

At the outset it should be noted that the Environmental Protection Agency (EPA) provided a comprehensive response on 19th July 2021 to Communicant's request dated 19th May 2021 made pursuant to the EC (Access to Information on the Environment) Regulations, 2007 to 2018 ('the AIE Regulations') for records held by it. As part of this response ('the AIE Response') the EPA provided a substantial number of records and information to the Communicant.

In respect of the specific queries raised in the Communicant's response, Ireland responds as follows:

Q4. Please provide the latest version of the Environmental Protection Agency's Dumping at Sea Register.

The Communicant in its response to this question from the Committee stated that *"This information was returned to the ACCC with the initial response from Diving Ireland, dated 20 May 2021"*.

Response

The response from the Communicant on 20th May 2021 includes an Appendix 1a and 1b which contains the following information:

Appendix 1a is the list of DAS permits as it actually appears on the EPA website.

Appendix 1b is the list of DAS permits that the EPA gives if you click on the link to "Dumping at Sea Register".

The response from the Communicant on 20th May 2021 complains that there is a discrepancy between these two EPA data sets. However, it does not provide any further basis for this complaint. As a consequence, it can only be assumed that the alleged discrepancy between the two data sets refers to DAS permits register numbers S0004-03, S0024-02 and S0018-01 not being included in the Dumping at Sea Register (DAS Register).

The DAS Register refers to "Particulars of Permits Granted" and therefore only includes DAS permits that have *actually* been granted by the EPA. It does not refer to DAS permits which are still the subject of the application process. In the case of DAS permit reg. S0018-01, it was withdrawn before its application was determined and therefore did not appear on the DAS Register. The applications for DAS permits reg S0004-03 and S0024-02 were ongoing and therefore these permits are not included in the DAS Register because at that particular point in time the particular DAS permits had not been granted.

It should be noted that information in relation to the status of a particular application for a DAS Permit is available on the EPA website and stakeholders can sign up for RSS feeds to get electronic notifications as to the status of the application.

In addition, any stakeholders including members of the public can at any time contact the EPA's Office if they have any queries or require any clarification regarding the DAS Register or the status of a particular application for a DAS Permit. In this regard we would highlight that it is open to the Complainant or any member of the public to contact the EPA's Office of Environmental Enforcement on any queries relating the DAS Register or the enforcement of dumping at sea permits.

Q 5. For each of the permits listed in the Dumping at Sea Register, what was the commencement and end date of loading and dumping activities specified in the public notice concerning the permit application? Please provide your reply in the form of a table, with columns setting out (i) the DAS permit reference, (ii) the start and end date of the dumping activities as granted in the permit, (iii) the start and end date of the dumping activities as stated in the public notice.

This information was returned to the ACCC with the initial response from Diving Ireland, dated 20 May 2021.

The response submitted by the Communicant on 20th May 2021 states that Appendix 2 contains data sets with the following information: applicant name, the dates for the permit as requested in the application form and the dates across which activities actually occurred, as these sometime vary from all the other dates. Comments provided by the Communicant in Appendix 2 appear to indicate that a number of permits are not included in the EPA official register of DAS permits and that Annual Environmental Reports (AER's) for a number of permits are not available on the EPA website. The Communicant also notes in Appendix 2 that "attachment E3" submitted with the applications for DAS Permits could not be found on the website for a number of DAS Permits.

Response

Appendix 2 of the Communicant's Correspondence states that "*permit numbers in black are not included in the EPA official register of DAS permits as per Appendix 1*". All the DAS permits listed in Annex 2 are included in the DAS Register except for permits reg. S0004-03, S0024-02 and S0018-01 for reasons detailed above.

The Communicant's complaint that AER's for a number of DAS permits are not available on the EPA website is misconceived. The AER's are published on the EPA website. Links to where the AER's are available are provided (see Appendix A attached). Further details in this regard are provided below under question 6.

The Communicant also complains that "*attachment E3*" could not be found on the website for a number of permits'. The applicant for a DAS Permit must provide details on the dumping operations (section/attachment E3) such as the date of commencement, the duration of the dumping operations, location and proposed method of dumping and quantities to be dumped. This information and other material relating to the permit applications can be found at the specific DAS Permit details page on the licensing and permitting module of the EPA website (refer to "View applicant documents" on the specific permit details page). However, it should be noted that this information may also be submitted by an Applicant for a DAS Permit under documents other than "Attachment E3", i.e., the Communicant notes in Appendix 2 that Attachment E3 for permit reg. S0004-02 could not be found. However, attachment E3 is in fact available on the EPA website.¹ Thus, the information in question was and is available to the members of the public via the EPA website.

