

Submission HLG 00537-22: Appropriate Assessment Determination on Foreshore Application FS007188 RWE Renewables Ireland Ltd., Site Investigations for the proposed Dublin Array offshore wind farm

TO: Minister of State Burke
STATUS: Completed
PURPOSE: For Decision and Signature

AUTHOR: [REDACTED] (Housing)
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DIVISION: Foreshore
DECISION BY:

Final comment

Approved by Minister, 23/11/2022

Action required

Ministerial determination on the Appropriate Assessment Determination, and signing of the Appropriate Assessment Conclusion Statement, if approved.

Executive summary

RWE Renewables Ireland Limited (RWE) applied for a Foreshore Licence for Site Investigations off Dublin & Wicklow to establish cable routes & landfall for the proposed Dublin Array wind farm.

As part of the assessment of this application the Minister was required to make a Screening for Appropriate Assessment determination in accordance with Article 6(3) of the EU Habitats Directive (Directive 92/43/EEC) and Regulation 42(1) of the European Communities (Birds and Natural Habitats) Regulations 2011 as amended ('The Regulations').

The Screening for Appropriate Assessment determined that an Appropriate Assessment was required as the project, individually or in combination with other plans or projects, is likely to have a significant effect on European sites and that the risk of likely significant effects on European sites cannot be excluded on the basis of objective evidence. See: [Screening for Appropriate Assessment Determination for Foreshore Application FS007188 RWE Renewables Ireland Ltd., Site Investigations for the proposed Dublin Array offshore wind farm](#)

Having considered all relevant material a recommendation has been made that the Minister accepts and adopts the Appropriate Assessment Report and determines that the proposed project, either alone or in-combination with other projects, will not adversely affect the integrity of European sites, in view of the said sites' conservation objectives.

Further proposed findings under relevant environmental legislation are below.

Detailed information

Overview

The Dublin Array project was initially developed by Saorgus Energy Ltd a privately-owned Irish company specialising in the development of large wind energy sites in Ireland. In March 2018 Innogy Renewables Ireland Ltd entered into a 50:50 partnership with Saorgus Energy to take the project forward. In July 2020 the global renewable energy portfolios of E.ON and Innogy combined to form RWE Renewables.

RWE Renewables Ireland Limited (RWE) are applying for authorisation to undertake site investigation for the *proposed* Dublin Array offshore wind farm development.

The site investigations will include:

- Geotechnical survey;
- Geophysical survey;
- Metocean monitoring (wind, wave and current measurements);

- Environmental/Ecological
 - Static Acoustic Monitoring;
 - Benthic subtidal monitoring;
 - Benthic intertidal monitoring; and
 - Fish and shellfish monitoring

The objectives of the site investigations are:

- To provide an understanding of ground conditions to refine the foundation design, sizing and installation methodology and to finalise cable route and landfall design and installation methodology.
- To authorise ecological monitoring which may be required prior to any construction of the wind farm commencing in accordance with Guidance on Marine Baseline Ecological Assessments & Monitoring Activities for Offshore Renewable Energy Projects, DCCAE, 2018.
- To provide a longer term data set of wind, wave and current measurement to optimise the wind farm design.

The Foreshore Licence application is solely for the purposes of completing these site investigation and monitoring activities.

The possible output of the final development is circa 600 MW to 900 MW (subject to technical and environmental assessments).

The site investigation will take place off the coast of Counties Dublin and Wicklow.

The total Foreshore Licence application area encompasses an area of 1,130 km².

The duration of the licence sought is up to five years.

Under the 2020 Transitional Protocol this application qualified as a "Relevant Project".

Further details of the proposed activity are outlined in the application form and associated documents (attached) and at the link: <https://www.gov.ie/en/foreshore-notice/96643-fs007188-rwe-renewables-ireland-site-investigations-for-the-proposed-dublin-array-ore-development/>

A foreshore licence if granted will permit those site investigations that will result in physical interaction with or disturbance of the Foreshore. The proposed site investigation activities which are the subject of this application are fully assessed under the relevant environmental legislation.

