

**FS007029 SSE Site Investigations at Arklow - Public Consultation  
Submission 1**

-----Original Message-----

From: [REDACTED]  
Sent: 18 October 2019 17:55  
To: foreshore <[foreshore@housing.gov.ie](mailto:foreshore@housing.gov.ie)>  
Subject: Kish bray bank wind farm! Fs007029.

Dear sir/madam

My name is [REDACTED] a fisherman from [REDACTED] co. Wexford.  
I have just learned of your intentions to erect a wind farm on the bray / kish banks!  
For the past 5 years I have fished scollops On the east side of the bray bank and have Had great fishing over the winter months.  
All track record can be provided if needed.  
I do not have a problem with the wind farm as long as I can still fish this small piece of ground once the turbines have been compleated.  
I wish to inform you that I intend to dredge for scollops at the bray/kish banks in the future as I have done for the past 5 years.

Regards

[REDACTED]

FS007029 SSE Site Investigations at Arklow - Public Consultation  
Submission 2

**From:** [REDACTED]

**Sent:** Monday 18 November 2019 16:58

**To:** foreshore <[foreshore@housing.gov.ie](mailto:foreshore@housing.gov.ie)>

**Subject:** Dublin/Kish Turbine Array

To whom it May Concern:

Whilst I believe energy derived from wind is an essential process to be developed with the aim of reducing carbon emissions, I must object in the strongest possible terms to the proposed huge turbine array in Dublin bay and on the Kish Bank.

This array is far too close to the shore and will permanently and significantly disfigure one of Dublin's greatest and most historic assets.


The building and presence of this array will greatly endanger wildlife in the area, at least some of which is a protracted habitat. By all means build turbines but at least 20k offshore.

[REDACTED]

Dalkey

[REDACTED]

DUN LAOGHAIRE HARBOUR REPRESENTATIVE GROUP

  
Dun Laoghaire  
C. Dublin.  
18<sup>th</sup> November 2019.

Submission to Innogy – Site Investigation – Dublin Array at Kish and Bray Banks. Ref. FS007029.

The Dun Laoghaire Harbour Representative Group represents residents, users and stakeholders of the Harbour, with a focus on protecting the heritage, access to the Harbour and the development of a National Watersports Centre.

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The Dun Laoghaire Harbour Representative Group have been informed of the proposed Site Investigation for a windfarm at the Kish and Bray Banks. It is our understanding that it is proposed to locate the windfarm in Dublin Bay 10km from the coast, stretching from Booterstown to Greystones.

Given its proximity to the coast, and in particular to Dun Laoghaire Harbour, we are anxious to know how activities in and from the Harbour will be affected. The Harbour is used by thousands of people – fishermen as well as yachting, sailing, rowing, swimming and other recreational users. We represent a cross section of these users and to date we are unaware of what is planned, other than from an article in the Irish Times. Will there be consultation with these users, whose activities extend into many areas of Dublin Bay?

We work closely with Dun Laoghaire Rathdown Co. Council. The Council is currently developing plans for the future of the town and the Harbour which is seen as a uniquely valuable resource, with hundreds of members of the yacht clubs and other activities – over 1million people walk the piers annually. It is also proposed that there will be a National Watersports Centre based in the Harbour. It is vital that none of these activities are adversely affected by the proposed wind farm.

The Volvo Dun Laoghaire Regatta which operates from the Harbour is a major international event contributing approx €3m to Dun Laoghaire town. It is chosen because of Dun Laoghaire's proximity to Dublin city, and the unique, unspoiled openness of Dublin Bay. We trust that it would not need to be discontinued because of the windfarm so close to the coast.

We wonder why it is necessary to have the windfarm in such close proximity to the shoreline, in Dublin Bay which is unique, not just for sailors and fishermen, but for all who treasure “the Jewel in the Crown” of the East Coast.

  
Vice-Chairperson  
Dun Laoghaire Harbour Representative Group  
C/o 3 Eblana Avenue  
Dun Laoghaire  
Co. Dublin.

# COMMUNITY FIRST

NEWSLETTER OF THE DÚN LAOGHAIRE HARBOUR REPRESENTATIVE GROUP

## HARBOUR HOPES ARE HIGH



Photo - Noel Brien

### **Dún Laoghaire Rathdown County Council – now in charge of Dún Laoghaire Harbour - is in the process of developing another “Master Plan” for the Harbour.**

It is understood, from the Council’s recent advertisements seeking economic advisers for the Harbour and Town, that this time the plan will include a long awaited effort to revitalise the town in tandem with the harbour.

The Government's decision to hand over the harbour “lock, stock and barrel” to our Council has been widely welcomed locally, especially by the newly formed Dún Laoghaire Harbour Representative Group.

The priorities of the new Representative Group includes a desire for the development of our harbour as a national water sports centre., This is already an aspiration of the County Council's own County Development Plan. Government and EU funding will be essential for this to materialise.

Public access to the harbour is the priority of the Dún Laoghaire Harbour Representative Group and any attempts to privatise this national asset will be strongly opposed by the Group in co-operation with other local representative bodies, resident associations, sports organisations -indeed the whole community.

### **HERITAGE HARBOUR IS A “MUST”**

Restoration of the harbour piers is a “MUST” following years of neglect. Dún Laoghaire Harbour is a national asset and enjoys preservation orders as protected structures. The unsatisfactory development of Greystones Harbour, and indeed the proposed Bullock Harbour redevelopment, are examples of what not to do. Instead we should be thinking about a CONSERVATION BASED HERITAGE HARBOUR where not only the existing structures will attract visitors but also by a floating heritage in the form of traditional boats on display. A true maritime theme.

## OUR MARITIME MUSEUM HAS ITS PART TO PLAY

Ireland's National Maritime Museum is of course based locally and has an important part to play. Redeveloped in recent years thanks to state grants in the region of €4million our museum is now poised to take its place in the revitalisation of the region. Indeed that was the stated reasons for the museum's successful application for state restoration funding. An involvement by the National Museum in our maritime museum would surely be welcomed - perhaps on the lines of the Museum of Country Living near Castlebar in County Mayo.

The National Maritime Museum is at present operated by enthusiastic volunteers with the assistance of a state funded social employment scheme.

The Carisle Pier must be put back as it was and developed as a major tourism attraction.



Photo - Noel Brien

## TOURISM TRAILS POTENTIALS

As pointed out over many years there are many excellent potential tourism attractions locally especially when it comes to our harbour. For instance the Prison Ships which were anchored in the harbour and the old court house entrance on the side of the town (facing the harbour) through which all people due to be deported had to appear before going on the ship, would prove of great interest to historians and especially Australians tracing their roots.

## FERRY TERMINAL'S FUTURE

As planning permission exists for office accommodation in the now disused Ferry Terminal our County Council feels obliged to follow up on that potential for creating new jobs locally. The theory is that by leasing it out as a hub for modern technology enterprises a huge amount of jobs can be created. An eventual several hundred new jobs is the dream. The existing structure is not suited to office use without significant investment being made in the building itself. It is basically a site for development depending on its future usage.

Photo - Noel Brien



However there are significant potential office accommodation sites locally such as in the empty sections of the Dún Laoghaire Shopping Centre, at the Boylan centre, (which has been on the market), the underused Dunnes site and the various unused sites around the immediate area.

Should the old ferry terminal remain available for development into the future why not use it as a centre for a National Water Sports Centre and or a municipal yacht club. ? Another use could be for an extension to the National Maritime Museum of Ireland. All possibilities would create sustainable jobs locally. And much more for the local community.

### **HUGE CRUISE SHIPS “NOT ON”**

The previous management of Dún Laoghaire Harbour planned to bring in huge cruise ships. To facilitate them they proposed building massive facilities across our harbour. These plans have since been abandoned following heroic opposition spearheaded by Save our Seafront (SOS).

A number of the large and some not so large cruise ships in fact visited Dún Laoghaire during recent years with the use of small boats bringing tourists ashore. Unfortunately the exercise proved of little or no value to local business as those arriving were swiftly bussed to Dublin City Centre, Glendalough and garden centres miles out of town. Tourists decide either to stay local or participate in these tours at the time they are purchasing their cruise sailing tickets. It is not difficult to understand that the vast majority prefer to participate in organised tours and trips away from the ports they land at.

The amount of fees paid by the cruise ships to port authorities is very small - less than €2 per passenger is reported. This would not even cover the costs of cleaning up litter after their visit. Then there is the other, much more serious negative pollution generated by all large cruise ships.

### **REGULAR FERRY SERVICES JUST A NICE THOUGHT ?**

The re-introduction of ferries using Dún Laoghaire Harbour appears remote. Our heritage harbour - built over 200 years ago - is not suited to the large ferries which have become the “norm” nowadays. Nevertheless our harbour is suited to relatively small ferry ships like those which served the port well over so many years. Despite the difficult task, it is very encouraging to hear at a recent County Council meeting, called especially to discuss the harbour’s future, that they will seek out a ferry operator.

### **WHAT NOW FOR OLD HARBOUR LODGE ?**

Some years ago the authorities operating the harbour unsuccessfully attempted to sell off the Harbour Lodge to DLR County Council. This is the old historic building across from the DART station beside the new office and residential block known as Harbour Square. This has been the head office of the harbour authority. They found the building “surplus to requirements”. Will the County Council with its modern offices in the immediate area also find the old building “surplus to requirements” ?

### **NEED FOR MANY MORE HOTELS**

With our County Council now developing a new Master Plan for town and harbour, will they realise that the key to revitalisation lies in more hotel accommodation of all classifications? Economy, boutique, 3 star, 4 star, 5 star accommodation are all badly needed.

