Leeanne Doyle (MARA)

From: [redacted]
Sent: Monday 19 October 2026 17:22
To: MARA Licence
Subject: Maritime Usage Licence Application MUL260006 – Submission concerning the adequacy of information for Appropriate Assessment

Categories: Leeanne

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Dear Sir/Madam,

Re: Maritime Usage Licence Application MUL260006 – Submission concerning the adequacy of information for Appropriate Assessment

My name is [redacted] I currently live in San Francisco, but I grew up less than one mile from Cregg Beach and know this coastline personally. Throughout my childhood and early adult life, I regularly walked and swam there. It also holds a particularly special place in my life as the place where I became engaged.

Although I now live abroad, my connection to Lahinch and its coastline remains strong. I support the provision of proper wastewater infrastructure for Lahinch and Ennistymon. My concern is whether MARA presently has sufficiently complete and precise information to authorise intrusive marine investigations without risking potentially avoidable environmental damage.

Lahinch has a reach extending far beyond County Clare. Its coastline, surfing, swimming and natural environment are known and valued by local residents, the Irish diaspora and visitors from around the world. Decisions affecting this coastline will naturally attract interest and scrutiny well beyond the immediate locality. I say this not as a threat, but to reflect the genuine international affection for Lahinch and the corresponding expectation that decisions concerning it will be taken with care, transparency and scientific rigour.

The central issue

Having reviewed the application documents made available by MARA, I am concerned that ***MARA is being asked to authorise intrusive investigations before the applicant has established, with sufficient scientific certainty, where sensitive habitats and species occur. Yet the application also appears to rely upon surveys and investigations undertaken after authorisation to establish or refine that environmental baseline.***

This concern arises directly from the application documents. The Revised SISAA and NIS states that the proposed surveys are required to characterise the receiving environment, identify potential constraints and provide baseline data, including data to inform the Appropriate Assessment process. Benthic sampling is intended to establish baseline faunal communities and support biotope classification.

The applicant's Response to MARA's Request for Additional Information dated 26 June 2026, particularly Response 7, further states that:

- Survey and sampling locations remain indicative;
- Non-intrusive visual surveys will be undertaken before intrusive sampling "where required";
- The results will be used to refine intrusive sampling locations;
- Intrusive sampling will avoid sensitive habitats "where practicable";
- Locations may later be refined, relocated or omitted; and
- Detailed survey methodologies will be finalised at a later stage.

These are material qualifications. "Where required" does not guarantee that every proposed intrusive location will first be surveyed non-intrusively. "Where practicable" does not establish an absolute prohibition against intrusive activity within a sensitive habitat. Nor does the application appear to identify the objective criteria, exclusion distances or decision-making procedure by which later locations will be accepted, relocated or omitted.

I recognise that much of the baseline information is intended to support the future assessment and design of the wastewater outfall. However, that does not remove the need to assess the environmental effects of the survey activities themselves before those activities are authorised.

Both propositions cannot safely support authorisation: if further investigation is needed to determine what sensitive features are present and where they occur, the applicant cannot already have demonstrated that intrusive works at locations selected later will avoid adversely affecting those features.

This apparent circularity goes directly to the legal defensibility of any decision to grant the licence. If the investigations are necessary to establish where sensitive ecological features occur, MARA should identify the scientific basis upon which it could nevertheless conclude, before those investigations take place, that authorising intrusive works at locations to be selected later would not adversely affect the integrity of a European site.

Unless that contradiction is resolved by existing evidence and precise, scientifically justified and enforceable constraints, an affirmative Appropriate Assessment determination may not demonstrate that no reasonable scientific doubt remained at the date of authorisation.

This is not a minor gap capable of being addressed after the licence is granted. It goes directly to whether MARA has the information necessary to complete a legally compliant Appropriate Assessment before authorisation. Conditions may regulate an activity that has already been adequately assessed; they cannot substitute for missing baseline information needed to carry out that assessment in the first place.

The proposed works appear to include:

- Up to 20 boreholes;
- Cone penetration tests;
- Vibrocores;
- Seabed grab samples;
- Intertidal trial pits;
- Tracked equipment and a jack-up barge; and
- Acoustic equipment, including boomer or sparker systems.

The essential question is therefore:

Can MARA positively demonstrate that the conditions attached to any licence would remove the relevant ecological uncertainty, or would the crucial assessment effectively be left until after the licence has been granted?