The period of validity of the permit is included in the DAS Permits as issued which is available on the EPA website at the DAS Permit details page. The material on the DAS Permit pages on the EPA website includes details of permit applications and certain related documents in electronic PDF format such as permits granted to date and AERs. This includes details on the loading and dumping activities completed during the reporting calendar year. Application documents in PDF format are uploaded on

¹ See section 5.4 of pdf document named "[Application Form - Maintenance Dredging Report](https://epawebapp.epa.ie/licsearchdownload/fileview.aspx?regno=S0004-02&filter=b&docfilter=go&Sector=DaS)" (refer to link <https://epawebapp.epa.ie/licsearchdownload/fileview.aspx?regno=S0004-02&filter=b&docfilter=go&Sector=DaS>)

the EPA website as soon as possible upon receipt by the EPA and every effort is made to ensure completeness and accuracy of files at any given point in time.

In addition, the DAS Register published on the EPA² website also includes summary information for each DAS Permit granted to date. This information includes the date that the application was received, the date the DAS permit was issued and the period of the validity of the DAS permit.

Q6. For which of the permits in the Dumping at Sea Register issued since September 2012 have loading and dumping activities been carried out but the required two-week notice before commencing activities are not available on the EPA website? For any permits whose commencement notices are not available on the EPA website, please indicate whether those particular notices are accessible via the public computer at the EPA's regional offices.

The response from the Communicant on 20th May 2021 states that *"It must be noted from review of Appendix 3 that at least fifteen DAS permits do not have Annual Environmental Reports (AER) uploaded to the EPA website"*. In addition, Appendix 1 submitted with the Communicant's letter dated 19th October 2021 states there was no AER on the EPA website for the following DAS Permits: permits reg. S0012-02 (no AER for 2019) and for permit number S0009-02 (AER 2019).

The AERs for the fifteen permits referred to in the Communicant's Correspondence, including the three AERs referred in Appendix 1, are available on the EPA website. Links to where the AERs are available are provided with this response (refer to Appendix A attached). In the case of two of the 15 AERs there was some delay in uploading the AERs onto the EPA website. The AERs are considered a public document and they are published on the EPA website but in the rare instance that, due to a technical or administrative difficulty, an AER is unavailable for a period of time the EPA will resolve any difficulty issue as soon as possible. It is also noted that any stakeholders including members of the public can contact the EPA if they have any queries or require any clarification regarding a particular AER.

The EPA in its response to the AIE Request noted that all commencement notices from November 2016 onwards are available on the EPA website as it moved to electronic submission of notices via its Environmental Data Exchange Network (EDEN) online portal and provided links to these commencement notices. Since then, commencement notices submitted in PDF format via EDEN by the DAS permit holder are automatically uploaded onto the specific DAS permit details on the EPA webpage (under "View Licence Enforcement documents") and are fully accessible to the public. Prior to November 2016, commencement notices were submitted directly to EPA in hard copy, and it provided the Communicant hard copies of letters for commencement notices prior to November 2016 as part of the AIE request.

It is also important to note that the Communicant states in its correspondence dated 19th October 2021 that for the majority of DAS Permits, a notification of commencement (14 days in advance of the activity) was given, and records are available.

The Communicant complains that issues regarding the notification procedure were identified for a number of specific DAS permits. These are individually addressed below.

² See (<https://www.epa.ie/publications/licensing--permitting/freshwater--marine/dumping-at-sea-register.php>)

1. Shannon Foynes (DAS Reg No: S0009-02)

The Communicant's correspondence: *"To date, this permit has been used for at least 45 separate dredging campaigns, with the required 14-day notification being given on only two occasions. For seven campaigns, the Annual Environmental Reports (AER) indicate that dredging took place, but no notifications are available at all. It is noted that this port submits to the EPA in advance a schedule for the proposed dredging for each year, but it is uncertain whether this constitutes notification."*

Response

Condition 2.4 of DAS permit reg. S0009-02 states that *"The permit holder shall notify the Agency at least two weeks prior to the commencement of the loading and dumping activities, unless otherwise agreed by the Agency,"* and therefore a shorter notification period or notification procedure can be agreed by the EPA following a request by the DAS Permit holder. Following a request by the DAS permit holder, an approval letter was issued on 02/07/2013 by the EPA regarding a change in the notification procedure which included the submission of a plan/ schedule of anticipated plough dredging periods. This letter is included in this response (Appendix B).