Up to the 1960s there were 29 hotels in our town and today we have just two. In Dublin City they simply cannot build hotel rooms quickly enough, with Bord Fáilte thinking of building the biggest hotel in Ireland on their property in Amiens Street. Hotels are springing up all over the city and they are filled with customers immediately they are completed.

Dún Laoghaire, just seven miles from the city centre and very well serviced by DART, DUBLIN BUS and TAXI services would be an attractive location for tourists ---especially by being located by the sea. Tourists are attracted to seaside locations for their holidays, while Dún Laoghaire is within easy reach of the city centre attractions. An evening stroll along our East Pier and seafront is compelling.

## WELCOME TO NEW COUNCILLORS

The Dún Laoghaire Harbour Representative Group congratulates all those who have been elected and re-elected to DLR County Council for the coming five years. We look forward to working with them and the Council's management in developing our town and harbour in the interests of our local communities.

## OUR TDs and MEPs need to row in

While our County Councillors have a direct responsibility now that the harbour is within the council's remit, the role of our TDs and MEPs in making it all happen is compelling. With everyone working together IS FÉIDIR LINN É A DHÉANAMH

## OUR TOWN MUST EMBRACE OUR HARBOUR AND SEAFRONT

In the past our town tended to operate independently of our harbour. Even commercial buildings were constructed with their back to the sea. The mindset was to see town and harbour as separate. For the future our town should “face and embrace the sea” and focus on the great UNIQUE asset on our doorstep. Most other towns do not possess any such asset. . Town and Harbour can make great progress when working together.

## TOURIST TRAILS GALORE

Dún Laoghaire is full of great potential; the Harbour with its East Pier walks, the Battery if opened to the public on a regular basis, a restored Carlisle Pier. Within walking distance are the Joyce Tower, other Martello Towers, the Oratory on Library Road, The Metals and Dalkey quarry. In the longer term Leopardstown Race Course could be to Dún Laoghaire what Ballybritt is to Galway City. Co-operation between everyone can make this happen.

## RESTORE THE CARLISLE PIER

Some years ago the then Harbour authority decided to take apart the old Carlisle Pier structures without planning permission. At the time, in response to the outcry against this destruction, the then Harbour authority assured the public that the structures removed would be kept in safe storage. These were the actual structures through which millions of people emigrating and returning passed. It was from the Carlisle Pier that the Mail Boat Leinster set sail on the 10th October 1918 on its doomed journey to Holyhead.

A fitting tribute to all those who passed through the port over the years, especially the emigrants and the dead of the Mail Boat Leinster, would be the restoration of the Carlisle Pier. It would also prove a valuable part of future tourist trails in town and harbour.



Photos - Noel Brien

\*The Kish Lighthouse was constructed in Dún Laoghaire Harbour between 1963 and 1965 when it was towed out and positioned at the Kish bank.

## UNIQUE TO DÚN LAOGHAIRE

Dún Laoghaire Harbour is a unique asset. When it was constructed just over 200 years ago it was the largest man made harbour in the world. It is steeped in history and tradition with families from all over Ireland, and now all over the world, with treasured memories of their ancestors passing through the port for emigration, holidays and -----even deportation.!!

## HOWTH SHOULD BE LOOKED AT

Those with responsibility for developing our harbour should study the huge success of Howth. No need to fly off to exotic places when there maybe something to be learned, just an hour away by DART. Howth appears to “tick” most of the boxes and has gone a long way towards solving the thorny issue of car parking. Well worth a visit by all interested in the future of Dún Laoghaire Town & Harbour. Nevertheless, Dún Laoghaire should always remain “Dún Laoghaire” and not try to become a carbon copy of some where else.

## FROM HARBOUR WATCH TO CHUG

In the early 1980s, the three major Dún Laoghaire yacht clubs established a combined committee to promote a Marina development. Shortly after that a company was put in place and was granted approval by the then harbour authority to build a commercial marina within the Coal Harbour. The developers claimed that planning permission was not required as the proposal was in water, not on land. In response, a group known as Harbour Watch sprung up to oppose the development. The main movers on that committee were ██████████, a local stone mason and the historian Dr. John De Courcy Ireland. A number of local politicians were also aboard.

The group organised a well attended protest meeting in the Boylan Centre and the media became interested. It was then revealed that the then Taoiseach, Charles J. Haughey was quietly promoting the development and it was alleged he engineered whatever “permissions” were granted. A decade later, a proposal arose for a marina to be located in the outer harbour. This opened up the harbour to more maritime activity but was still restrictive due to cost. The major objection to the plan was the proposed privatisation of the public boatyard. This led directly to the setting up of The Coal Harbour Users Group (CHUG). They were successful in opposing the privatisation thus keeping the public facilities in the use of our local communities.

## MANAGING OUR HARBOUR

Dún Laoghaire Rathdown County Council voted in favour of operating the harbour within the County Council. In other words as a department of the County Council – just like the Parks Department, The Library and the other successfully run departments in the County Council.



**Philomena Poole**  
Chief Executive



**Therese Langan**  
Temporary Director of Service



## Dún Laoghaire Harbour Representative Group seeks:

- To preserve and protect the unique architectural and historical heritage of Dún Laoghaire Harbour for all of the people.
- The development of an overall plan for the harbour that is in line with the County Development Plan as a matter of urgency. We are opposed to any piecemeal developments that would hinder an inclusive approach to the future development of the harbour.
- To ensure that any future development of the harbour should be focussed on the best interests of the community and the town.
- A survey of the harbour and all structures, including a marine survey, to ascertain the structural integrity of the harbour and the cost of any repairs that are necessary.
- Ensure that community access will be to the forefront of all future developments. This should include public slipways for boats, access for walkers and other public leisure activities.
- Ensure that the piers and the protected structures are maintained to the highest standards.
- Ensure that the Harbour, and all structures, are maintained to the highest standards.
- We support the development of a National Water Sports Centre, as contained in the County Development Plan.,

## Our membership:

The Dún Laoghaire Harbour Representative Group is open to all organisations and individuals who are in broad agreement with our above stated core values.

We will respect and value the contribution of all individuals and organisations who support the values of the Dún Laoghaire Harbour Representative Group.

Dún Laoghaire Harbour Representative Groups should not be a vehicle for promoting projects which would result in personal gain for any of its members or supporters.

## HARBOUR REPRESENTATIVE GROUP ESTABLISHED AT A PUBLIC MEETING

The Dún Laoghaire Harbour Representative Group was established at a well advertised public meeting in the Dún Laoghaire Club premises in early 2019. The public meeting was called by three local people who had been involved over many years in Dún Laoghaire's maritime affairs, local business and An Taisce. The public meeting elected a committee with [REDACTED] as Chairperson, [REDACTED], Vice-Chair and [REDACTED] as Secretary. The very well attended public meeting was attended by representatives from local resident associations, youth bodies, sports groups, the Cycle Trail, retirement groups, business organisations, the tourism sector, environmental, specialist groups as well as politicians from all the political parties and independent politicians.

# JOIN

## THE DÚN LAOGHAIRE HARBOUR REPRESENTATIVE GROUP

I support the aims and objective of the  
Dún Laoghaire Harbour Representative Group  
and wish to enrol as a member.

Name: .....

Contact details: .....

.....

.....

Signed: .....

**Send to:**

The Hon. Secretary, Dún Laoghaire Harbour Representative Group C/o  
3 Eblana Avenue, Dún Laoghaire, County Dublin.



HERITAGE • CONSERVATION • PUBLIC ACCESS TO THE WATER  
THE PEOPLES' HARBOUR • MARINE CYCLE LANES • NATIONAL ASSET  
TOURISM POTENTIAL • COMMUNITY FIRST • NO PRIVATISATION

## NO LONGER A RICH MAN'S PARADISE

It costs no more than a used car to buy a good small cruise sailing boat. Gone are the days when the waters were the preserve of the rich. Therefore serving the needs of the local communities must be the top priority of our publicly owned national asset.

## SCHOOLS AND THE HARBOUR

Already quite a few schools - national and secondary - organise day trips to the National Maritime Museum in Dún Laoghaire. The potential is there to extend these school trips to include sailing lessons for school children especially by schools in the Greater Dublin Area. Assistance from the Department of Education in making this possible would be a major help especially when it comes to insurance coverage. Once children have qualified to sail safely, a business in renting out small craft, at affordable rates, might develop in our harbour. The possibilities are endless.

## LAST TIDAL GATEWAY TO DUBLIN BAY

Our harbour is the last tidal public gateway onto Dublin Bay. This means that we are not restricted by the tides when wishing to gain entry to Dublin Bay through Dún Laoghaire Harbour.

## SLIPWAYS

Among the requirements favoured by many existing harbour users is the provision of additional and improved slipways. This will become especially important as new harbour users come on stream over the coming years.

## MARINE CYCLE TRAIL

The provision of marine cycle lanes in the harbour and linking up with other cycle lanes is strongly favoured by our committee. The eventual extension of such cycle lanes throughout DLR will greatly enhance our tourism potential into the future.

## OUR HARBOUR IS PRECIOUS

All our harbour's precious land must be used in the interests of our local communities and certainly not one square inch can be handed over to developers or their like to make their millions- irrespective of the temptations for much need finance. We certainly do not wish to repeat the disaster of Greystones Harbour or the similar disaster planned for Bullock Harbour.

## THIS NEWSLETTER

The contents of this newsletter is an objective report on research findings by our members coupled with discussions held at our big public foundation meeting and subsequent committee meetings, as generally agreed. Contents may be freely re-produced without any further permission but copies of any coverage arising will be welcomed by our honorary secretary.



SAVE OUR SEAFRONT  
c/o 2 Granitefield Mews  
Rochestown Avenue  
Dún Laoghaire  
Co Dublin

**Submission re Innogy – Site Investigation – Dublin Array at Kish and Bray Banks.  
Reference FS007029.**

Save Our Seafront is a voluntary, non party-political, community organisation established in 2002, based in Dún Laoghaire, County Dublin.

