

DEARA

Marine Conservation Zone

Assessment

May 2023



Department of
**Agriculture, Environment
and Rural Affairs**

www.daera-ni.gov.uk

Marine Conservation Zone Assessment

Section 23 of the Marine Act (Northern Ireland) 2013 places a duty on public authorities that have the function of determining an application for authorisation of doing an act, and if the act is capable of affecting (other than insignificantly) –

- i. The protected features of a Marine Conservation Zone (MCZ);
- ii. Any ecological or geomorphological process on which the conservation of any protected features of an MCZ is (wholly or in part) dependent.

This template sets out a process for public authorities (including Government Departments) to follow that will enable them to fulfil their duties under section 23 of the Marine Act.

Notes:

1. The onus will be on the applicant to supply the relevant information to the public authority and conservation advisers from the Department in order to progress an application through the assessment process.
2. Where another marine protected area overlaps an MCZ, the MCZ assessment process will not be replaced for other necessary tests (e.g., HRA), it will sit alongside those.
3. The Marine Act (Northern Ireland) 2013 does not provide any legislative requirement for explicit consideration of in combination or cumulative impact assessment to be undertaken when assessing the impacts of licensable activities upon an MCZ. However, in order for the public authority to fully discharge its duties under section 58 of the Marine and Coastal Access Act (2009), section 58 requires public authorities to take authorisation decisions in accordance with the appropriate marine policy documents. The UK Marine Policy Statement sets out high level principles for decision making (Section 2.3.2) and this includes the taking into account any multiple and cumulative impacts of proposals, in light of other projects and activities, when considering potential benefits and adverse effects. Consideration of cumulative impact is also a core policy in the draft Marine Plan for Northern Ireland (April 2018); according to section 139 & 145, public authorities should consider all cumulative impacts of a proposal through the decision-making process.
4. The public authority must have regard to any advice or guidance given by the Department. If, in the opinion of the Department, the public authority fails to act in accordance with advice or guidance given by the Department, or to comply with its duties regarding MCZs (Section 22&23), the Department must request from the public authority an explanation for failure. The public authority must provide the Department with such an explanation in writing within the period of 28 days from the date of the request.
5. Information on MCZs in Northern Ireland can be found at the following link. This will provide information on location of sites, designated features, conservation objectives and potential management options.
<https://www.daera-ni.gov.uk/articles/marine-conservation-zones>

SCREENING

All applications to be screened to determine whether section 23 of the Marine Act (Northern Ireland) 2013 should apply to the application.

(i) Name of Project or Plan.	Carlingford Lough Greenway – Section 3
(ii) Application number/reference.	<ul style="list-style-type: none"> - LA07/2020/1082/F (reduced resubmission) - Reference TBC (New Application submitted 10.05.2023)
(iii) Brief description of the plan/project.	<p>The proposed project comprises.</p> <ul style="list-style-type: none"> - Chainage 0 to 75m – 2.5-3m bound surfacing. - Chainage 75 to 510m – 4m wide timber boardwalk with steel substructure & founded on piles. - Chainage 510 to 885m – 3m wide unbound surfacing. - Chainage 885 to 1475m – 4m wide timber boardwalk with steel substructure & founded on piles. - Chainage 1475 to 1715m – 3m bound surfacing.
(iv) Name and location of the MCZ site(s) potentially affected. Information on MCZs can be found at: https://www.daera-ni.gov.uk/articles/marine-conservation-zones	<p>The site is 4.1km North-West of the Marine Conservation Zone within Carlingford Lough.</p>
(v) Description of MCZ site(s).	<p>The Carlingford Lough MCZ (Area - 3.23km²) is located off the northern shore and lies north of the navigation channel in the inner part of the Lough. The MCZ consists of a shallow subtidal area of fine mud that supports a habitat that offers shelter, food and oxygen to a diverse range of small organisms such as the very rare sea cucumber, <i>Ocnus planci</i>. This habitat is only found in Carlingford Lough.</p> <p>https://www.daera-ni.gov.uk/protected-areas/carlingford-lough-mcz</p>
(vi) Summary of activities from the plan or project that may potentially affect the MCZ.	<p>The site is 4.1km North-West of the Marine Conservation Zone. The site is hydrologically connected to the MCZ.</p> <p>It is not envisaged that the proposed activities have a potential to negatively affect the MCZ.</p>

<p>(vii) Is the activity capable of affecting (other than insignificantly) the protected features of the MCZ?</p> <p>If the answer is “no” proceed to next question; if “yes” detail the features and proceed to the next question.</p>	<p>Not applicable.</p>
<p>(viii) Is the activity capable of affecting (other than insignificantly) any ecological or geomorphological process on which the conservation of any protected feature of an MCZ is (wholly or in part) dependent?</p> <p>If the answer is “no” to vii <u>and</u> viii, no further assessment is required.</p> <p>If the answer is “yes”, detail the processes.</p> <p>If the answer is “yes” to either vii or viii proceed to Stage 1 assessment.</p>	<p>Given the distance to the MCZ, the scale of the proposed works and adherence to the HRA, EclA & Marine Construction License conditions, the effects are considered insignificant.</p>

STAGE 1 MCZ ASSESSMENT

In the Stage 1 assessment the public authority must satisfy the two tests detailed below. If unable to satisfy these two tests then a Stage 2 MCZ assessment will be required.