It is alleged there are no notices available for four plough dredging campaigns that occurred in 2014. In this regard, it is important to clarify that non-compliances were issued to the DAS Permit holder by the EPA for failing to notify it prior to the commencement of dumping operations in 2014 (refer to attached site inspection report (ref si02pc) and dated 25/03/2015 in Appendix B). The remaining three plough dredging campaigns (commencement dates in Appendix 1: "1 May 2015", "16 Dec 2015" and "3 Apr 2019") in which it is alleged that "no notices are available" are covered by the following notifications/ documents:

- Document "No 35 TT to PC 28 04 15.pdf" submitted to the communicant with the response to the AIE request. The AER 2014 notes that plough dredging campaign for April occurred between 28th April 2015 to 12th May 2015.
- Document "No 4 2015 11 10 TT to POS re Schedule for Plough Dredging in Foynes Permit S009 02.pdf" submitted to the communicant with the response to the AIE request. The document includes the plough dredging schedule for Foynes Port for six months (November 2015- April 2016).
- Plough dredging schedule available on the EPA website at the following link: <https://epawebapp.epa.ie/licsearchdownload/CombinedFileView.aspx?regno=S0009-02&classification=Enforcement> (pdf document named Plough Dredging Schedule Foynes March - May 2019)

2. Donegal County Council (DAS Reg No. S0011-02)

The Communicant's Correspondence states: *"This the only permit for which no commencement notices have been provided. The EPA provided a link to the appropriate file, but the file does not contain any commencement notices (file reviewed 27 July 2021)".*

The commencement notices for 2017 (refer to pdf documents named: "[201707211600535750001](#)", "[201707191802356670001](#)" and "[201705221744460010001](#)") are available on the EPA website at the link provided to the Communicant.³

³ <https://epawebapp.epa.ie/licsearchdownload/CombinedFileView.aspx?regno=S0011-02&classification=Enforcement>.

There were no records of commencement notices received prior to 2017. In this regard, it is important to clarify that non-compliance notices were issued to the DAS permit holder by the EPA for failing to notify the EPA prior to the commencement of dumping operations in 2015 and in 2016.

3. Port of Waterford (DAS Reg. No S0012-02).

The Communicant states the following in correspondence dated 19 October 2021: *“There are a number of instances where notification was given but was less than the required 14 days. There were also five occasions where the AER indicated that dredging had taken place, but where no notification was available. The AERs for 2019 and 2020 are not available on the EPA website, so it is not possible to confirm that notifications were given for all campaigns in these two years.”*

Response

The AERs for 2019 and 2020 are available on the EPA website (as aforementioned in this letter).

All records of commencement notices are available on the EPA website from November 2016 onwards. The Communicant’s Correspondence refers to two loading/ dumping campaigns during September 2017 and December 2017 where notices may not be available. The relevant notifications are accessible on the EPA’s website.⁴

Records of commencement notifications received prior to November 2016 for DAS permit reg. S0012-02 were furnished in the response to the AIE request. Two campaigns (commencement dates in Appendix 1: “23 Jun 2016” and “21 Oct 2016”) identified in Appendix 1 as “no notices available” are covered by the following notifications/ documents submitted as part of the response of the AIE request:

- Documents “No 10 2016 05 17 J Foley to POS with notice to mariners re PoWC Dredge Campaign.pdf” and “No 11 2016 06 17 J Foley to Pól O’Seasain PoWC Dredge Campaign.pdf”
- Document “No 15 2016 10 05 PoW to DAS re TSHD Dredge Campaign in Waterford.pdf”

There are no records of any notification received by the EPA of any loading and dumping campaign commencing 17th October 2015, as identified in Appendix 1.

It is also noted that any 2014 loading and dumping activities prior to 8th May 2014 (the date permit reg. S0012-02 was issued) and as identified in the AER 2014 and Appendix 1 of the Communicant’s response fell under the remit of permit reg. S0012-01. Details in this regard are provided in section below.

4. Port of Waterford (DAS Permit S0012-01)

The communicant alleges: “Emergency dredging” took place in the Port of Waterford between 7 March 2014 and 13 March 2014. There is no DAS permit available on the EPA website that covers this period.

