

**Response to Submissions received following a Public Consultation process as part of a Foreshore Licence Application for Marine Survey Works (FS007048)**

## 1. Introduction

Seventeen responses were received as part of the public consultation process which ran from the 4<sup>th</sup> March to the 28<sup>th</sup> May 2020. In response to the COVID-19 emergency, the Government made a series of Orders<sup>1</sup> under Section 251A(3 and 4) of the Planning and Development Act 2000 which extended all periods and timelines in the Planning and Development Act 2000 and as a result the public consultation period was extended from the original date of April 6<sup>th</sup> to May 28<sup>th</sup>.

During this period the documents associated with the Foreshore Licence Application for Survey Works were on display and available for public review in Wexford, Arklow and Gorey Garda Stations. The documents were also available for review on the DHPLG's website and the project Fisheries Liaison Officer (FLO) had a hard copy available should any fisher have difficulty accessing the documents. The public consultation process was advertised in the Gorey Guardian and Wexford People on 3<sup>rd</sup> March 2020, the Irish Times and Wicklow People on the 4<sup>th</sup> March 2020 and in the March 2020 editions of the Marine Times and The Skipper.

The Applicant appointed a Fisheries Liaison Officer (FLO) to the project in December 2019. Since that time, the FLO has been engaging extensively with the fishing industry and continued to do so during the COVID-19 emergency making arrangements for virtual meetings at very short notice. The communication and engagements by the FLO have not gone unnoticed in the fishing industry and the commendations by two fishing industry representative bodies (Submissions 2 and 16) are a testament to that.

The following meetings were held with the fishing industry in advance of and/or during the Public Consultation phase:

- South East Regional Inshore Fisheries Forum in New Ross on the 13<sup>th</sup> February 2020 (8 SERIFF Board Members and Secretariat)
- Industry level meeting in Dungarvan on the 21<sup>st</sup> February 2020 (25 attendees)
- Industry level meeting in Gorey on the 24<sup>th</sup> February 2020 (33 attendees)
- Industry level meeting in Dunmore East on the 4<sup>th</sup> March 2020 (13 attendees)
- IMSC Meeting 11<sup>th</sup> March 2020
- Industry level meeting in Kilmore Quay (via video conferencing) on the 20<sup>th</sup> March 2020 (6 attendees) and
- Industry level meeting in Wexford Harbour (via video conferencing) on 27<sup>th</sup> March 2020 (1 attendee nominated to represent seed mussel industry).

In addition, the Applicant issued a series of FAQs to address the concerns in relation to the proposed SI works raised throughout the consultation process. These can be assessed [here](#). A Site Investigation Briefing Document was also issued to provide the fishing industry with further detail on the geophysical and geotechnical surveys. This can be accessed [here](#).

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<sup>1</sup> S.I. No. 129 of 2020 - Planning and Development Act 2000 (Subsection (3) of Section 251A) Order 2020  
S.I. No. 131 of 2020 - Planning and Development Act 2000 (Subsection (4) of Section 251A) Order 2020  
S.I. No. 165 of 2020 - Planning and Development Act 2000 (Subsection (4) of Section 251A) (No. 2) Order 2020

The Applicant is committed to continuing this meaningful engagement with the public and key stakeholders and believes the additional measures taken, over and above this formal consultation process, has improved general awareness and understanding of the overall process and provided the Applicant with valuable insight. It is clear from the engagement with the fishing industry both directly and through our FLO and the additional measures taken during this public consultation that the Applicant recognises the importance of engagement in the early stages of a project.

The Applicant's responses to each submission are set out below. A number of the public submissions were relevant to the proposed development rather than the works for which a Foreshore Licence is currently being applied for. This is considered pre-emptive and, if the area proves suitable for the development of an offshore windfarm, the Applicant will prepare and undertake an Environmental Impact Assessment (EIA) following which an Environmental Impact Assessment Report (EIAR) will be submitted as part of the planning process. Stakeholder engagement, which includes significant public consultation will form a key element of the EIA process.