Screening for Appropriate Assessment (Environmental Assessment)

As part of the assessment of the foreshore license application, Arup were commissioned as Independent Environmental Consultants (IEC) to conduct a Screening for Appropriate Assessment (stage 1 screening) and, if required, an Appropriate Assessment (stage 2) of the likelihood of significant impact on European Sites from the application for a Foreshore Site Investigation Licence. The reports prepared by Arup are to inform the Minister's decision in relation to AA screening and Appropriate Assessment.

A number of application documents submitted by RWE Renewables informed the Screening for Appropriate Assessment. These are:

- Investigative Foreshore Licence Application Form (ORE) – **Tab 02**
- Foreshore Licence Map – **Tab 03**
- Annex A. Co-ordinates of Proposed Foreshore Licence Area – **Tab 04**
- Annex B. Drawings showing activity locations – **Tab 05**
- Annex C. EIA Screening and Environmental Report – **Tab 06**
- Annex E - Report to inform Appropriate Assessment Screening – **Tab 07**
- Annex F - Applicant's Natura Impact Statement – **Tab 08**

Arup reviewed the 17 public submissions received during the initial Public Consultation (Public Consultation under s. 19 of Foreshore Act 1933) held from 18 November 2021 to 17 December 2021, and the applicant's responses to same:

- Public Submissions – **Tab 09**
- Applicant's Response to Public Submissions – **Tab 10**

Arup also reviewed the 8 observations received during the concurrent Prescribed Bodies Consultation, and the applicant's responses to same:

- Prescribed Bodies Observations – **Tab 11**
- Applicants Response to Prescribed Bodies Observations – **Tab 12**

The Department's Foreshore Notice website, containing the documents is:

<https://www.gov.ie/en/foreshore-notice/96643-fs007188-rwe-renewables-ireland-site-investigations-for-the-proposed-dublin-array-ore-development/>

Arup completed the 'Screening for Appropriate Assessment' report in May 2022 (**Tab 13**). The Screening for an Appropriate Assessment was undertaken to determine if the proposed project, alone or in-combination with other plans or projects, was likely to have significant

effects on any European sites. This process was carried out in accordance with the Habitats Directive and to the European Communities (Birds and Natural Habitats) Regulations 2011 and is consistent with national (OPR 2021) and EU (DEHLG 2010) guidance.

The likely significant effects from the proposed works were identified as being:

- Underwater noise
- Increased vessel traffic
- Direct disturbance

Arup's Screening for Appropriate Assessment report concluded that a Stage 2 Appropriate Assessment was required as the project, individually or in-combination with other plans or projects, is likely to have a significant effect on European sites

The Department's Marine Advisor (Environment) drafted the Screening Determination for Appropriate Assessment which was approved and signed by the Minister on 23 June 2022. **(Tab 14)**

**Public Consultation for Appropriate Assessment
(Consultation under Section 42 of EC Birds and Natural Habitats Regulations, as amended)**

A further Public Consultation was held and a Public Notice invited public submissions, between 30 June 2022 and 29 July 2022, for the purpose of conducting the Appropriate Assessment in accordance with Section 42 (1) of S.I. No. 477 of 2011, the European Communities (Birds and Natural Habitats) Regulations 2011, as amended.

Notices were published in Irish Independent, Bray People and Wicklow People newspapers. Documents were made available for inspection throughout the consultation period at:

- Shankill Garda Station
- Dún Laoghaire Garda Station
- Blackrock Garda Station
- Clontarf Garda Station
- Irishtown Garda Station
- Pearse Street Garda Station
- Howth Garda Station
- Wicklow Garda Station
- Dún Laoghaire-Rathdown County Council
- Dublin City Council, Civic Offices
- Bray Library
- Greystones Library
- Wicklow Library

The documents were also available on the Department's website at:

<https://www.gov.ie/en/foreshore-notice/96643-fs007188-rwe-renewables-ireland-site-investigations-for-the-proposed-dublin-array-ore-development/>

In addition to the application documents submitted by RWE, the following documents were also on public display at the above locations and published on the Department's website:

- Screening for Appropriate Assessment Report (prepared by IEC)
- Marine Advisor Environment Screening Stage Report (prepared by MA)
- Preliminary Examination for EIA (prepared by MA)
- Submission on Screening for Appropriate Assessment Determination
- Screening Determination for Appropriate Assessment, signed by the Minister and the Marine Advisor.