We are committed to protecting our coastal and marine environment and to preserving our foreshore in public ownership for the continued access and enjoyment of people.

We take part in and make submissions to any public consultations relating to these areas, and campaign to oppose any unsuitable development on our seafront and foreshore.

We are a member of Dún Laoghaire Rathdown Public Participation Network.

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As stated in our previous submission on the Dublin Array Project (attached) we are in favour of renewable energies. We welcome effective policies and plans that will see Ireland transfer all of its energy sources from fossil fuels to renewables and work towards targets for renewables set by the EU.

Our questions about the proposed Innogy project centre on the ownership of the project, the location of the project and on environmental, ecological and marine issues related to Dublin Bay in general and to the coastal area of Dún Laoghaire in particular. Specifically:

**APPLICATION DOCUMENTS:**

**APPLICATION FORM**

p.3. 1.1. “a proposed wind farm and ancillary infrastructure in the vicinity of the Kish and Bray Banks, approximately 10km off the coast of Dublin”

Is it proposed that the turbines be built directly on the sand banks?

Have other areas been examined which are further from the shoreline and which would have less impact on Dublin Bay and what were the results of these examinations in terms of both the impact on the bay and the capacity to generate

energy.

What factors inform the site choice, is it more profitable for the project owners to place the turbines on the shallow Kish Bank?

The installation of up to 100 turbines could potentially seriously damage these sensitive sandbanks and disturb the habitats of protected species.

p.7. 1.9. “Liaison will be established with the operators of relevant ports, marinas and yacht clubs”

When is it proposed that this liaison would take place?

It would appear that there is no awareness that a project of such magnitude is planned which could fundamentally change Dublin Bay. It could affect all marine users – fishermen, yacht clubs, rowing clubs, recreational users – all of whom will need to understand the impact of the site investigation and the subsequent extensive wind farm.

p.8. 1.12. Consultations with relevant authorities

Is a specific consultation planned with Dún Laoghaire/Rathdown Co. Council and the Public Participation Network? It is vital that this happens, as the Dún Laoghaire area will be seriously affected by the proximity of the windfarm. Dún Laoghaire is in a process of “re-inventing” itself, with a significant focus of growing its tourism business and focussing on marine leisure activities. Will the windfarm have any impact on limiting how this can be achieved?

p.12. 2.5. “The proposed survey touches the coast within the townlands of Bray, Shanganagh, Killiney...Sandymount.” Will DLR Council be consulted on this? In what way will the survey “touch” the coast and will there be a specific public consultation with the people of these areas?

p.12. 2.7. Distance from shore. This also needs to be clarified with DLR Co. Council.

p.13. 2.9. “The proposed licence area lies within spawning and nursery grounds of whiting, haddock and cod...mackerel and horse mackerel.... No impacts are predicted.” How can it be claimed that there will be no impact on marine mammals? This assertion is contradicted by p.49 of Annex E – Rockabill to Dalkey Island SAC (see below).

Also what will be the effect of the building of large wind turbines in these areas, and the long-term effect of the turbines on spawning, nursery grounds and flight paths?

PLANNING REPORT ANNEX E – AA SCREENING AND NATURA IMPACT.

p.49. Rockabill to Dalkey Island SAC: “Disturbance of the seabed can lead to the suspension of sediments which can lead to impact on reef habitat communities within the SAC.”

“LIKELY SIGNIFICANT EFFECTS CANNOT BE DISCOUNTED.”

Also in Annex E, there are details of the many bird species which are dependent on the area and the need to maintain favourable conditions for their protection e.g. Brent Geese.

Have Birdwatch Ireland been consulted? What is their view of building the turbines in the area?

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In summary, our concerns relate to the location of the proposed windfarm, specifically-

a) Proximity to the shoreline (10km):

The proposal to build the turbines on the sandbanks in question is questionable, given the possible effect on marine mammals and bird life, and the uniqueness of Dublin Bay and the coastal area of Dún Laoghaire. Dublin Bay is a UNESCO Biosphere with a high concentration of rare and internationally important habitats and wildlife. South Dublin Bay has now been declared a Special Area of Conservation which imposes specific restrictions on what development can take place. As well as a Climate Crisis, there is a Biodiversity Crisis which needs similar attention.

b) Height of the turbines:

The new generation of off-shore wind turbines are up to 260m in height (proposed for Waterford windfarm). The current turbines at Arklow are 124m high and 13km from the shore. What are the impacts of these new generation turbines on flight paths?

c) International best practice:

As stated in our previous submission (attached), best practice in many European countries is for a buffer zone for windfarms of 22km from the coast. In the Netherlands it is 21km. Many other countries would not give planning permission for such a substantial windfarm 10km from the coast of a historic city such as Dublin with its unique heritage, its connection with Dublin Bay and the protection of the EU Habitats Directive. The trajectory over the last years is to put turbines further out to see as the technology makes this more possible.

d) Communication: The Aarhus Convention is designed to ensure public participation in environmental decision making. For an undertaking of this scale, with significant impact on Dublin Bay, Dublin city, Dún Laoghaire and the coastline, it is imperative that the public are made aware of this development and have a say on its location and impact.

In Conclusion: As an environmental organisation, we are strongly committed to climate change and the need for renewable energy. However, we believe that narrowing a site investigation to the shallow waters at the Kish Bank is a mistake when it is arguable that wind farms further from shore generate more energy and may well be less disturbing to the natural habitats and flight paths that are found closer to the coast.



**FS007029 SSE Site Investigations at Arklow - Public Consultation  
Submission 5  
Cover email**

**From:** Coastal Concern Alliance [<mailto:info@coastalconcern.ie>]  
**Sent:** Monday 18 November 2019 15:31  
**To:** foreshore <[foreshore@housing.gov.ie](mailto:foreshore@housing.gov.ie)>  
**Subject:** Licence Application Reference Number: FS007029

Dear Sir

Please find attached submission on behalf of Coastal Concern Alliance together with a copy of our previous submission in relation to this development.

Yours sincerely



CCA Policy Team





**Submission in response to  
Environmental Impact Statement  
for Dublin Array  
An Offshore Wind Farm on the Kish & Bray Banks**

**Reference number MS53/55/L1**



Dun Laoghaire  
Co. Dublin.  
email: [info@coastalconcern.ie](mailto:info@coastalconcern.ie)

29<sup>th</sup> May 2013

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## Summary

This response sets out brief comments on the Environmental Impact Statement presented as part of the application for a Foreshore Lease for the Dublin Array proposed development.

It includes details of the inadequate regulation, the lack of strategic planning and the democratic deficit surrounding this application.

It expresses deep concern over the identified significant harmful effects, particularly in relation to designated landscapes of national importance valued for their outstanding natural beauty.

Evidence is also provided which questions the adequacy of the information presented in the EIS, particularly with regard to landscape, seascape and visual impact.

**Coastal Concern Alliance** objects to the awarding of a Foreshore Lease for the Dublin Array for the following reasons:-

1. The prematurity of assessing this application when:-
  - The current consent process, governed by the undemocratic and outdated Foreshore Act 1933, is under reform.
  - Marine Spatial Planning to balance competing interests in our seas and provide context for the decision making process has not been introduced.
  - The National Landscape Strategy, which encompasses seascape, is in preparation.
2. The significance of the harmful effects identified in the EIS on important national landscapes/ seascapes and “*views and prospects*” listed for protection in County Development Plans.
3. The unknown and potentially harmful impacts on protected Habitats (shallow sandbanks) & Species (marine mammals).
4. Non-compliance with EU environmental legislation (EIA & SEA Directives)

## Background to CCA position

Coastal Concern Alliance (CCA) is an independent citizens' group established in 2006 to campaign for reform of the outdated Foreshore Act 1933, and the introduction of coastal and marine spatial planning to balance competing interests in our seas. We have no industry or political affiliations.

CCA is deeply concerned at the manner in which coastal zone policy has evolved in Ireland during the Celtic Tiger era, shaped largely by industry interests rather than an overall vision for our seas and coastal areas. Large scale offshore wind farm development has been permitted in Ireland's east coast near-shore zone under outdated and undemocratic legislation, in a manner which does not comply with EU Environmental Directives.

No coastal or marine spatial planning has been introduced to balance competing interests and large areas of ecologically rich habitat have not been surveyed and designated for protection as is required by the EU Habitats and Birds Directives.

As in many other areas of Irish governance, we are now at a turning point in our efforts to protect the public interest in management of a key national resource, the marine and coastal environment. The current administration must not choose to accept and build on the inadequate regulation and speculation of the past. Instead, in the spirit of the Programme for Government, it must openly acknowledge past mistakes and work to ensure that the future of our coastal area is based on open and democratic discussion of what is best for Ireland, its people and its environment into the future.

At the outset CCA must express concern at the apparent direction of public policy with regard to our seas. There appears to be an over-riding emphasis on development and growth rather than on the need to conserve and protect Ireland's coastal environment, one of our most valued and vulnerable resources. "First do no harm" should be the guideline. The Precautionary Principle is the cornerstone of EU environmental law and of Directive 85/337/EEC as amended, the Environmental Impact Assessment Directive.

## Irish Offshore Wind Development Policy

In considering the application for Dublin Array it is important to understand how offshore wind development has evolved in Ireland in a planning vacuum, under a consent system, officially acknowledged by The Department of the Marine (dORED, 2010) to be "*inadequate*" and "*in need of significant reform*".

Development at sea is controlled by the undemocratic **Foreshore Act 1933**, which gives sole authority to one Minister to issue Foreshore Licences (for initial investigation) and Foreshore Leases (for construction) in Irish waters. There is no public right of appeal against the Minister's decision to an independent appeals board, such as An Bord Pleanála.