## **2. Responses to Submissions Received**

### **Submission 1 – Submission from Arklow Marine Services (AMS) to DHPLG dated 3<sup>rd</sup> April 2020**

#### **1. Overlap with Aquaculture Site**

The Applicant notes the views of AMS in relation to IMSC and notes that IMSC have submitted a response directly.

The Applicant agrees with the concluding statement by AMS that there is ample room for offshore wind and other industries in the marine space to co-exist on the Wicklow and Wexford coasts.

### **Submission 2 – Submission from South East Regional Inshore Fisheries Forum (SERIFF) to DHPLG**

#### **1. Consultation with Inshore Fisheries**

The Applicant welcomes the SERIFF's acknowledgement of the positive engagement and consultation in relation to the foreshore application.

#### **2. Various offshore wind farm sites**

The request for a full list of active offshore wind farm sites is a matter for the Department and as such the Applicant cannot directly respond on this point.

The Applicant acknowledges the potential for confusion around the numerous applications currently at various stages in the Foreshore Licence process and is both directly, through our FLO, and with the representative body for offshore wind, IWEA, engaging with individual fishers and representative bodies to further clarify the status of current applications. A key point for the fishing industry is that, while there are numerous applications, these applications are for site investigation works only and that if the sites are determined to be suitable, further applications to the Relevant Authority will be made. It is not envisaged that each of these projects would progress through the consenting phase and, in the case of an overlap between project areas, a mechanism for resolving this is set out in the draft Marine Planning and Development Management ("MPDM") bill.

### 3. Survey techniques

The Applicant notes the observation of the SE RIFF in relation to the survey techniques. It is worth noteworthy that there has been relatively little focus on the impacts of the proposed survey techniques on fish and invertebrates in the scientific community, due to the fact that there is a lack of reporting of negative impacts and they have not been identified by marine scientists as causing significant impacts. The Applicant would point to the previous similar surveys carried out in inshore waters around Ireland in recent years with no negative impacts reported or apparent. The Applicant has however committed to further researching this topic further and providing SE RIFF with available information if available.

The impacts of the construction and operational stages of the proposed wind farm will be addressed in the detailed EIAR that will accompany any planning application. On-going consultation and engagement with the fishing industry will be a crucial part of the EIA process.

**Submission 3 – Email to DHPLG received 29<sup>th</sup> March 2020, Submission 4 – Email to DHPLG received 27<sup>th</sup> March 2020, Submission 6 – Email to DHPLG received 3<sup>rd</sup> April 2020, Submission 7 – Email to DHPLG, Submission 9 – Email to DHPLG received 30<sup>th</sup> March 2020, Submission 10 – Email to DHPLG received 3<sup>rd</sup> April 2020, Submission 13 – Email to DHPLG received 2<sup>nd</sup> April 2020, Submission 14 – Email to DHPLG received 24<sup>th</sup> March 2020, Submission 15 – Email to DHPLG received 2<sup>nd</sup> April 2020 and Submission 17 – Email to DHPLG received 3<sup>rd</sup> April 2020.**

#### 1. Lack of clarity / uncertainty

The determination of the geotechnical investigation points is contingent on the results of the geophysical investigation. As the Applicant understands a Foreshore Licence is required to undertake geophysical investigations, these exact points cannot be confirmed in advance of receipt of the Foreshore Licence. However, the application is clear on the number of geotechnical site investigation (SI) locations and on the short-term, small scale, very localised nature of these SI works. This view is supported by the conclusion of the Marine Institute:

*“On the basis of the above and considering the nature, scale and location of the proposed site investigations the Marine Institute is satisfied that the site investigations as proposed will not have a significant impact on the marine environment in the survey area and will not have a significant impact on other legitimate uses / users of the area and therefore has no objections to a licence being granted”*

The Applicant has undertaken an unprecedented consultation effort with local fishing interests as described in Section 1 above and a commitment was made during these engagements that communication with the fishing industry would be maintained throughout the full development process. Once the geophysical survey schedule is known it will be communicated with the fishing industry well in advance of commencement in order to minimise any disruption to fishing activity. Similarly, once the results of the geophysical surveys are available and the geotechnical positions are confirmed, these will also be communicated to the fishing industry well in advance of the commencement of the surveys.