A request was made on 10th October 2013 by Port of Waterford Company to extend the validity of DAS permit reg. S0012-01 beyond the 30th of November 2013. The EPA was satisfied to allow the permit time extension in order to facilitate the dumping of the remaining authorised tonnage (~

⁴ The pdf documents/ notifications named “[Dredging Notification Sep 2017](https://epawebapp.epa.ie/licsearchdownload/CombinedFileView.aspx?regno=S0012-02&classification=Enforcement)” and “[Commencement Notification for 4th Dec 2017.pdf](https://epawebapp.epa.ie/licsearchdownload/CombinedFileView.aspx?regno=S0012-02&classification=Enforcement)” can be found at the following link:
<https://epawebapp.epa.ie/licsearchdownload/CombinedFileView.aspx?regno=S0012-02&classification=Enforcement>

860,428 tonnes) and on the proviso that the permit S0012-01 including Technical Amendments A&B were fully complied with. The approval letter was issued under permit S0012-01 and is included in Appendix B with this response. It is therefore not correct that no DAS permit was in operation between 7 March 2014 and 13 March 2014. A new DAS permit for Port of Waterford (permit reg. S0012-02) was subsequently issued by the EPA on 8th May 2014.

5. Drogheda Port Company (DAS Reg. No S0015-03).

The Communicant alleges that "Only 8 days' notice was given for the dredging campaign that started on 20 February 2020. The AER indicates that a dredging campaign started on 27 November 2020 and no notification is available for this activity."

The complaint is misconceived. The loading and dumping campaigns referred by the Communicant relate to DAS Permit reg. S0015-02 (and not permit reg. S0015-03 which was issued on 11th February 2021).

The Communicant states that only 8 days' notice was given for the dredging campaign that started on 20 February 2020. A commencement notification dated 3rd February 2020 (at least 14 days in advance of the activity) is available on the EPA website.⁵ The Communicant also states that a dredging campaign started on 27 November 2020 and no notification is available for this activity.

The commencement notification dated 19th November 2020 and related to the 2020 November campaign is available on the EPA website.⁶ As part of the notification the DAS permit holder also requested to commence loading and dumping activities in a period less than two weeks in accordance with condition 2.4 of the permit. Condition 2.4 of DAS permit reg. S0015-02 states that "Unless otherwise agreed in writing by the Agency, the permit holder shall notify the Agency at least two weeks prior to the commencement of the loading and dumping activities." and therefore a shorter notification period and/or notification procedure can be agreed by the EPA following a request by the permit holder. Approval was issued on 19/11/2021 by the EPA regarding the commencement of loading and dumping activities in a period less than two weeks. The approval is included in this response (Appendix B).

6. Shannon Foynes Port Company (DAS Reg. No S0019-01)

The Communicant complained that only 4 days' notice was given prior to commencement of dredging on 7 April 2015.

Response

Records of commencement notifications were provided to the Communicant as part of the response to the AIE Request.

7. Department of Agriculture, Food & Marine (DAS Reg. No S0028-01).

The Communicant states the following in correspondence dated 19 October 2021: "*A commencement notice for the dredging campaign that commenced on 2 November 2019 was uploaded to the appropriate folders on the EPA website on 2 June 2021, which was after Diving Ireland had submitted*

⁵ See <https://epawebapp.epa.ie/licsearchdownload/CombinedFileView.aspx?regno=S0015-02&classification=Enforcement> (refer to pdf document named "Mr. Niall Dunne commencement of dredging 03.02.20")

⁶ See <https://epawebapp.epa.ie/licsearchdownload/CombinedFileView.aspx?regno=S0015-02&classification=Enforcement> (refer to pdf document named "Mr Jose Alonse commencement request 19.11.20").

the AIE request on 19 May 2021. The 2020 AER indicates that four dredging campaigns took place in 2020 with no commencement notices available for any of them.”

Response

A commencement notice was received by the EPA on 16/09/2019 via return on EDEN but the notice did not include a PDF attachment and therefore the commencement notice did not automatically get published to the EPA website immediately following its receipt. Once the EPA became aware of this issue, a printout of the notification was promptly made available on the EPA website. Commencement notices are mostly submitted with an attached PDF notice and therefore in the infrequent occurrence where no PDF has been attached, a printout of the return with the full text/description submitted by the permit holder has been made available on the EPA website. Documents received by the EPA with commencement notices are automatically uploaded to the relevant section of the EPA webpage once the submission has been assessed.

The notice received on 16/09/19 stated the *following* “*We hereby notify you on behalf of the permit holder and in accordance with Condition 2.4 of the permit that permitted works are due to commence on or after 12 October 2019*”. It is therefore incorrect to state that four dredging campaigns took place in 2020 with no commencement notices available for any of them.