Local authorities have no statutory involvement in the awarding of foreshore licences or leases in waters adjoining their coastline.

The democratic deficit inherent in the management of our coastal waters under the Foreshore Act 1933 has long been recognised and reform has been talked of for many years.

During the Celtic Tiger era, this democratic deficit enabled developers to obtain rights to large sections of coastal waters close to the East coast below the radar of public attention.

Between 2000 and 2008, developers were allowed to pick out sites off the East Coast and in Galway Bay and apply to the Minister for the Marine for a Foreshore Licence (for initial investigation) or a Foreshore Lease (for construction of the development) in near-shore coastal waters.

## History of Speculation and Inadequate Regulation

The manner in which extensive sites close to the Irish coast were allocated to developers in a planning vacuum on “a first come first served” basis was out of line with good international practice and in contravention of all principles of proper planning and sustainable development. There was:

- No competitive public tender for use of a valuable national resource
- No transparent pre-screening of applicants on basis of track record, financial standing, etc.
- No pre-selection of potential sites by government
- No restriction on size of development or proximity to shore
- No statutory involvement of local authorities
- No Maritime Spatial Plan
- No National Plan for offshore renewable energy development
- No Strategic Environmental Assessment (contrary to EU SEA Directive)
- No public right of appeal against Minister’s decision to an independent appeals board such as An Bord Pleanála
- No independent, professional assessment of cumulative landscape impact of developments on adjoining coastline and coastal “views & prospects” designated for protection in county development plans.
- No National cost-benefit analysis to ensure that proposed developments were in the public interest

The document, *Offshore Electricity Generating Stations: Note for Intending Developers* ([www.coastalconcern.ie](http://www.coastalconcern.ie)) sets out government guidelines with regard to Foreshore Licences and Leases. It states “*Foreshore Leases may not be assigned until construction has been completed and generating has taken place successfully for two years*”. Contrary to these explicit guidelines developers were permitted to sell on foreshore leases (essentially planning permission) before construction at a price based on the size of development permitted, netting significant profit.

A “free for all” ensued with developers laying claim to sites, mostly on shallow near shore sandbanks, (Arklow, Codling, Kish & Bray Banks) along the East coast. Such sandbanks are essential to biodiversity protection. In recognition of their importance and vulnerability, they are listed as a protected site under EU Habitats Directive. (Annex 1).

### Foreshore Leases

By end 2005, a massive **1620MW** (420 turbines) had been fully permitted off Wicklow as a result of the awarding to developers of foreshore leases for construction of 520MW Arklow Bank Wind Park (awarded on sole authority of Minister Frank Fahey in 2002) and Codling Wind Park (Minister Noel Dempsey - 2005). This was more than double the amount of offshore wind power (**700MW**) then installed worldwide, raising serious concerns about the rigour of the Irish permitting process. The leases were awarded for 99 years, the maximum possible under the foreshore legislation. These valuable leases were subsequently sold on by the original Irish promoters.

### Foreshore Licences

By end 2009 a further **1694MW** (410 turbines) had been well advanced in the sensitive near shore zone under outdated legislation (Foreshore Act 1933) via the awarding of foreshore licences for initial investigation to:-

364MW	Kish Bank/Dublin Array: (145 turbines) Dublin Bay/Wicklow (2001)
320MW	Oriel Wind Farm (55 turbines) Dundalk Bay (2005).
100MW	Sceirde Wind Farm (20 turbines) Galway Bay
1000MW	Codling Wind Park 2 (200 turbines) off Bray Head (2008).

## Draft Offshore Renewable Energy Development Plan 2010 – Retrospective Planning

All these near shore projects were developer-led, permitted and advanced in an ad hoc manner, with no Plan and no Strategic Environmental Assessment (SEA) under a consenting process widely acknowledged to be unfit for purpose.

As there was no Plan, the Government avoided its obligation under Directive 2001/42/EC (The SEA Directive), which requires that member states carry out an SEA to assess “*the cumulative impact of plans and programmes likely to have an effect on the environment*”.

In November 2010, after a decade of unfettered speculative activity in Irish waters, the Government finally moved to comply with EU environmental legislation by producing a draft Offshore Renewable Energy Development Plan (OREDPA) and commissioning a Strategic Environmental Assessment to assess its cumulative impacts.

In other EU countries and in Northern Ireland, SEA has been used to inform leasing decisions. In Ireland, it could not fulfil this function because pivotal leasing & licensing decisions relating to large scale offshore wind farm development had already been made, effectively shaping the future of the near-shore East coast off Louth, Dublin & Wicklow.

The draft OREDPA (2010), produced by the Department of the Marine, represents an alarming example of retrospective planning. It simply served to rubber stamp the extensive development permitted and progressed with no Plan and no SEA in the previous ten years.

The danger inherent in the draft Offshore Renewable Energy Development Plan is evident in the Dublin Array Foreshore Lease application.

The EIS (p.17) states:-

*“It is noted that the three projects, including Dublin Array, which have received grid connection offers under the Gate 3 process are considered as “already existing renewable infrastructure” for the purpose of the OREDPA SEA. ... On the basis of the above it is clear that the development of the proposed Dublin Array offshore wind farm development on the Kish and Bray banks forms an integral part of Ireland’s policy towards achieving our commitments presented in the National Renewable Energy Action Plan and in ensuring we realise our potential for offshore development foreseen in the Offshore Renewable Energy Development Plan.”*

### **“Already existing renewable infrastructure”?**

The Draft Offshore Renewable Energy Development and its accompanying SEA were supposed to help provide a framework for the approval of activities and developments in the marine environment (2010). This objective was totally undermined by the classification of projects permitted (1640MW) or in the pipeline (3314 MW) as “*existing renewable energy infrastructure*”. This inexplicable classification totally undermined the integrity of the consultation process. There is little point in carrying out an SEA of a Plan if the majority of the planned development is already deemed to exist.

The Draft OREDP states:-

*“There are currently two proposed offshore wind developments that have already secured a Foreshore Lease and separate to this there are three offshore wind projects that are due to receive a grid connection offer under the Gate 3 process. Both a grid connection and a Foreshore Lease are necessary for projects to be developed. These projects have been shown in the strategic environmental assessment as **“already existing renewable infrastructure”**. It is recalled that thus far only 25MW has actually been constructed.”* (Draft OREDP, 2010, Section 6.2).

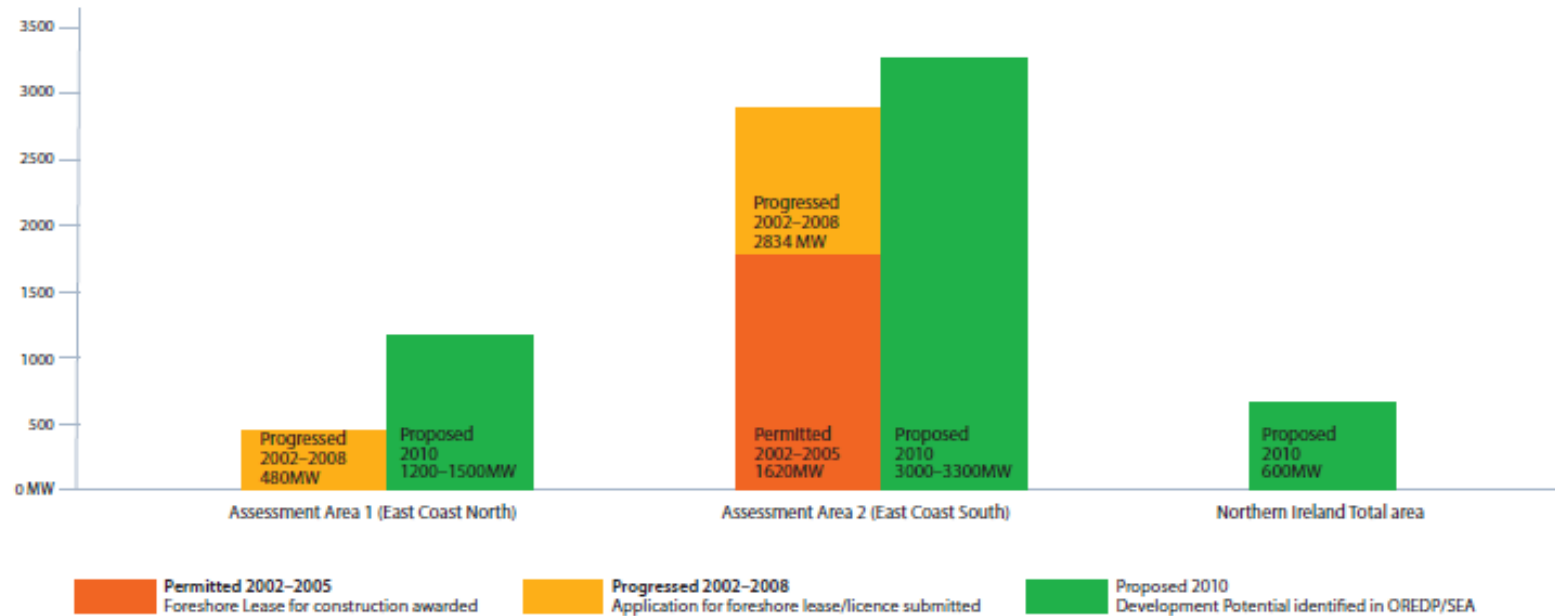
The inexplicable classification as “*already existing renewable infrastructure*” of projects permitted (1640MW) and progressed under a consenting process universally acknowledged to be “*unfit for purpose*” totally undermines the democratic process.

The objectives of the SEA are “*to provide a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development.*”(Directive 2001/42/EC, Article 1). Clearly the SEA of the draft OREDP fails in this central objective.

