(2) EC and by reference to which the Habitats Directive must be interpreted, such a risk exists if it cannot be excluded on the basis of objective information that the plan or project will have significant effects on the site concerned*”. In other words, a Screening Report cannot just say “a risk won’t happen” without providing definitive information to prove that it won’t.

In Case-404/09, *Commission v Spain*, the European Court again ruled that assessments which claimed to be Appropriate Assessments could not be regarded as appropriate because they were “*characterised by gaps and by the lack of complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of those projects*”.

Over many years of studying environmental impact assessments, I have rarely seen one so unsubstantiated as this accompanying the proposed Morrison’s Island scheme.

- The greatest impact of the pumping stations *is likely* to be in terms of traffic and noise restrictions during construction (Environmental Report, Section 3.1.5)
- The remediation of existing quay flood defence walls *is likely* to be carried out by traditional methods (Environmental Report, Sections 3.2.2.1 and 3.2.2.2)
- Where scaffolding is installed, *it will typically* stand on the river bed (*assuming* that adequate bearing is available) (Environmental Report, Section 3.2.2.1)
- Works to the quay walls *may result* in the removal of some of the existing timber fenders (Environmental Report, Section 3.2.2.1)
- Sheet piling *will likely* be required in order to facilitate construction of deep excavations (Environmental Report, Section 3.2.2.3)
- Steel tubular piles will be installed in the river channel (*possibly from a barge*) (Environmental Report, Section 3.2.2.5)
- Steel columns will be fixed to the piles (*possibly by setting in a cement grout*) (Environmental Report, Section 3.2.2.5)
- Noise Sensitive Locations across the river and at South Mall *are highly unlikely* to receive noise levels which exceed the 70dB criterion *except when* driven or vibratory piling is required (Environmental Report, Section 4.6.2.4)
- Certain works *may give rise to* noise levels above 70 dB over short periods ... although such works *are likely to* move on after 1-2 days (Environmental Report, Section 4.6.2.4)
- Consaw operations *may be* controlled by erecting a hoarding ... wall and localised street works *may be* similarly treated ... use of hoarding *may be* beneficial with respect to receptors close to sheet piling operations (Environmental Report, Section 4.6.2.4)
- Noise and vibration impacts ... *are expected to be* temporary and localised ... impacts are *likely to be slight negative to noticeable negative* ... impacts *may increase to noticeable negative or substantial negative* where piling methods other than pressed in piles are used ... these impacts will be *entirely short term* in nature *lasting several days or weeks locally in most cases* (Environmental Report, Section 4.6.2.4)
- Overall the works will have a generally transient nature, *lasting only for several weeks (or up to several months in some instances)* in any one location (Environmental Report, Section 4.6.2.8)

- This residual impact will be fully identified as the works method statement becomes finalised (Environmental Report, Sections 6.3.4.2, 6.3.4.3, 6.4.1 and 6.5)
- Groundwater within the Study Area is more than likely hydraulically connected to the River Lee and its tributaries (Environmental Report, Section 7.3.2)
- The proposed flood defence works will require excavation works along the inner edge of the quay walls. The width and depth of these excavations was not available at the time of compilation of this chapter (Environmental Report, Section 10.4)

These specific examples are compounded by the lack of detail and unfounded conclusions in Table 5.2 of the Screening Report, an evaluation seemingly undertaken with a lack of objectivity that can be described only as breathtaking.

This proposed scheme disappoints at every turn. The public realm element is generic, a litany of missed opportunities. Why is the Parnell Plaza not incorporated into the South Mall such that this most elegant of Cork streets can embrace the river? Wheelchair users appear to be precluded from accessing the Parnell Plaza viewing area. The proposed planted tree species are all non-native. The obvious opportunity to create a shared surface with pedestrian/cycle priority throughout the entire lengths of Fr. Matthew Quay and Morrison's Quay has been missed entirely. Instead, cyclists and pedestrians are forced onto a shared use pathway which, at only 3m wide in some locations, runs contrary to the expected National Transport Authority updated guidance for effective shared use path widths of 4m in metropolitan areas. Whilst the proposals emphasise that canting of footpaths will allow pedestrians to see over the proposed concrete wall elevations, they omit to mention that there is no view of the water from seats positioned anywhere along the proposed footpaths other than at Trinity Bridge. Lighting along the quayside is focused on the vehicular carriageway rather than emphasising the scheme as being one that prioritises pedestrians and cyclists.