8. *Wexford County Council, Kilmore Quay (DAS Req. No S0030-01).*

It is alleged that the Commencement notice for the dredging campaign that commenced on 3 June 2020 was uploaded to the appropriate folders on the EPA website on 2 June 2021, which again was after Diving Ireland had submitted the AIE request on 19 May 2021.

Response

A commencement notice was received on 15/05/2020 via return on EDEN but the notice did not include a PDF attachment and therefore the commencement notice did not automatically get published to the EPA website immediately following its receipt. Once the EPA became aware of this issue, a printout of the notification was promptly made available on the website. Commencement notices are mostly submitted with an attached PDF notice and therefore in the infrequent occurrence where no PDF has been attached, the full text/description submitted by the permit holder, has been made available on the EPA website. The notice specified that loading and dumping activities were scheduled to start Monday 1st June 2020.

9. *Malahide Marina (DAS Req. No S0031-01).*

It is alleged that the Commencement notice for the dredging campaign that commenced on 15 January 2019 was dated 8 January 2019 but was only uploaded to the appropriate folders on the EPA website on 2 June 2021, which again was after Diving Ireland had submitted the AIE request on 19 May 2021. The EPA received only 7 days’ notice in this case, the permit holder stating “I am writing to request an exemption to Condition 2.4 of the license in order to permit dredging to commence next Tuesday 15th January 2019. This license was received yesterday Monday 7th January 2019 giving insufficient time to allow 14 days’ notice to the EPA. The reason we are requesting this exemption is due to time constraints as set out within the license (all dredging works to take place between December and January of any one year – Condition 3.4) and the necessity for maintaining navigable depths within the marina. We require commencement on 15th January 2019 to complete a 17-day dredging campaign.”

Response

The EPA would like to clarify that Condition 2.4 of the permit reg. S0031-01 states that *“The permit holder shall notify the Agency at least fourteen calendar days prior to the commencement of the dumping activities, by webform or by such other means as may be specified by the Agency, unless otherwise agreed by the Agency.”* and therefore a shorter notification period and/or notification procedure can be agreed by the EPA following a request by the permit holder. A copy of the approval issued by the EPA on 9th January 2019 is included in Appendix B of this response.

Correspondence such as commencement notices are required to be submitted via EDEN so they are uploaded to the website and EPA will reject commencement notices not submitted via EDEN. In this case the permit had only been issued on 4th January 2019 (commencement notice/ letter was dated 8th January 2019) and the notice was submitted via email due to technical issues/ delays with the registration of the holder in the EDEN system. This commencement notice had been made available on the EPA permit details webpage.

Q7. Which of the permits in the Dumping at Sea Register have to your knowledge been amended since September 2012 but the content of the amendment is not available on the EPA website? For any amendments which are not available on the EPA website, please indicate whether those particular amendments are accessible via the public computer at the EPA’s regional offices.

1.Communicant response regarding 2019 AER for Dumping at Sea permit S0021-02

The Communicant states the following (letter dated 19th October 2021) relating to the 2019 AER for Dumping at Sea permit S0021-02.

“1. S0021-02 Port of Cork Company. Condition 3.1 of DAS permit S0021-02 states that “All loading and dumping activities shall be completed by 31st March 2019”. The 2019 AER for DAS permit S0021-02 includes the register of loading and dumping activities, which records dumping at sea continuing to the 30 April 2019 (i.e. one month beyond the end date of the permit). There are no documents relating to this substantive change to the conditions of the DAS permit on the EPA website. There is no communication from the permit holder to the EPA to request an extension to the permit, nor any documentation relating to an agreement between the applicant and the EPA to extend the time limit of the permit.

The AIE request to the EPA requested documents relating to the extension by one month to the completion date of DAS permit S0021-02. The EPA response to the AIE request included a copy of a letter from Port of Cork Company to the EPA requesting an extension of the DAS permit S0021-01 from 31 December 2018 to 30 April 2019, the letter being dated 20 December 2018 (Doc. No. 23 attached). The EPA also provided a copy of an email response from the Agency giving consent to the request, also dated 20 December 2018 (Doc. No. 24 attached). To be clear, the documents provided by the EPA are for a different permit to the documents requested, though both are for the same port authority.”

Response

It is noted that the 2019 AER submitted by the permit holder for DAS permit S0021-02 appears to cover both permits (permits reg. S0021-01 and S0021-02). The 2019 AER for permit S0021-01⁷ include the same register of Loading and Dumping Activities covering the period between 05/01/2019 and 30/04/2019 (refer to appendix A of the AER). The register submitted by the permit holder in 2019 did not clarify under what permit the loading and dumping activities were completed during April 2019.