**The draft Offshore Renewable Energy Development Plan is clearly being used to give official validation to a project which is currently only at the public consultation stage.**



## Draft Offshore Renewable Energy Development Plan 2010 – Retrospective Planning?



### Note

In 2010 the Irish Government produced a draft **Offshore Renewable Energy Development Plan (ORED)** and commissioned a Strategic Environmental Assessment (SEA) to assess environmental impacts. The East coast was divided into Assessment Areas 1 and 2.

The potential offshore wind farm development identified as environmentally acceptable off Ireland's East coast, almost exactly corresponds to the developed projects permitted and progressed off the East coast with no Plan and no SEA, on the sole authority of the Minister for the Marine, under outdated legislation, in the period 2002 to 2008.

Strategic Environmental Assessment is supposed to guide plans to ensure that development is sustainable. In Ireland's case, SEA could not fulfil that function. In fact 36% of the draft ORED's High Development Scenario for Offshore Wind (4500MW) for 2030 was already fully permitted (1620MW) in Assessment Area 2 by 2005.

It is worth noting that in Northern Ireland where no development had been permitted, the ORED/SEA carried out in 2009 identified that just 600MW could be developed without likely significant effect on the environment.

**Projects permitted** East Coast South: Arklow Wind Park (520MW); Codling Wind Park 1 (1100MW)

**Projects progressed** East Coast South: Codling Wind Park 2 (1000MW); Dublin Array South (214MW) East Coast North: Oriel Wind Park (330MW), Dublin Array North (150MW)

## Marine Spatial Planning

It is clear that a plan for development of offshore renewable energy, or indeed any other form of development in our seas, needs to be set in the context of a democratically agreed Marine Spatial Plan to strategically plan the future of our coastal zone and to balance competing interests in our seas. Otherwise development of one sector will have been given priority.

The need for such an overarching Marine Spatial Plan was acknowledged by the Department of the Marine in the draft OREDP 2010 which states:-

*“Work is well underway in the Department of the Environment, Heritage & Local Government on preparing a general scheme of the necessary legislation and scoping out requirements for the development of a Marine Spatial Plan to strategically plan development on the State foreshore and to manage competing and often conflicting sectoral demands.”*

The EU has recently (13/03/13) launched a proposal to improve the planning of activities at sea and the management of coastal areas. The proposal which takes the form of a draft directive – aims to establish a common European framework for maritime spatial planning and integrated coastal zone management in member states, with a view to ensuring that the growth of maritime and coastal activities and the use of resources at sea and on coasts remains sustainable.

Launching the initiative, European Commissioner for the Environment Janez Potočnik stated:-

*“This initiative will contribute to a healthy environment and better living conditions for the 200 million EU citizens who live in coastal regions. It should also help preserve unique and diverse coastlines and ecosystems that offer invaluable habitats for plants and animals.”*

The press release from the launch continues:-

*“Human and economic activities such as offshore wind energy, submarine cable and pipeline routes, shipping, fishing and aquaculture are increasing in marine waters and coastal areas, but too little coordination can lead to competition for space and pressure on valuable resources. The proposed action will require Member States to map these activities in **maritime spatial plans** in order to make more efficient use of seas, and develop coastal management strategies that will coordinate measures across the different policy areas that apply to activities in coastal zones. Respecting the minimum requirements proposed by the Directive, Member States will need to ensure that their maritime planning and coastal management supports sustainable growth, while involving relevant stakeholders and cooperating with neighboring states.”*

Coastal Concern Alliance contends that Ireland must follow best International practice on this issue and introduce a comprehensive Maritime Spatial Plan following widespread democratic consultation. The document *“Our Ocean Wealth”* could provide a starting point from which to develop a Maritime Spatial Plan for Ireland. Action to develop such a plan could follow the process employed in the UK, i.e. evidence based and adhering to best principles of public participation.

### Extracts from EU Briefing Document on Maritime Spatial Planning

(1) The high and rapidly increasing demand for maritime space for different purposes, such as renewable energy installations, maritime shipping and fishing activities, ecosystem conservation and tourism and aquaculture installations, as well as the multiple pressures on coastal resources require an integrated planning and management approach.

(8) In order to ensure the appropriate apportionment of maritime space among relevant uses and the coordinated management of coastal zones, a framework should be put in place that consists at least in the establishment and implementation by Member States of maritime spatial plans and integrated coastal management strategies.

(9) Maritime spatial planning and integrated coastal management will result in better coordination of maritime and coastal activities, which can lead to significant economic benefits by providing

transparency, predictability and stability for investors as well as lowering coordination and transaction costs.

## National Landscape Strategy

The Government is currently producing a National Landscape Strategy, to conform to The European Landscape Convention. Under the Convention the term “landscape” includes seascape. In the absence of a National Landscape Strategy, CCA believes that it is premature to proceed with assessment of the proposed Dublin Array development. This would have a major impact on a huge stretch of unspoilt coastal landscape and, in combination with permitted developments (Arklow & Codling), would result in the industrialisation of the Dublin and Wicklow coastlines.

The Heritage Council submission (5.15) in response to the SEA of the dOREDPA states:-  
*“that the draft OREDPA is premature pending the development of a robust national landscape strategy as contained in the Programme for Government to include, at the very least, an evidence based and reliable national landscape / seascape classification system in accordance with the European Landscape Convention and which builds on work undertaken by the DoEHLG, Heritage Council and Fáilte Ireland at a national level.”*

## EU Legislation and Regulations

The Environmental Impact Statement for Dublin Array is governed by Directive 2011/92/EU, the consolidated Environmental Impact Assessment Directive (EIA Directive).

Ireland is already the subject of a number of complaints to the EU Commission in respect of breaches of this Directive, but, to date, has not put in place the necessary legislation and regulations to comply. As a result of this failure, the granting of a Foreshore Lease for this project would breach the state’s obligations under the EIA Directive. Such a breach would leave Ireland open to a formal complaints procedure being commenced against the state by the EU Commission. This could lead to more substantial fines being imposed on the State, fines which would have to be borne by the Irish taxpayer.

By way of confirmation of the state’s failure in this regard, The European Court of Justice, on the 16th of July 2009 in case C427-07, The Commission of the European Communities v Ireland, found that Ireland was in breach of the EIA Directive by failing to put in place a system whereby citizens of Ireland could challenge *“the substantive or procedural legality of decisions, acts or omissions”* in relation to large environmental projects which required an Environmental Impact Statement in a manner that was *“fair, equitable, timely and not prohibitively expensive”*.

Nothing has changed since that decision, so if the state proceeds to grant this Foreshore Lease it will again breach Ireland’s obligations under the EIA Directive.

Under a current complaint to the EU Commission, Reference [REDACTED], brought by a citizen, [REDACTED], the Commission is specifically dealing with the issue of Ireland having granted two leases (2002 and 2005) to developers for the development of large offshore wind farms along very large stretches of the Irish foreshore, without compliance with the Directive.

That complaint takes issue with breach of the Directive in that the state has failed:-

1. After granting the leases, to publish its reasoning for having decided to issue same and nor did it attach conditions to the leases to safeguard the environment.
2. The state did not put in place an affordable system to allow citizens to challenge such decisions for large scale environmental projects. The system in place in Ireland is the judicial review system through the High Court, which is extremely costly.
3. The state did not and does not provide information to the public on how to access administrative and judicial review procedures.

4. The state had breached the SEA Directive in respect of the 2005 lease, by granting a lease for a large offshore wind farm without putting in place a plan or programme against which any applications for leases could be measured.

It is the understanding of the complainant in this complaint that the EU Commission, Complaints Section, will very shortly start the formal complaints procedure against Ireland in respect of this matter.

The Foreshore Act 1933, 2 (1) states:- "*If, in the opinion of the Minister, it is in the public interest that a lease shall be made to any person of any foreshore belonging to Saorstát Eirerann, the Minister may, subject to the provisions of this Act, demise by deed under his official seal such foreshore ... to such a person by way of lease...*".

Were the Minister to grant a Foreshore Lease to the Dublin Array Project, it would be in breach of the EIA Directive and of Directive 2003/35/EC, relating to Public Participation in Decision Making and Access to Justice and, given the potential for that decision to result in penalties being levied against Ireland, would not be "in the public interest".

## UN Compliance Committee for Aarhus Convention (2012)

A United Nations body has found that the European Union has failed in its commitments towards transparency and public participation in renewable energy policies.

The Compliance Committee for the Aarhus Convention, an international agreement on environment policy transparency, claimed the EU - which is a signatory - has failed to put in place a proper regulatory framework and clear instructions on how to consult local populations in their renewable energy plans. (This ruling results from a case taken by Irish citizen, Pat Swords)

In the firing line are the [National Renewable Energy Action Plans \(NREAP\)](#) that all 27 EU countries have submitted under the 2009 renewable energy directive.

It also reported that the EU had failed to properly monitor the implementation of such an energy action plan in Ireland, and ensuring there was sufficient public participation in drawing up the plan. Ireland's draft Offshore Renewable Energy Development Plan 2010 is based on our National Renewable Energy Action Plan, which it appears has bypassed proper evaluation and democratic accountability. (See detailed information above).

## Physical environment: Sandbanks (4)

The Dublin Array proposed development is sited on the Kish and Bray sandbanks. These sandbanks which are "*slightly covered by seawater all the time*" are listed for protection under Annex I of the EU Habitats Directive (92/43/EEC).

The Dublin Array EIS states:-

*"Given the relatively mobile state of seabed sediments with currents and tides, habitats will be expected to quickly return to their natural state following construction and recruitment from adjacent unaffected areas should ensure rapid recovery of benthic communities. The impact of the temporary loss of feeding and spawning habitat will be negligible given the small area of seabed likely to be impacted relative to the extensive area of similar feeding and spawning habitat available."*

This is in direct conflict with the views expressed by the National Parks and Wildlife (2008).