The Department received 19 public submissions during the second public consultation **(Tab 15)**.

The submissions were from private individuals, from Fishers and from groups:

- Gus Cullen Solicitors on behalf of East Coast Fishers
- Wild Kildare
- The Adela-Hare Centenary Commemoration Committee
- Wild Defence Ireland
- Killiney Bay Community Council
- Coastal Concern Alliance
- People Before Profit
- South East Coastal Protection Alliance

The applicant's responses to the public submissions are at **(Tab 16 and Tab 16A)**

Prescribed Bodies Consultation for Appropriate Assessment

Foreshore Regulations 2011 (S.I. No. 353 of 2011) provides under regulation 3 that when considering a foreshore application, as set out under section 18A (1) of the Act of 1933, the Minister may seek observations from a number of prescribed bodies.

For this application, observations were sought from:

- Marine Advisor (Engineering) of Department Housing, Local Government, Heritage
- Marine Advisor (Environment) of Department Housing, Local Government, Heritage

- Department of Housing, Local Government and Heritage (NPWS)
- Department of Housing, Local Government and Heritage (Underwater Archaeology)
- Department of Agriculture Food and the Marine
- Marine Institute
- Inland Fisheries Ireland (IFI)
- Marine Survey Office
- Sea Fisheries Protection Authority
- Commissioners of Irish Lights
- Wicklow County Council
- Dublin City Council

There were responses from:

- IFI
- Marine Advisor (Engineering) of Department Housing, Local Government, Heritage
- Marine Advisor (Environment) of Department Housing, Local Government, Heritage
- Commissioners of Irish Lights

The Prescribed Body observations (**Tab 17**) were forwarded to the applicant.

There were no objections in principle to the proposed works.

The applicant's responded to the Prescribed Body observations (**Tab 18**).

The submitted observations and the applicant's response are considered under this Appropriate Assessment. Recommended conditions will also be considered as part of this submission.

Appropriate Assessment

The Appropriate Assessment Screening process determined that likely significant effects on Annex I marine habitats and Annex II species of marine mammals from Rockabill to Dalkey Island SAC, South Dublin Bay SAC and Lambay Island SAC could not be discounted as a result of direct disturbance on habitats, underwater noise and increased vessel traffic from the proposed works. Likely significant effects could not be ruled out with respect to all sources of potential effect for North Bull Island SPA and South Dublin Bay and River Tolka Estuary SPA.

Therefore a stage 2 Appropriate Assessment was required.

The IEC, Arup, completed an 'Appropriate Assessment Report', (**Tab 19**) and identified the mitigation measures required to ensure that the proposed site investigation works, individually or in combination with other plans or projects will not adversely affect the integrity of any Europeans Site.

The 'Marine Advisor's Environmental Assessment and Determinations Report' of 28 September 2022 considered all the information submitted in support of this application and accepts the the conclusion and recommendations. (**Tab 20**)

Environmental Impact Assessment (EIA) Regulations

The proposed project is for site surveying including boreholes to test the suitability of the sub sea bed conditions. Having considered the application, the Department's Marine Advisor (Environment) determined that the project does not requires a mandatory EIA. As the Consent Authority, the Department must complete an Examination for EIA as part of their obligations under the EIA Directive.

The Preliminary Examination for EIA was provided by the Department's Marine Advisor (Environment) (**Tab 21**).

It is recommended that the Minister adopts the finding that the proposed site investigation activities which are the subject of this application are not of a class that require

Environmental Impact Assessment and that the activities come outside the scope of the EIA Directive.

Risk Assessment for Annex IV Species

Article 12 of the Habitats Directive (92/43/EEC) affords strict protection to those species listed in Annex IV, wherever they occur.