⁷ See <https://epawebapp.epa.ie/licsearchdownload/CombinedFileView.aspx?regno=S0021-02&classification=Enforcement>)

The EPA notes that loading and dumping logs/ records are usually inspected during enforcement site visits. In this regard, it is noted that the Office of Environmental Enforcement visited Port of Cork on 02/04/2019 to assess compliance with both DAS permits. All site visit reports are available on the EPA website.

In addition, the DAS permit holder has also confirmed that loading and dumping activities during April 2019 were completed under permit S0021-01 only.

As indicated by the Communicant's letter, a requested change in date was agreed by the EPA for DAS permit reg. S0021-01 and a copy of the approval was submitted by the EPA as part of the response to AIE request. The change was agreed by the EPA based on the fact that there was no increase in overall quantity or scale or intensity of the activity permitted and that the closed periods set out in schedule A.4 of DAS permit S0021-01 were adhered to. The approval notice was submitted as part of the response to the request under the AIE Regulations as it was relevant to the dates queried by the communicant. No request was submitted by the permit holder to extend the date of completion of loading and dumping for DAS permit S0021-02 and therefore no other records are available as no change in date was agreed by the EPA under this permit.

It is important to highlight that as previously mentioned on correspondence submitted by Ireland (letter dated 11th February 2019), the variation requests received by the EPA's Office of Environmental Enforcement have generally related to the proposed variation of a timeframe for the submission/completion of some aspect of the DAS Permit, such as the nature of certain monitoring requirements which the permit had initially outlined, or the amendment of a tonnage limit for the quantity of material to be dumped at a particular time period within an overall period. In relation to tonnage variation requests, it is important to note that any variations granted ensured that the total quantity of material to be dumped over the lifetime of the DAS permit remained unaltered and other regulatory controls (e.g. closed periods for Dumping at Sea) were still required to be complied with.

A request for a variation of a condition in a DAS Permit by way of a letter of agreement is dealt with by the EPA's Office of Environmental Enforcement (OEE) while a request for an amendment to a DAS Permit or a new permit is dealt with by the EPA's Licensing Programme. It should be noted that a variation by way of letter of agreement will only be available in respect of minor or technical changes which can be accommodated and controlled within existing permit conditions and limitations. An amendment to an existing DAS Permit will be required where the proposed alteration requires a change to a condition or Schedule of the DAS permit. A new DAS permit will be required for more substantial changes involving alterations to the site boundaries or activities (including the commencement of or duration of the activity) or which require appropriate assessment.

2. Communicant response relating to correspondence from Dublin City Council Planning in relation to a complaint regarding an alleged breach of condition 1a and b of An Bord Pleanála decision ref. 29.PA0034

2.1 The Communicant notes (letter dated 19th October 2019) that on foot of the warning letter, Dublin Port Company (DPC) produced an updated Dredging Management Plan, which had not been reviewed by the EPA (refer to email submitted by Mr Nolan of the Office of Environmental Enforcement submitted by the communicant) and that it is considered that a change to the Dredging Management Plan would constitute an amendment to a DAS permit.

2.2 The Communicant notes (letter dated 19th October 2019) that the letter from Dublin City Council is not available on the EPA website. In addition, the communicant states that the attempted communication between the EPA back to Dublin City Council Planning Enforcement does not appear

to have been effective. The Communicant also states that Dublin City Council requested that the EPA make contact with their investigating officer and the EPA, by their own admission, failed to do this.

2.1 Response

Planning permission for the Alexandra Basin Redevelopment (ABR) project was granted by An Bord Pleanála on 9th July 2015 (ref. PL29N.PA0034). DAS Permit Reg. S0024-01 was granted by the EPA under Section 5 of the Dumping at Sea Act 1996 (as amended), to Dublin Port Company, Port Centre, Alexandra Road, Dublin 1. The DAS Permit authorises the loading and dumping at sea activities, subject to conditions listed in the permit. Loading and dumping activities under this Permit were completed on 31st March 2021 in accordance with condition 3.1 of DAS permit reg. S0024-01. The capital dredging activity is also subject of a Foreshore Licence application by the Department of Housing, Planning and Local Government (ref. FS005699).