In "*Conservation Status Assessment Report - Sandbanks Slightly Covered by Seawater at all Times*" (2008), National Parks and Wildlife Service, which has responsibility for conservation of protected habitats, gives an overview of the importance of sandbanks in Irish waters and details the threats to their conservation. They review the importance of these habitats as feeding grounds for birds and marine mammals and emphasise their role in helping to reduce the effects of coastal erosion on Ireland's east coast. They state "*The erosion of coastal sediments is partially arrested by a supply of*

sediments from offshore banks in deep water and underlies the importance of the banks in sediment transport to shores along the east coast of Ireland”.

With regard to the threat to the sandbanks as a result of construction and maintenance of proposed wind farms, they conclude that “the installation of turbines will result in some loss of habitat and the presence of hard structures is likely to change the biodiversity of the banks”...“From the large number of sandbanks that have been investigated for their suitability for wind farms..., the future prospects are considered Unfavourable – Inadequate”.

**Wind Farm Activity on East Coast Sandbanks listed for protection under EU Habitats Directive:**

<b>Foreshore Lease for construction awarded</b>			
520 MW Arklow Bank	Wicklow	200 turbines	Area Occupied 68km <sup>2</sup>
1100 MW Codling Bank 1	Wicklow	220 turbines	Area Occupied 55km <sup>2</sup>

<b>Foreshore Lease application under consideration</b>			
520MW Kish/Bray Bank	South Dublin	145 turbines	Area occupied 54km <sup>2</sup>

<b>Foreshore Licence (for initial investigation)</b>			
Codling Bank 2	Wicklow		
Leinster Bank	Wicklow		
Glassgorman Bank x 2	Wexford		
Blackwater Bank	Wexford		

## **Human Environment: Tourism (5.8.2)**

The unspoilt natural beauty of the coastline in Dublin and Wicklow underpins the tourist industry in these counties and is central to the future of this key economic sector.

The EIS states:-

*“On the basis that the marine environment, seascape and resources play an important role in many tourism and recreation activities, any impact on the coastal or marine environment through the construction or operation of the proposed offshore wind farm development on the Kish and Bray Banks has the potential to have an effect on the tourist industry and recreation.”*

There is no effort to evaluate the potential effects on tourism of this major industrial development. The totally inadequate section on tourism includes a brief reference to the fact that “the coastal views are intrinsic to the area’s ability to attract tourists and visitors”. This is followed by a completely unrelated point which states that there are inland areas that will not be affected.

The complete failure to address the effects on tourism is in breach of Article 5.3 (c) of Directive 2011/92/EU, which requires provision of “the data required to identify and assess the main effects which the project is likely to have on the environment”.

## **Visibility of Navigation Lights (5.11.3)**

The light pollution which would inevitably be caused by this development of 145 turbines is inadequately addressed.

It is misleading to imply that the proposed wind farm will not significantly alter the night time seascape.

A large array of lights at a height of 160m will dominate the night sky above the horizon, radically altering the character and quality of night time seascape in Dublin Bay and along the coast of Wicklow, particularly in combination with the proposed development on the Codling and Arklow Banks.

## Cultural Heritage (6)

### Cultural and Landscape Impacts

It is important that any development in our coastal zone respects our heritage in line with best international practice.

In this regard, we refer to the Valletta Principles adopted by The International Council on Monuments and Sites (ICOMOS) 2011. These Principles note that:-

*“Perspectives, views, focal points and visual corridors are integral parts of the perception of historic spaces. They must be respected in the event of new interventions. Before any intervention, the existing context should be carefully analysed and documented. View cones, both to and from new constructions, should be identified, studied and maintained.”*

The original Venice Charter on the Conservation of Monuments and Sites of 1964, a seminal document in defining built cultural heritage, in Article 1 states:-

*“The concept of a historic monument embraces not only the single architectural work but also the urban or rural setting in which is found the evidence of a particular civilization, a significant development or a historic event.”*

Ireland is a signatory of the Granada Convention (Council of Europe) of 1985, and under Article 3, is obliged to take statutory protection measures to *“make the conservation, promotion and enhancement of the architectural heritage a major feature of cultural, environmental and planning policies and to make provision for the protection of monuments, groups of buildings and sites.* These obligations were put into law in the Planning and Development Act 2000.

The tangible and intangible coastal heritage of these landscapes will be heavily affected by the proposed development. The principles of conservation recognise the importance of the setting in the landscape. The land based planning authorities have recognised this and included preservation of views and prospects in their development objectives. We note below specific sections of the current Development Plans of Dun Laoghaire Rathdown County Council and of Wicklow County Council. Direct quotations from the Development Plans are shown in italics and underlined for emphasis, where relevant.

Of particular note is the impact on several cultural monuments in the coastal zone. We are aware that there are nine structures on Dalkey Island alone listed in the Record of Monuments and Places (RMP) established under the National Monuments Act, including St Begnet’s Church, St Begnet’s Well, the Martello Tower and the Napoleonic Battery. Also listed are the series of Martello Towers and fortifications in the coastal zone from South Dublin to Howth, which match all the categories of interest noted in the Granada Convention, namely historical, archaeological, artistic, scientific, social or technical.

While the visual context and setting of an item such as an incised slab in the old Begnet’s Church in Dalkey will not be affected by the development, all the major items along the coast noted above will have their context and setting changed, which will have a major adverse effect on their perception in terms of cultural context. This includes Carric Golligan Leadmines chimney, Joyce’s Tower, Killiney obelisk, John Rennie’s elegant Kingstown Harbour or the Black Castle and Wicklow Head Lighthouse in Wicklow. Many of these are highly prized by tourists and natives alike for their high cultural value of many dimensions, and go far to define the ‘*Genus Locii*’ or spirit of place of our area.

**This major adverse effect has not been documented or chronicled in the developers EIS.**

Also of significant cultural impact is the major alteration of the listed views and prospects noted below, which our current inadequate legislation fails to protect, thus circumventing local authorities’ well written and thoughtful plans which seek to balance economic advantage with cultural impacts.

## County Development Plans

### ***Dun Laoghaire Development Plan: Section 9. The landscape, heritage and biodiversity of Dún Laoghaire-Rathdown***

***Vision:*** To establish and foster a “Green Structure” in the County that ensures features of natural heritage are protected, important wildlife habitats are conserved, biodiversity is enhanced, the beauty of the landscape is enriched and maintained and passive and active recreational uses are accommodated in a sensitive manner - all the while acknowledging that the protection of the natural heritage and amenity assets of the County needs to be balanced against the legitimate need to continue to develop Dún Laoghaire-Rathdown in a positive and sustainable fashion.

Recognising that landscape is the overall key facet which forms the “glue” binding all areas of heritage and to fully integrate environmental considerations into other Development Plan policies to ensure cross compliance of the Plan, Dún Laoghaire-Rathdown contains significant areas of landscape importance. The importance of these areas is particularly key due both to the established built-up nature of the majority of the County and the continuing pattern of densification and intensification. There is a clear presumption in favour of conserving, maintaining and enhancing the landscape character of the County to enable those living within, and those visiting Dún Laoghaire-Rathdown to reap the benefits of the high quality environment and leisure and recreation amenities which this landscape facilitates. Section 10 of the Planning and Development Act, 2000 requires that a Development Plan shall include objectives relating to the preservation of the character of the landscape, including the preservation of views and prospects and the amenities of places and features of natural beauty or interest.

The photograph below is used in Dun Laoghaire Rathdown County Development Plan 2010 to illustrate the importance of landscape. We submit that this image will be changed immeasurably both in landscape characterization, and in terms of views and prospects by a line of man-made turbines marching across the Bay outside Dalkey Island inshore of the Kish Light.



We hold, among other points, that the 2000 Planning Act specifically obliges as well as empowers planning authorities to form an overall strategy for the proper planning and sustainable development of the area of the development plan, and under section 10.2 (e) obliges the planning authorities to include objectives for “the preservation of the character of the landscape where, and to the extent



*that, in the opinion of the planning authority, the proper planning and sustainable development of the area requires it, including the preservation of views and prospects and the amenities of places and features of natural beauty or interest.”*

## **Co Wicklow Development Plan 2010-16. Chapter 18: Coastal Zone Management**

The following objectives are set out:-

*To protect all listed views and prospects to or from Bray Head as set out in the Bray Town Development Plan and Wicklow County Development Plan (Cell 2 Bray Head: Objective CZ2 :Item 4)*

*To protect all listed views and prospects along the R761 and coast in this cell (Cell 5: Greystones to Kilcoole (Ballynerrin): Objective CZ5 Item 4)*

Generally speaking under all the coastal areas, the coastal views and prospects are protected. We hold that the Dublin Array wind farm will, by means of its proximity to land and its height and bulk, grossly affect the views and prospects of the entire Wicklow shore, being particularly prominent from Bray Head.

The Head at 240 meters will appear small compared with the proposed turbine array, a mass of metal 160m high. (Cell 6 Kilcoole - Wicklow Town Item 8).

We further note that in the County Wicklow Wind Energy Strategy it states “*all lands designated SAC or SPA are deemed unsuitable for wind energy development*”. It is noteworthy that one of the major local authorities in the land area whose coastal zone is part of the subject site, has such a strong view on this matter.