#### 2. Preliminary Surveys

The issue of carrying out geophysical surveys in advance of applying for a Foreshore Licence is a matter for DHPLG.

**Submission 5 – Submission to DHPLG received 9<sup>th</sup> May 2020**

This submission does not relate to the Applicants South Irish Sea project (FS007048) which was the subject of the consultation period.

**Submission 8 – Submission to DHPLG received 2<sup>nd</sup> April 2020****1. Perceived lack of information**

The Applicant confirms their commitment to obtaining further fisheries data for the area in question and are in the process of organising AFLOAT surveys with our FLO. Once complete, these surveys will provide further detail in relation to fishing activity and areas fished. The FLO will also be continuing to interview as many local fishers as possible to gain a better understanding of the current and previous levels of all types of active fisheries in and around the application area. This is a significant undertaking requiring considerable resource. We will consult closely with the fishing industry throughout this data gathering process and we will work closely with individuals that operate within the survey area to ensure that any disruption or displacement is mitigated as much as possible.

**2. Proper Assessment**

The current application is for site investigation works only. The impact (including socio-economic impact) of the construction and operational phases of any proposed wind farm will be addressed as part of a detailed and rigorous EIA process that would accompany any planning application. Stakeholder engagement, which includes significant engagement with the fishing industry will form a key element of the EIA process. The Applicant is fully committed to direct engagement with the fishing industry to establish a mutually beneficial situation for both and to ensure both activities can co-exist.

**3. Preliminary Surveys**

The issue of carrying out geophysical surveys in advance of applying for a Foreshore Licence is a matter for DHPLG.

**Submission 11 – Submission to DHPLG from Irish Mussel Seed Company (IMSC) received 31<sup>st</sup> March 2020****1. Aquaculture Overlap**

The Applicant notes the submission from IMSC.

While the Applicant's Foreshore Licence site does overlap with the IMSC licenced aquaculture site, it is clear from the Application (Fisheries Assessment – Section 3.3) that the licenced site would be avoided and that no works would be carried out in the vicinity of the aquaculture site.

The Applicant met with IMSC during the consultation period to highlight the content of the application, specifically in relation to the avoidance of the licenced site. The Marine Institute, in reviewing the application, noted the Applicant's intention not to carry out SI works within the licenced site and as a result concluded that significant impacts on the aquaculture activity at the licenced site were not considered likely:

*There is 1 licenced aquaculture site (T32/27) within the proposed site investigation area on the Foreshore. Collection of seabed samples within this licenced site is not proposed and therefore significant impacts on the aquaculture activity at this licenced site are not considered likely. Notwithstanding this, it is recommended that no survey activity be permitted within the boundaries of the licenced aquaculture site (T32/27), unless otherwise agreed with the Aquaculture Licence holder, and that this should be a specific condition of any licence that may be granted.*

Further to the assessment by the Marine Institute, Bord Iascaigh Mhara, an agency tasked with helping to develop the Irish Seafood Industry has recommended a 500m exclusion zone around the licenced aquaculture site and the Applicant is committed to implementing this.

The Applicant confirms acceptance of the above conditions set out by both the Marine Institute and Bord Iascaigh Mhara.

The Applicant cannot comment on the views or actions of IMSC's investors, however it is noted by IMSC that the particular area is already subject to a previously granted investigatory licence (FS006788) and as such, it is unclear how this Application poses a purported new risk to IMSC's site.

A summary of the consultations and engagements carried out as part of the public consultation process are summarised in the introduction section of this document. This clearly shows that the stakeholder engagement carried out by the Applicant and their FLO was unprecedented and the commendations by two fishing industry representative bodies (Submissions 2 and 16) are a testament to that.