On foot of receiving the planning enforcement correspondence from Dublin City Council, the EPA's Office of Environmental Enforcement (OEE) did not open any enforcement file/investigation for DAS permit S0024-01. This is because the issue highlighted in the correspondence was considered to be a planning matter which, as highlighted by the letter, Dublin City Council, as the relevant planning authority, were addressing. As specified in condition 1.1 of the DAS permit, the permit is only for the purposes of loading and dumping at sea under the Dumping at Sea Act 1996 (as amended) , and nothing in the permit can be construed as negating the permit holder's statutory obligations or requirements under any other enactments or regulations. Therefore, the DAS Permit does not negate compliance with other statutory obligations which the permit holder may have, including planning. It is the responsibility of the permit holder to comply with the conditions of the DAS permit S0024-01 in addition to compliance with all other statutory obligations.

OEE is not aware of any correspondence between Dublin City Council Planning Enforcement and Dublin Port Company in relation to this matter, and the OEE did not receive any updated dredging management plan for consideration in relation to DAS Permit no. S0024-01. Notwithstanding this, there is no requirement under the conditions of the permit relating to the submission of a dredging management plan, and the DAS Permit imposes no limitations on disposal rates in kg/s (as detailed in correspondence from Dublin City Council) or the number of hours. The DAS Permit does specify the monthly and total quantity of dredge material that can be dumped at sea (Schedule A.1) and requires that dumping is affected by the release of the dredged material through the hull of the vessel while the vessel is in motion (condition 3.6). The disposal rate proposed by Dublin Port Company during the permit application was 292,000 tonnes (wet weight) per calendar month and this rate was used in the model assessments submitted and is included in Schedule A.1 of permit reg. S0024-01. Schedule A.1 also specifies the total maximum quantity of dredged material that may to be loaded and dumped at sea to 8,760,000 tonnes. No alterations to the DAS permit No. S0024-01 have been issued by the EPA in this regard. No request for an alteration to Quantity of Dredged Material to be dumped at sea specified in the permit has been submitted by the permit holder.

Information relating to the quantities of dredge material dumped at sea is provided by the permit holder as part of the Annual Environmental Report. The Annual Environmental reports are available on the permit details webpage on the EPA website.

It is also noted that condition 3.2 of permit reg. S0024-01 confined the loading operations to the winter months (1st October to 31st March) and that the permit holder is required to complete bathymetric surveys at the dumpsite in accordance with condition 4.6.2 and Schedule B.1.2

2.2 Response

Details on efforts made by Office of Environment Enforcement to contact the investigating officer of Dublin City Council were provided to the Communicant by OEE (refer to email dated 11th August 2021 from OEE submitted by the Communicant with letter dated 19th October 2021).

As stated above, on foot of receiving the planning enforcement correspondence from Dublin City Council, the OEE did not open any enforcement file/investigation for DAS permit S0024-01 as correspondence was considered to relate to a planning matter. The EPA can confirm that the letter from Dublin City Council to the EPA in relation to this matter is not available on the EPA website, as it does not fall under one of the types of enforcement documentation that is normally published to the EPA website. But in response to the request under the AIE Regulations a copy of the letter received was provided by the EPA to the Communicant. The EPA provides public access to environmental information relating to the enforcement of DAS Permits s. This information is available online via the Permit Details Page of the EPA website. This includes the key document types describing the enforcement status of permits issued by the EPA. The published document types include EPA Site Visits, Annual Environmental Reports and commencement notices. Similarly, information on the licence application process is available at the "Licensing and Permitting" module.

Other enforcement correspondence between DAS permit holders and the EPA, reports and information on complaints, incidents and notification of non-compliances would be accessible by visiting the public viewing facility at an EPA Office (with the exception of a small number of document types which fall under the confidentiality provisions contained in law), as set out on the EPA website at the following link⁸. As a result of restrictions caused by the Covid 19 Pandemic physical access to all EPA offices was temporarily restricted to the general public. However, if stakeholders have a query about a licence, permit or authorisation, they can contact the EPA by phone and/or by email. Physical access to EPA offices is expected to resume shortly.

3. S0024-01 Dublin Port Company (DPC) regarding letter from DPC to EPA on 11 March 2021.

Clarification was provided as part of the response to the requests under the AIE Regulations and no further clarification is required in this regard. As noted by the Communicant, there was no amendment to the DAS permit.

Q8. Which of the permits in the Dumping at Sea Register have to your knowledge been the subject of enforcement correspondence since September 2012 but the content of that correspondence is not available on the EPA website? For any such correspondence that is not available on the EPA website, please indicate whether it is accessible via the public computer at the EPA's regional offices.