## **Inadequate Consultation**

### **Informing “the public concerned”**

The Environmental Impact Assessment (EIA) Directive, 2011/92/EU Article 6.4 states:-

*“The public concerned shall be given early and effective opportunities to participate in the environmental decision-making procedures referred to in Article 2(2) and shall, for this purpose, be entitled to express comments and opinions...”*

The Public consultation period is stated in the Public Notice (8<sup>th</sup> April 2013) to run from 9<sup>th</sup> April to 1<sup>st</sup> June. A letter dated 18<sup>th</sup> April 2013 was received by Coastal Concern Alliance on April 22<sup>nd</sup>. This letter was received by us almost two weeks after the public consultation period commenced. This late notification does not comply with Article 6.4 of the EIA Directive.

Based on communication from local Councillors, it appears that information with regard to this proposed development was not made available to all the County and City Councillors in Fingal, Dublin and Wicklow.

Community Councils in the Dun Laoghaire area were not informed.

The “*public concerned*” were not given “early” opportunities to participate in the environmental decision making process.

## **Marine Mammals (10.2.5)**

We note that the Irish Whale and Dolphin Group have lodged a strong, scientifically based objection to the proposed development. As they are the statutory consultees on this issue, CCA supports their objection on the basis that the proposed development would be in contravention of the EU Habitats Directive.

## **Landscape and Visual Impact (12)**

**A professional assessment of the Visual Impact on preserved shoreline views was carried out by Model Works Media.**

### **Introduction**

The Saorgus Energy Ltd proposed wind farm on the Kish and Bray banks consists of 145 turbines each measuring 160m in height (for reference, Howth Head is 171m and the Kish lighthouse is 31m high).

In order to assess the cumulative impact of this proposal, we have also modelled Phase 1 of the approved Fred Olsen Codling bank wind farm off Greystones consisting of 220 turbines. The attached layout map takes its information from the Saorgus EIS and The Codling Bank EIS as published by the developers.

Macroworks Ltd on behalf of the developer, created a set of photomontages for the Dublin Array, based on their Zone of Theoretical Visibility and carried out the Visual Impact Assessment on behalf of the project promoters and I will comment on this below.

My focus has, however, been on the preserved coastal views as defined in the Dun Laoghaire Rathdown County Council (DLRCC) development plan and in the Wicklow County Council development plan. Being an "offshore" development, these views are by definition the closest and most impacted views. There are approximately 45 preserved coastal views in the DLRCC development plan and most of these are in conservation / heritage areas. Almost all of these are impacted by the Dublin Array proposal.

Wicklow County Council in its development plan have designated Bray Head:-

- Coastal Natural Heritage Area
- Special Area of Conservation
- Special Protection Area
- Special Amenity Order Area
- Sea Views of Special Amenity Value
- Prospect with a Special Amenity Value

We prepared three representative coastal view photomontages (Views 1-3) to illustrate the impact of the Dublin Array proposal and two views from Bray Head (Views 4 & 5) to illustrate the impact of Dublin Array (4) and the cumulative impact of Dublin Array and Codling Bank Phase 1 (5) wind farms.

### **Qualification of Model Works Media**

Model Works Media is an established and well recognised firm in the production of verified photomontages and in the assessment of visual impact on receiving environments. We are recognised as an independent expert among the architectural and planning professions. Our work is regularly relied upon by designers and planning authorities in the visual assessment of proposed developments. Our methodology follows, and in some cases informs, best practice in the industry.

## Review of the developer's photomontages and visual assessment

It is noted that 22 views are presented following an exhaustive zone of theoretical visibility (ZTV) process. However, the impact on some very specific and critical heritage views was not studied and I seek to address this issue in this submission.

Several documents referred to by Saorgus for "*pertinent best practice guidance*" include "Visualisation Standards for Wind Energy Developments, Highland Council 2010". This is really the only relevant and up to date reference document. In fact, the current edition is May 2013 revised edition.

This edition reports on the following finding:-

*"In 2011 The Highland Council commissioned a study from the University of Stirling in to which lens focal length best equates to our real life vision in terms of scale and distance in a landscape involving a range of distances. It was an intercept study carried out at six locations in Scotland involving over 500 members of the public. The study concluded that 70mm - 90mm focal lengths were preferred, with a mean average of 79mm over all distances and a focal length of 50mm generally UNDERSTATES landscape scale"*

Also under the heading "*Images for landscape assessment - Visualisation Requirements*" it states where panoramas are used:-

*"Each panorama shall have a horizontal field of view of a 28mm lens - 65.5 degrees."*

### **The panoramas submitted by Saorgus Energy exceed this recommendation by 300%.**

The purpose of limiting the focal length to 50mm or indeed 70mm - 90mm is to limit the angle of view to less than 39 degrees so as not to present an un-realistic image. Stitching many photos together to create a 180 degree panorama, contradicts the entire principle of limiting the angle to less than 39 degrees for assessment purposes.

Impacts are assessed partly on the basis of the proportion of the image that is affected by the development (Magnitude). Indeed the developer states this proportion on each of the panoramas. This allows the developer to UNDERSTATE the impact by up to 4.6 times! "Panoramas" are only acceptable if mounted on a large enough semi circular (in the case of 180 degrees) display. Only then can the viewer experience the real impact.

On page 19 of the EIS Non Technical Summary the following claims are made:-

*"The site layout design which consists of regular rows of turbines ensures that the turbines appear in regular spaced rows from most viewpoints."*

This statement contradicts the evidence of the developer's own photomontages. Of 31 rows along a 17 km line only the 2-3 rows perpendicular to the viewer will appear as individual rows. The remaining 90% appear as a continuous mass.

*"The east coast is already heavily influenced by human development, therefore the development would be set in the context of a landscape that has a tolerance for man-made developments."*

This statement is at odds with the nature of the "preserved views" along the entire coast and appears to confuse industrial turbines with Martello towers, Lighthouses, Georgian Terraces and immense natural beauty.

Additionally, there is a common misconception that low lying views generate a lesser visual impact that elevated views simply because fewer turbines are visible. However, it is long recognised among designers, planners and conservationists that developments which alter the "skyline" have a much greater potential impact than those which do not. Turbines seen against the skyline and which compete with the profile of natural land-form and seascape and heritage buildings will clearly have a far greater negative impact.

## Evaluation of Seascape and Visual impacts: Combining Sensitivity and Magnitude

**Methodology summary employed by Model Works Media in the production of verifiable photomontages.**

### **Choice of View:**

All coastal views from Dun Laoghaire to Bray were studied, in particular preserved views and prospects as defined by DLRCC and Wicklow CC. Four of the most sensitive locations were selected to photomontage on the basis that they were representative and sensitive.

### **Photography:**

The photographs were shot using a Hassleblad medium format digital camera with a fixed 80mm lens. This is a high end professional camera producing a 35million pixel file with a distortion free lens. GPS co-ordinates were recorded for all camera locations for input to 3D Studio Max to create the matching wind farm renders.

### **3D Model:**

Using information published by the developer, both the Dublin Array and the Codling Bank wind farms were modelled using the exact layout and turbine design proposed. In addition, reference points and objects such as The Kish lighthouse were also modelled to verify accuracy of scale and location.

### **Photomontages:**

Renders of the wind farm 3D model were created in 3DS Max to match each photograph taking into account camera position, field of view and direction of view. Each render is lit to match the sunlight conditions in the photograph so that the development appears realistic in context.

### **Photomontages (Appendix A)**

- View 1. Dublin Array: Impact on preserved view from Sandycove
- View 2. Dublin Array: Impact on preserved view from Coliemore Harbour
- View 3. Dublin Array: Impact on preserved view from Vico Road
- View 4. Dublin Array: Impact on protected views and prospects from Bray Head
- View 5. Dublin Array and Codling Wind Park Phase 1: Impact on protected views and prospects from Bray Head

## Assessment of Impacts considering Sensitivity and Magnitude

### **Magnitude:**

The Dublin Array is approximately 17km long, parallel to the Dublin and Wicklow coastline and approximately 10km offshore. Combined with the Codling Bank wind park, Phase 1 (220 turbines permitted, 2005) and Phase 2 (200 turbines proposed, 2008) it would comprise a continuous line of turbines 35km long.

**In all views from Dun Laoghaire to Wicklow Head the development will have A MAGNITUDE OF 100%. That is to say that in all views the development will fill the view.**

### **Sensitivity:**

The Irish Environmental Protection Agency defines a "profound" impact as one which "OBLITERATES SENSITIVE CHARACTERISTICS".

Given the sensitivity of the shoreline views, their "preserved" designation and their natural heritage, conservation and amenity context, the visual impacts must all be categorised as SIGNIFICANT, PROFOUND AND NEGATIVE.

**On the basis of the Visual Impact Assessment carried out by Model Works Media, it is clear that a Foreshore Lease should not be granted for construction of this proposed development.**

## **Appendix A**

Appendix A: Photomontages

Attached in separate file

**FS007029 SSE Site Investigations at Arklow - Public Consultation  
Submission 5  
2019 Comments**



93 George's Street Lower  
Dun Laoghaire  
Co Dublin  
Web: [www.coastalconcern.ie](http://www.coastalconcern.ie)  
Email: [info@coastalconcern.ie](mailto:info@coastalconcern.ie)

18 November 2019.

Re: Innogy Renewables Ireland Ltd., Unit 5 Desart House, Lower New Street, Kilkenny, R95 H488

Application for a Site Investigation Licence to carry out Geophysical Surveys, Geotechnical Surveys, Ecological Surveys and Wind and Metocean Surveys Approximately 10km off Dublin Coast in the vicinity of Kish and Bray Banks

Reference Number: FS007029

Coastal Concern Alliance wish to object to the granting of the above licence covering 25,440 hectares of Dublin Bay.

When the initial developer, Saorgas Energy, conducted a public consultation in 2013 in relation to this development, Coastal Concern Alliance lodged an objection, as did many of our members on an individual basis. Our views have not changed since that time. At that time, all of the submissions received were published on the Department's web site, so you are aware of their content. We ask that you take them into account in the current consultation and attach a copy of our 2013 objection for your information.