As part of its Natura Impact Statement, the applicant provided its own 'Article 12 Assessment for Relevant Annex IV species' report. (**Tab 22**)

The IEC, ARUP, reviewed this and provided an 'Annex IV Risk Assessment' report (**Tab 23**)

It concluded that, with the implementation of mitigation measures:

- the risk of injury to Annex IV species is considered to be negligible, and significant effects are not considered to be likely
- the risk of behavioural disturbance to Annex IV species is considered to be extremely low, and significant effects are not considered to be likely.

Therefore, it is concluded that the proposed survey activities will not give rise to significant impacts to species listed under Annex IV of the Habitats Directive.

The Department's Marine Environment Advisor considered the application and the IEC Annex IV Risk Assessment report, agreeing with and accepting this report and its conclusions in the 'Marine Advisor's Environment Screening Stage Report' (**Tab 20**)

This assessment is separate to that undertaken under Article 6.3.

Marine Licence Vetting Committee (MLVC)

The MLVC examined the application and supporting documents, the submissions and applicant responses received during the 1st and 2nd Public Consultations, the submissions and responses received during the Prescribed Body Consultations, the assessment reports and conclusions regarding Appropriate Assessment Screening, Appropriate Assessment and Annex IV species, along with the Screening for Appropriate Assessment (prepared by IEC), Screening Determination for Appropriate Assessment (Marine Advisor (Environment)), the Non-Statutory Environmental Report (NSER) (**Tab 24**) and Marine Advisor (Environment) Environmental Assessment Report with Appropriate Assessment Determination.

The MLVC concluded in its report (**Tab 25**), with site specific conditions, (**Tab 26**) taking account of the totality of the documentation on file and subject to compliance with the specific conditions set out below, the proposed works would will not adversely affect Fishing, Navigation or the Environment and is in the Public Interest.

Please note that the MLVC report is being attached at AA Determination stage for information purposes only in matters related to the environmental assessment process.

MLVC Conclusion and proposed findings

This application is for the carrying out of site survey work to inform future development of off shore wind array. It is considered that this site surveying activity is required to inform an application for an off shore wind array, in the general area outlined on the submitted maps. It is further noted that this proposed array is a project that satisfies the definition of relevant maritime usage under the Maritime Area Planning Act and its progression through the various consenting process has been accorded a high priority.

Submissions by the public and the prescribed bodies have been considered and responded to by way of proposed conditions in Section 10. In particular the issues raised through submissions have been considered both as part of this report but also as part of the environmental assessment reports, all of which form the overall assessment of this proposed application.

In response to the public submissions issues relating to wild life have been considered as a part of the appropriate assessment and mitigation measures proposed which will form conditions attached. In relation to matters raised relating to visual amenity and interaction with the local community. These are legitimate concerns but are considered to relate to a development proposal for an off shore wind development. This is not what is proposed as part of this application. Instead the matter at hand relates to surveying work which will inform the appropriateness or not of proceeding with a proposed future development. The work is both temporally and physically temporary. A future proposed development if it comes to pass will be the subject of a separate assessment process which will include public participation and would include as part of its assessment consider the matters raised.

With respect to the concerns raised with respect to fisheries the application was referred to the relevant prescribed bodies. With respect to timing of surveys in respect of fish migration these will be conditioned, as recommended. The balancing of various activities, some well established such as fishing is necessary. The carrying out of survey work is considered to be reasonable in view of national considerations but the timing of and duration of these survey works needs to take cognisance of other marine users. It is considered in view of this that a condition be placed on any approval requiring a fisheries liaison officer to be retained by the developer and shall undertake detailed co-ordination with local fishing interests.

With respect to safe navigation marine notices shall be published. In view of the activities proposed they are not considered to pose a threat to safe navigation subject to compliance with the relevant conditions set out below.

Significant appropriate consideration has been given to environmental matters by Independent Environmental Consultants which is reflected in this report. The supporting environmental reports formed part of this assessment. Given the existence of other licences in this general area, it is considered prudent in the interests of mitigating the possible cumulative environmental effects that the applicant be required, in the event of a licence being granted, to coordinate with other licence holders that overlap with the survey area as submitted to ensure that no temporal overlap between two or more projects occurs. It is considered that this requirement