Annual Environmental Reports

The Communicant states that a very significant number of the DAS permits do not have Annual Environmental Reports (AER) uploaded to the EPA website.

Response

As detailed in section/question 6, the AERs referred to by the Communicant are available on the EPA website. Links to the AERs are provided with this response (refer to Appendix A).

1. Correspondence from Dublin City Council Planning in relation to a complaint regarding an alleged breach of condition 1a and b of An Bord Pleanála decision ref. 29.PA0034

⁸<https://www.epa.ie/our-services/compliance--enforcement/whats-happening/access-to-epa-information-on-compliance-and-enforcement/>

Refer to EPA response to Communicant's response to Question 7, part 2 above.

2. Communicant's response relating Non-compliance with condition 4.5.3 issued under DAS permit S0024-01.

The communicant states (letter dated 19th October 2019) that this non-compliance was logged in the Complaints Summary of the 2019 AER (i.e. only a limited summary of the non-compliance is available), but the full nature of the complaint itself, the notification from the EPA to the permit holder, the response from the permit holder (if any) to the EPA, and the response of the EPA to the complainant (i.e. the email quoted above) are not available on the EPA website.

Response

As noted above, a selection of this information is available online via the Permit Details Page of the EPA website. Notification of non-compliances are accessible by visiting the public viewing facility at an EPA Office, as set out on the EPA website.⁹ It is noted that due to Covid 19 restrictions, the Communicant could not access the EPA offices and therefore a copy of the notification of the non-compliance was provided by the EPA as part of the response to the request for information under the AIE Regulations.

The AER submitted by the permit holder should include information relating to compliance with the DAS Permit (refer to Guidance Note on the Preparation and Submission of the AER for Dumping at Sea Permit Holders published on the website¹⁰ The AER is available online via the Permit Details Page of the EPA website.

The Communicant also states the following *"the EPA were asked for a copy of the non-compliance notification from the EPA to the permit holder with respect to COM007031. The only document provided by the EPA was the one line from the Complaints Summary of the 2019 AER that is noted in the previous paragraph."*

Non-compliances are submitted by the EPA to the permit holder via the EDEN online portal. A non-compliance report from the EDEN/CRM portal was generated by the EPA and submitted to the communicant as part of the response to the AIE request (Non-compliance reference NC010551 dated 06/01/2018).

The Communicant also states: *"The EPA were asked to provide records of any response from the permit holder to the EPA on foot of this non-compliance. The EPA responded by stating that "the permit holder was not required to submit a response to the Agency". This does seem quite remarkable. In most situations, when a non-compliance is raised it is necessary for the non-compliant body to initiate an investigation in order to determine how the non-compliance arose, and detail what measures will be taken to prevent similar non-compliances from happening in the future."*

The EPA notes that in some situations, no further written response to the non-compliance is required by the EPA. Where a non-compliance requires a formal response to the EPA, the EPA may open a compliance investigation to track resolution of the issue. In this specific case, no compliance investigation was considered necessary, as compliance would be checked again by the EPA during subsequent site inspections.

⁹ See <https://www.epa.ie/our-services/compliance--enforcement/whats-happening/access-to-epa-information-on-compliance-and-enforcement/>.

¹⁰ See <https://www.epa.ie/publications/licensing--permitting/waste/Guidance-Note-on-the-Preparation-and-Submission-of-the-AER-for-Dumping-at-Sea-Permit-Holders.pdf>).

The EPA conducts regular site visits to assess compliance with the DAS Permits, in which records, such as marine mammal observer forms/ reports may be inspected. Since the Non-compliance was issued, two site visits (including a remote compliance assessment) have been completed by the EPA's Office of Environmental Enforcement for DAS permit S0024-01. All site visit reports are published on the permit details page of the EPA website.

Information on monitoring, which may include marine mammal observer reports are also submitted as part of the AER, which is published on the EPA website.

Conclusions

The EPA provides public access to a large amount of environmental information relating to the enforcement of DAS permits, as set out on the EPA website.¹¹ The material is easily accessible to the public via the EPA website, without the need for interested persons to attend in person at an EPA office. Occasionally, there may be technology difficulties or document mis-classification issues that disrupt the smooth upload of documents from the EPA's electronic communications portal to the EPA website. However if any relevant enforcement documentation is flagged or identified as missing, inaccurate or incomplete, the EPA is committed to rectify such issues as quickly as possible.

¹¹ <https://www.epa.ie/our-services/compliance--enforcement/whats-happening/access-to-epa-information-on-compliance-and-enforcement/>.