The nature and gravity of the decision

These activities should not be regarded as merely administrative or routine preliminary investigations. They involve actual physical intervention in the marine and intertidal environment.

Even where individual investigation points have relatively small footprints, the potential consequences could be serious and, in some circumstances, irreversible if a borehole, vibrocore, grab sample or trial pit were placed on or immediately beside a sensitive or slow-recovering habitat.

Potential effects may include:

- Crushing, penetration or removal of habitat;
- Sediment disturbance, smothering and increased turbidity;
- Disturbance of feeding, resting or foraging areas;
- Artificial lighting and operational disturbance during night work; and
- Underwater noise affecting marine mammals and other species.

The fact that an individual footprint may be small compared with the wider bay does not establish that the affected feature is unimportant. Nor does describing a survey as “temporary” establish that every possible ecological effect would necessarily be temporary.

If a sensitive habitat or species location were discovered only after intrusive works had commenced, that later discovery could not undo damage already caused at an earlier investigation point. The beneficial purpose of the wider wastewater project does not reduce the environmental standard applicable to the survey activities now proposed.

This is therefore a substantive environmental decision. It deserves the highest level of care because MARA is being asked to permit activities capable of causing potential harm before the information necessary to avoid such harm may have been fully established.

The legal standard under Article 6(3)

MARA has determined that Stage 2 Appropriate Assessment is required. At that stage, the question is not merely whether significant effects are considered unlikely or whether population-level effects are expected to be small. The competent authority must be satisfied that the proposed activity will not adversely affect the integrity of the relevant European sites.

In *Waddenvereniging and Vogelbeschermingsvereniging* (Case C-127/02), the Court of Justice held that an activity may be authorised only where the competent authority is certain that it will not adversely affect the integrity of the protected site. The assessment must consider all aspects of the proposal capable of affecting the site, in light of the best scientific knowledge available, and no reasonable scientific doubt may remain.

In *Sweetman and Others* (Case C-258/11), the Court emphasised that the assessment must contain complete, precise and definitive findings and conclusions capable of removing reasonable scientific doubt. The Irish High Court applied that standard in *Kelly v An Bord Pleanála* [2014] IEHC 400.

Accordingly, conclusions that effects will be “localised”, “temporary”, “reversible”, “very low” or “minimised” are not, by themselves, the legal test. MARA must be able to identify the scientific evidence and enforceable measures supporting a conclusion that site integrity will not be adversely affected.

Deferral of ecological assessment

The judgment in *Holohan and Others* (Case C-461/17) is particularly relevant. It indicates that certain implementation details may be settled later only where the competent authority has already established sufficiently strict conditions guaranteeing that the later choices cannot adversely affect the integrity of the protected site.

It also requires consideration of habitats and species outside a European site boundary where effects upon them could affect the site’s conservation objectives.

If the exact investigation locations are to be chosen or adjusted after the licence is granted, the licence would therefore require objective, detailed and enforceable parameters that remove material ecological discretion at that later stage.

A general requirement that an ecological consultant identify “suitable” locations may not be sufficient. Either MARA must already possess adequate information about the receiving environment, or the licence must contain predetermined constraints capable of guaranteeing that later site selection cannot adversely affect European-site integrity.

Such constraints might include:

- Non-intrusive mapping before every intrusive investigation;
- Independent expert review of the mapping;
- Defined criteria for identifying sensitive features;
- Scientifically justified minimum exclusion distances;
- An absolute prohibition on intrusive works where those criteria are met;
- A clear procedure for newly discovered habitats or species;
- Fixed limits on equipment, intensity, duration and timing; and
- Monitoring and enforcement provisions that do not depend solely upon the applicant’s discretion.

Crucially, the scientific basis for those criteria and exclusion distances should itself be assessed and accepted by MARA before any licence is granted.

Undefined acoustic parameters

The application contemplates the possible use of boomer or sparker equipment. These systems may have materially different acoustic characteristics.

If the precise equipment, maximum source level, energy, operating frequency, duration and cumulative exposure are not fixed, it is difficult to understand how MARA can identify the actual worst-case acoustic scenario being authorised.

MARA’s assessment should therefore state clearly:

- What exact worst-case equipment and operating scenario has been assessed;
- What maximum acoustic output the licence would permit;

- Whether site-specific sound propagation has been considered;
- Whether cumulative exposure from repeated operations has been assessed;
- Whether a contractor could select equipment exceeding the assessed parameters; and
- Whether materially different equipment would require a fresh assessment or licence amendment.