## **2. Lack of clarity / uncertainty**

An EIA is not required for the activities proposed under the Foreshore Licence. The nature, scale and short-term duration of the activities proposed will not have a significant impact on the marine environment or other uses / users. This was assessed as part of Appendices 3 and 4 which accompanied the application. In addition, the Marine Institute, following assessment of the application concluded that:

*“On the basis of the above and considering the nature, scale and location of the proposed site investigations the Marine Institute is satisfied that the site investigations as proposed will not have a significant impact on the marine environment in the survey area and will not have a significant impact on other legitimate uses / users of the area and therefore has no objections to a licence being granted”*

The determination of the geotechnical investigation points is contingent on the results of the geophysical investigation. As the Applicant understands a Foreshore Licence is required to undertake geophysical investigations, these exact points cannot be confirmed in advance of receipt of the Foreshore Licence. However, the application is clear on the number of geotechnical site investigation (SI) locations and on the short-term, small scale, very localised nature of these SI works. This is also the conclusion of the Marine Institute as quoted above.

The issue of carrying out geophysical surveys in advance of applying for a Foreshore Licence is a matter for DHPLG.

### 3. Foreshore vs Aquaculture Licence

IMSC make a comparison between the level of studies undertaken in an application for an aquaculture licence as compared with an application for site investigation. These applications are not comparable when assessing the nature of works authorised. In the case of a granted aquaculture licence, that entitles the holder to occupy an area of seabed to carry out aquaculture operations for a set duration of 10 years. The exploratory foreshore licence sought by the Applicant is non-exclusive, temporary in nature and defined in scope and is for the purposes of site investigation only. It gives the holder no rights to develop anything or no permission to operate a business.

The Foreshore Licence the Applicant is currently applying for is therefore not equivalent to the foreshore licence that accompanies an aquaculture licence and is more akin to the licence IMSC would have obtained to deploy ADCPs to collect data to determine site conditions. This information was then used to support the aquaculture licence application.

If granted, the licence will permit the Applicant to carry out site investigation works, the results of which will form part of an EIA. It is only once this EIA is undertaken that the Applicant can then apply for development consent for an offshore wind farm.

### 4. Multiple Foreshore Licences

Site Investigation Foreshore licences are non-exclusive, temporary in nature and defined in scope and are for the purposes of site investigation only.

The Applicant's foreshore licence area does overlap an existing non-exclusive site investigation foreshore licence held by Hibernian Wind Power (FS006788).

This is not uncommon. In the northern part of the Irish Sea:

- FS007031 overlaps FS006973
- FS006973 overlaps FS006852
- FS006973 overlaps FS006787

The MPDM Bill makes provisions for these scenarios.

The Applicant notes the observations made by IMSC and has directly committed to IMSC as well as through our FLO to continue to engage during this application process and, if the Foreshore Licence is granted, throughout the EIA process and general project development.

#### **Submission 12 – Submission to DHPLG from Cllr. Peir Leonard received 31<sup>st</sup> March 2020**

The Applicant notes the submission made by Cllr Pier Leonard.

The Applicant notes the views of Cllr. Leonard in relation to IMSC and wish to advise that all matters relating to IMSC have been noted directly in a submission by IMSC.

The Applicant has extracted, for the benefit of Cllr Peir Leonard, the assessment of the works, as set out by the Marine Institute, following review of the Application:

*“On the basis of the above and considering the nature, scale and location of the proposed site investigations the Marine Institute is satisfied that the site investigations as proposed will not have a significant impact on the marine environment in the survey area and will not have a significant impact on other legitimate uses / users of the area and therefore has no objections to a licence being granted”*

The Applicant notes the plans/proposals for Wicklow County Council's native oyster conservation project and the development of the Bray to Dungarvan Blueway. The Applicant confirms that if the Foreshore Licence is granted, and the Applicant progresses the EIA, that all impacts on these initiatives will be addressed in the EIAR which would accompany any planning application for the wind farm. The Applicant looks forward to discussing these plans with Wicklow Co. Co.