At the start of the Stage 1 assessment the public authority must notify the Marine Conservation and Reporting team. Consultation advice received from the Department, information supplied by the applicant and any other relevant information should be used to inform the Stage 1 assessment.

Further information on the formal notification to Department can be found in the guidance document.

TEST 1

Based on the evidence received, is the public authority satisfied that there is no significant risk of the activity hindering the achievement of the conservation objectives stated for the MCZ? and

Can the public authority exercise its functions to further the conservation objectives of the MCZ site?

If the answer is “yes” to this test, a Stage 2 assessment is not required and the authorisation process may proceed. Provide detail.

If the answer is “no” to this test, provide detail and proceed to Test 2.

Yes.

Given the distance to the MCZ, the scale of the proposed works and adherence to the HRA, EclA & Marine Construction License conditions, the effects are considered insignificant.

No further conservation objectives to the MCZ site can be proposed within the works.

TEST 2

Although the person seeking an authorisation is unable to satisfy the public authority that the activity will not hinder the achievement of the conservation objectives stated for the MCZ, is there an alternative way of proceeding with the proposal which would create a substantially lower risk of hindering the achievement of the conservation objectives stated for the MCZ? This would include proceeding with it:

- in another manner or
- at another location.

If the answer is “no” to test 2, a Stage 2 assessment is required.

If the answer is “yes” to test 2, apply the changes and repeat test 1.

Not applicable.



<p>If the outcome is “yes” a Stage 2 assessment is not required and the authorisation process may proceed. If the answer is still “no” a Stage 2 assessment is required.</p> <p>Please document the steps taken in the stage 1 assessment in chronological order, detailing changes applied if test repeated.</p>	
<p>STAGE 2 MCZ ASSESSMENT</p> <p>The Stage 2 assessment will consider whether the conditions in section 23(7)(b) and (c) can be met. In doing so the public authority should use all information supplied by the applicant, advice from the conservation advisers from the Department and any other relevant information. Wider consultation with other advisers may also be undertaken at this stage, in particular to provide additional and specific advice on socio-economic matters.</p>	
<p>Does the benefit to the public of proceeding with the act clearly outweigh the risk of damage to the environment that will be created by proceeding with it? (See guidance for further information.)</p> <p>If the answer is “no” reject application.</p> <p>If the answer is “yes” provide information and proceed to the next question.</p>	<p>Not applicable.</p>
<p>Can the applicant satisfy the public authority that they will undertake, or make arrangements for the undertaking of, measures of equivalent environmental benefit to the damage which the act will or is likely to have in or on the MCZ? (See guidance for further information.)</p> <p>If the answer is “yes” continue with the authorisation process. Measures given by the applicant in this section must be conditioned on the authorisation, if issued.</p> <p>If the answer is “no” reject application.</p>	<p>Not applicable.</p>

SUMMARY TABLE	
Provide details of any likely in-combination effects and quantify their significance.	In response to the potential for the proposed Works to affect the MCZ, mitigation measures will be adopted to prevent any significant impact on the protected features.
List of Agencies / Organisations Consulted: Provide contact name and telephone or email address.	DAERA
MCZ Assessment Summary	Given the distance to the MCZ, the scale of the proposed works and adherence to the HRA, EclA & Marine Construction License conditions, the effects are considered insignificant.
If applicable, list the condition(s) detailed in the stage 2 assessment which should be enforced through the applicable licence.	Not applicable.

Data collected to carry out the MCZ assessment

<p>Who carried out the assessment?</p> <p>If you are an agent or consultant on behalf of a public authority please give your details. Also detail the responsible person in the public authority who commissioned the assessment.</p>	<p>Doran Consulting on behalf of Newry, Mourne & Down District Council</p>
<p>Sources of data used.</p> <p>Use hyperlinks, references or include as annex.</p>	<ul style="list-style-type: none"> - https://www.daera-ni.gov.uk/publications/carlingford-lough-mcz - Carlingford Lough Greenway Section III - Habitats Regulations Assessment (May 2023) - Carlingford Lough Greenway Section III – Ecological Impact Assessment (May 2023)
<p>Level of assessment completed.</p>	<p>Stage 1</p>
<p>Where can the full results of the assessment be accessed and viewed?</p> <p>Must be an official address of the public authority.</p>	<p>The Planning Portal</p>