If authorisation is granted, the licence should specify the assessed maxima rather than relying upon representative or indicative equipment ranges.

Apparent inconsistency in borehole duration

There also appears to be a material inconsistency concerning borehole duration.

Table 2-1 of the Revised SISAA and NIS describes borehole operations as lasting between 24 and 36 hours per borehole, with 24-hour working conditions assumed. Attachment 3.1 also provides for up to 30 days in total. However, section 2.4.3 of the Revised SISAA and NIS describes the disturbance as typically lasting less than one day per borehole.

An operation lasting up to 36 hours is not an operation lasting less than one day. This matters because duration directly affects underwater noise, lighting, night-time disturbance, vessel presence and cumulative effects.

MARA should therefore establish:

- Which duration formed the basis of the environmental assessment;
- Whether continuous 36-hour working has been assessed;
- Whether the cumulative effects of the full programme have been assessed; and
- Whether night-time lighting, noise and disturbance were expressly considered.

This inconsistency should be resolved in the decision record rather than left for interpretation after the licence has issued.

Marine-mammal mitigation

The proposed mitigation appears to depend substantially upon visual monitoring before commencement, although some operations may continue during darkness or poor visibility.

Visual monitoring cannot reliably detect all submerged animals, particularly at night, during poor weather or where visibility is otherwise restricted.

MARA should therefore clarify:

- Whether monitoring would be continuous or limited to the pre-start period;
- Whether passive acoustic monitoring would be required;
- What minimum visibility conditions would apply;
- What shutdown or delay procedures would apply when an animal is detected;
- Whether the measures adequately address seals and harbour porpoises; and
- The scientific basis for the proposed monitoring distance and duration.

If MARA considers the proposed measures sufficient, its decision should contain explicit scientific findings explaining why they would remain effective under the actual operating conditions authorised.

Local ecological evidence submitted by others

I understand that other submissions may provide detailed local evidence concerning honeycomb reef, seals, otters, birds and other ecological receptors. I do not seek to duplicate or claim that evidence as my own. However, I respectfully ask that MARA consider that information together with the application documents and this submission.

Such evidence may be relevant not only to the presence of individual species or habitats, but also to the adequacy of the applicant's baseline information and the reliability of conclusions based upon it.

Where MARA does not accept particular local evidence, its determination should explain how that evidence was evaluated, whether it exposes a deficiency in the environmental baseline, whether it changes the assessment of relevant impact pathways, and the scientific reasons for rejecting or discounting it.

Matters requiring resolution before determination

I respectfully submit that MARA cannot make a legally robust affirmative Appropriate Assessment determination unless it expressly resolves:

1. How sensitive habitats and species will be identified before intrusive investigation begins;
2. Whether every intrusive location will first be subject to adequate non-intrusive ecological examination;
3. Whether any essential ecological assessment is being deferred until after the licence is granted;
4. How any such deferral satisfies the principles established in *Holohan*;
5. What objective criteria and scientifically justified exclusion distances will govern the later selection or relocation of investigation points;
6. What precise acoustic worst-case scenario has been assessed and would be authorised;
7. Which borehole duration and working pattern formed the basis of the assessment;
8. How mitigation will remain effective during night work and poor visibility;
9. How the cumulative effects of repeated operations over the full programme have been assessed; and
10. How ecological evidence supplied through public consultation has been evaluated.

Where these matters cannot be resolved on the existing record, I respectfully request that MARA require further information before determining the application. If that further information materially changes the environmental assessment or proposed mitigation, the public should be given a proper opportunity to comment upon it.

If MARA decides to grant the licence, its Appropriate Assessment determination should contain complete, precise and definitive findings addressing each of these matters. Any conditions should be specific, restrictive, scientifically justified and enforceable.

A general commitment to conduct later surveys, consult an ecologist, avoid sensitive habitats "where practicable" or choose "suitable" locations would not, in my respectful view, resolve the central uncertainty.

I support responsible site investigation and the provision of proper wastewater treatment for Lahinch and Ennistymon. However, those important objectives must be pursued in a manner that protects the

coastline and satisfies the legal requirement that environmental effects be properly assessed before authorisation.

Information intended to be collected after the licence has been granted cannot retrospectively fill a gap in the Appropriate Assessment required before the grant.

Please confirm receipt of my submission.

Yours faithfully,