The Applicant fully supports the development of Wicklow County Council's maritime tourism economy and believes that offshore wind will have an important role to play in this.

In relation to the Marine Spatial Plan which is entitled the National Marine Planning Framework (NMPF), the Applicant understands that this will be enacted by Q1 2021 following a significant consultation effort by the Department in 2019 and 2020. The Applicant notes that the grant of a Foreshore Licence of this nature does not provide an exclusive right to an area and as such, does not incur an encumbrance on stakeholders of the marine space. The NMPF and associated planning legislation, the Marine Planning and Development Management ("MPDM") bill, will be enacted before a consent application could be submitted by the Applicant.

#### **Submission 16 – Joint response from National Inshore Fishermen's Association CLG (NIFA) and the National Inshore Fishermen's Organisation CLG (NIFO) to DHPLG received 29<sup>th</sup> March 2020**

##### **1. Consultation with Industry**

The Applicant welcomes the commendation by NIFA/NIFO on the consultation with industry to date and can confirm that this consultation will continue should the Foreshore Licence be granted.

##### **2. Underestimation of Inshore Fishing Activity**

The Applicant confirms to NIFA/NIFO and their members that we are fully committed to obtaining further fisheries data for the area in question and are in the process of organising AFLOAT surveys with our FLO. Once complete, these surveys will provide further detail in relation to fishing activity and areas fished. The FLO will also be continuing to interview as many local fishers as possible to gain a better understanding of the current and previous levels of all types of active fisheries in and around the application area. This is a significant undertaking requiring considerable resource. We will consult closely with the fishing industry throughout this data gathering process and we will work closely with individuals that operate within the survey area to ensure that any disruption or displacement is mitigated as much as possible.

##### **3. Underestimation of Short-term Disruption to Inshore Fishing Activity**

The Applicant acknowledges that a safe distance will have to be maintained from the survey vessel as the survey works progress. The FLO will be in continuous contact with fishers with regards to the timings, location and duration of the works to ensure minimal disruption. Marine Notices will also be issued. Co-operation will be required from all parties to ensure both activities can occur together with minimal disruption. The Applicant is committed to engaging with all fishers utilising the application area for the purposes of commercial fishing

to discuss in detail the level of disruption that they may experience and how best to work together to ensure both activities can co-exist.

#### **4. Underestimation of Medium/Long-term Disruption to Inshore Fishing Activity**

The Applicant notes the concerns of NIFO/NIFA members with regards to the impacts of sub-bottom profiling. The Applicant is committed to examining the evidence regarding negative effects on catch rates with concerned fishermen, however it is worth noting that there have been a number of similar types of surveys carried out in shallow waters off the east and south coasts with no reported negative impacts on fisheries in the area.

It is encouraging to note the distinction made by NIFO/NIFA between sub-bottom profiling for oil and gas activity (which requires penetration to depths of 10's to 100's of **kilometres** into the seabed) and sub-bottom profiling for offshore wind site investigation works (which requires penetration to depths of 10 – 100 **metres** into the seabed) and the acknowledgement that the intensity of the proposed acoustic work is far lower than that used for oil and gas exploration.

The Applicant notes the concerns of the members of NIFA/NIFO with regards to marine traffic and navigational concerns. The Applicant would like to reassure NIFA/NIFO that these concerns are noted and they will be addressed during the EIA stage. A Navigational Risk Assessment will be carried out by highly experienced marine navigational consultants and these issues will be closely examined in consultation with sea users, the fishing industry, ports and harbours and the Marine Safety Office (MSO). The Applicant has engaged with the MSO in this regard and are aware of the navigational and safety requirements for such a development.

The Applicant is not in a position to comment on the future use of Rosslare Harbour as a base port for offshore wind operations as that is a project being explored by a separate company. The Applicant's current application is for site investigation works only. The operation and maintenance base options for the South Irish Sea project will be examined in detail at the EIA stage. This will be examined within the context of current uses and users of areas potentially suitable for an operation base.