The river is that single element of the city fabric which has remained a constant throughout its long and rich history. This scheme would provide an opportunity for the city to embrace the river as its strongest cohesive element. For centuries, the city's fortunes have depended on the river. We are emerging from a 50-year period where the city turned its back on that which has traditionally sustained it. Should the city use the opportunity of this scheme to once again embrace the river, its heritage, visual and amenity value will enrich and sustain Cork City for many more centuries to come.

What is proposed in the current Morrison's Island project effectively canalises the river, isolating it from the city, its streets and people. The various "interpretations" of its past relationship with the city in the form of storyboards and boxes performing as seats are, frankly, an embarrassment. Why pretend when one has the real thing? It is necessary to point out that ANY work on the public realm on Morrison's Quay or Fr. Matthew Quay would be an improvement over the poor presentation of Morrison's Island at present. However, it would be tragic not to capitalise on the *raison d'être* that is Cork City: its river.

Critically, however, I ask the Board to recognise that this planning application is characterised by project splitting, unfounded screening assessments and a paucity of baseline data such that the information presented is simply not adequate to facilitate Appropriate Assessment. There is no way to tell from the data provided whether the very real risk of impact to the downstream areas of Cork Harbour protected under Directive 2014/52/EU can be adequately mitigated. Neither is there any way of concluding no downstream adverse effects from the Lower Lee (Cork City) Drainage Scheme, this project's parent scheme expected to enter the planning process in 2019.

This scheme, both on its own and as part of its parent Lower Lee (Cork City) Drainage Scheme, has generated an unprecedented reaction from Cork's public. It has stimulated an outflowing of appreciation of the river and its age-old relationship to the city. Some 1400 submissions were lodged with Cork City Council in respect of the Morrison's Island project during the Part 8 planning process. But above all, it has prompted some of Cork's, Ireland's and Europe's finest minds to propose workable and affordable alternatives to what has been proposed by the OPW and Cork City Council. The level of multi-disciplinary expertise offering aesthetically pleasing, flood-free visions for Cork City that capitalise on the city's unique heritage has far exceeded that which this country could ever expect through the normal tendering processes. This expertise is offered voluntarily. It is founded on a grave fear that what is proposed by the OPW and Cork City Council may not work, may exacerbate rather than solve flooding in Cork, is based on an incomplete understanding of the delicate balance between tidal, fresh and ground water around and under Cork City, may lead to subsidence and damp in buildings, represents the worst option with regard to climate change considerations and will, for centuries to come, preclude Cork people and streets from capitalising on the multi-faceted benefits that embracing the river would bring. It also stems from a deep love and appreciation of Cork.

What I find perhaps most extraordinary about this scheme is that all this outpouring of expertise, freely and respectfully offered, has been refused outright by the project promoters. Conservation architects, professors specialising in geology, hydrogeology and hydraulics, internationally-recognised advisors in flood control: all their advice and suggestions have been not merely ignored but have been repudiated by the OPW and Cork City Council. During the course of considering this planning application, the Board will receive much advice from these multi-disciplinary experts. I respectfully ask that the Board would recognise the immense depth of their specialised knowledge, the lengths to which they have gone to improve on the scheme proposed by the OPW and Cork City Council and to take cognisance of the advice that they offer, freely and without any expectation of downstream gain other than that which is for the benefit of the city they live in and love.

In line with the best advice of all this unbiased and world class multi-disciplinary expertise, I respectfully ask that the Board would refuse planning permission for the proposed Morrison's Island scheme.

Yours faithfully,



Marcia D'Alton, B.E., M.Eng.Sc.
Independent Member, Cork County Council