#### **Outdated and undemocratic legislation is now under reform**

Since our group was formed in 2006, we have campaigned for reform of the Foreshore Act 1933. This legislation has been widely acknowledged to be unfit for purpose, but remains in place today. However, it is now under reform, with the final draft due imminently. In addition, a draft of Ireland's first Marine Spatial Plan has just been published. In this context, it is totally inappropriate to assess any application for development until the new National Marine Planning Framework is in place and the Marine Planning and Development Management Bill is enacted.

#### **Development is too big and too close to shore**

Offshore wind farms in the near shore zone are highly controversial throughout the EU. As a result, countries such as Germany, Netherlands and Belgium have adopted 22km buffer zones around their coasts to protect the sensitive inshore environment. The average distance from shore of offshore wind farms under construction in the EU in 2017 was 42km, while the subject of the current licence application is 10Km from high amenity coastline.

In Germany, strict regulatory controls are in place to manage the offshore environment. Their largest offshore windfarm, (Gode, 582MW) is similar in size to what is proposed on the Kish and Bray banks, (600MW) but is sited 42Km from shore. A development of the size and scale proposed by Innogy 10Km from the Dublin/Wicklow coast would not be permitted in German waters.

### **Sandbanks slightly covered by seawater at all times**

*Sandbanks slightly covered by seawater at all times* are sensitive habitats listed for protection in the Habitats Directive. The richest resource of this habitat type in Ireland is along the east coast, 10-12Km from shore. The most recent Conservation Assessment Report (2019) states that the Habitat *'is vulnerable to the potential impacts of wind energy infrastructure in the vicinity of the habitat'*.

Given that it has been shown that these east coast sandbanks are unique in the UK, France & Ireland in retaining Favourable Current Conservation Status, it is incumbent on the Department of Environment and Planning to ensure their continued conservation, as is required under the objectives of Ireland's National Biodiversity Action Plan 2017-2021. The Plan, in describing Ireland's Vision for Biodiversity, states *'That biodiversity and ecosystems in Ireland are conserved and restored, delivering benefits essential for all sectors of society and that Ireland contributes to efforts to halt the loss of biodiversity and the degradation of ecosystems in the EU and globally'*.

The facilitation of wind farm development on sensitive sandbank habitat will knowingly thwart this objective.

### **There is no need for Ireland to degrade its sensitive near-shore habitats and beautiful coastal landscapes to avail of offshore wind.**

Ireland should follow good international practice and site these huge industrial developments outside the 22Km zone. New technology allows for the siting of large turbines further from shore in deeper waters avoiding the destruction of near shore habitats and coastal landscapes.

This licence should not be granted. No further support should be given to developments, such as the current licence application, which are too big and too close to shore and have been proposed and progressed under undemocratic and outdated legislation, which is on the brink of being replaced.

*CCA is an independent voluntary citizens' group established in 2006 to campaign for reform of the Foreshore Act 1933 and the introduction of a system of integrated coastal zone management to protect Ireland's coastal zone.*

To: [foreshore@housing.gov.ie](mailto:foreshore@housing.gov.ie).



[REDACTED] Dalkey, Co Dublin

[REDACTED]  
18 November 2019

---

Marine Planning and Foreshore Section,  
Department of Housing Planning and Local Government,  
Newtown Road,  
Wexford,  
Co Wexford

A Chara

**Innogy - Site Investigation - Dublin Array at Kish and Bray Banks - FS007029**

**Application for a Site Investigation Licence to carry out Geophysical Surveys, Geotechnical Surveys, Ecological Surveys, Wind and Metocean Surveys by Innogy Renewables, Kilkenny, R95 H488**

I wish to object to the application by Innogy for a Licence for Exploration, based on the scope of their site investigation preparatory to the placement and construction of wind turbines some **10km** offshore.

The rationale for my objection is the siting of proposed wind turbines. By EU standards, the average distance of offshore wind developments under construction in 2017 was **41Km**. The Netherlands and other European governments have designated a **22km** exclusion zone to protect sensitive habitats and visual and leisure amenities.

Innogy's application for a Licence for Exploration suggests their interests lie too close to shore, with inadequate planning to legislate for and regulate inappropriately scaled marine development. I am not opposed to wind energy, but consider the 10km offshore siting disregards Dublin Bay, the Kish and Bray Banks as integral parts of the aesthetic, cultural and marine interests of the city and counties. From a developer's point of view, locating enormous wind turbines close to shore rather than in deeper waters is the more cost effective option, but one that carries a heavy price for this country.

For these reasons I deem Innogy's interests go against best practice for protecting cultural and amenity areas, coastal and marine fauna and flora, and I urge your Office not to award the Licence for Exploration under its current terms.

Yours sincerely

[REDACTED]

*Innogy: site investigation at Bray and Kish Banks*

*Applicant Address:*

*Innogy Renewables Ireland Ltd., Unit 5 Desart House, Lower New Street, Kilkenny, R95 H488*

*Proposed Development Activity*

*Description:*

*Application for a Site Investigation Licence to carry out Geophysical Surveys, Geotechnical Surveys, Ecological Surveys and Wind and Metocean Surveys*

## Objection

It is my view that offshore wind can be a valuable resource in mitigating the effects of carbon reduction and global warming, but this must be balanced by a robust evaluation of species extinction and other effects of the installations. We are beginning to understand species extinction is caused by a multiple of small effects, as well as the obvious major factors.

Our coastal protection areas in the Natura 2000 network

- South Dublin Bay and River Tolka Estuary SPA [004024] (Within SPA)
- North Bull Island SPA [004006]
- South Dublin Bay SAC [000210] (Within SAC)
- Rockabill to Dalkey Island SAC [003000] (Within SAC)

are cherished for the protection they offer to marine mammals, sea birds, plant life, the full benthic community. In common with many, I appreciate the interdependence of many species with the environment out there, including sound, light, electromagnetic effects, silt, and water quality.

This survey work is preliminary to a licence to construct a turbine array in a location which will cause major visual effects as well as disruption to the biosphere due to its proximity to the shore; proper marine spatial planning would ensure, that in common with other European nations, such installations would not be permitted in the rich sand and mud bank environment and shallow waters so appropriately zoned as Natura 2000 sites. In passing, I note that many such areas which are obvious candidates for designation such as the sandbanks on the east coast, have not been so designated.

My objection to the eventual turbine location is preliminary in nature. This objection focusses on the survey work, the subject of the application.

*MARINE ZONE SURVEY The area extending seaward from the Low Water Line will be surveyed using Multibeam Echosounder (MBES), sidescan sonar, marine magnetometer and shallow reflection seismic (subbottom profiler) equipment. Sub-bottom profile equipment will be used on a non-interfering basis with other sounding systems. Different sub-bottom profiling equipment is likely to be required in different areas of the survey area.*

P 23

*Seabed sampling will also be undertaken including grab samples and vibrocores (Figure 11). Vibrocores to a depth of 6m and 80mm in diameter will be collected at 47 locations within the cable route corridors and across the lease application area*

P23

'The principal behind a vibrocore is the development of high frequency, low amplitude vibration that is transferred from the vibrocore head down through the attached barrel or core tube'. The impact of the presumably low frequency vibrations from this equipment at 47 locations, and the silt plume from same, has not been analysed or mitigation measures proposed. Low frequency vibrations affect a number of marine species and animals also.

While we note the document states

*'The marine survey will be carried out in compliance with the Department of Culture, Heritage and the Gaeltacht (2014) "Guidance to manage the risk to marine mammals from man-made sound sources in Irish waters". P33-* In view of current active research, these guidelines are in need of revision, and we hold that a procedure such as 'cetaceans in the vicinity of the vessel during start up procedures would be given ample time to leave the site' is quite incompatible with protection of these mammals in the survey area.

This area of research is active at the moment and many studies are now finding the risk to marine mammals such as seals, dolphins, harbour porpoises and whales of this type of marine surveying has been underestimated and is leading to the beaching of marine mammals and species extinction by incremental risk.

Fig 14 showing the distribution of cetaceans is included in the documents, but the survey data is incomplete, and its source or date rather unclear to the lay reader. As a frequent swimmer in these waters and coastal resident I have seen the harbour porpoise, common seal, and bottle nose dolphin in many sites from Dun Laoghaire to Shanganagh. The analysis of the risk of the equipment to marine mammals shows damage very likely, hence the proposal to exclude animals from the survey area.

Under no circumstances should the survey be permitted during the calving season May to August, as evidence is that disturbance in this time is particularly damaging to the species propagation. It is disturbing that the NPWS, according to this documents, are prepared to consent to the work in this period by the applicant 'providing additional time for calves to leave the exclusion zone'. This is not an optimum procedure and against best practice in species protection.

Unrealistic phrases which betray a less than balanced view of the works, such as a statement that '*Grey and Common Seals may also be present from the nearby Dalkey Islands*'P37.

when there is such widespread evidence of seals throughout Dublin Bay, casts some doubt on the general veracity of the evidence submitted.

Disturbance of the seabed can lead to suspension of sediments which can lead to impacts on reef habitat communities within the SAC. Under the precautionary principle there is potential for impact on features of interest without the use of mitigation measures. The document notes that an NIS (Natura Impact Assessment) is required in regard to the works, including silt in the South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, and North Bull Island SPA and possible reef damage in Dalkey Islands.

The NIS submitted is inadequate as its optimistic and broad conclusions are the works are minor in nature and the site will be reinstated at the conclusion of the works. This would not be possible with reef damage near Dalkey Island for instance, as it is a rare and delicate ecosystem.

It states in regard to the harbour porpoise '*However gaps remain in the knowledge of the species foraging ecology within Rockabill to Dalkey Island SAC and the available data may be biased toward particular locations due to the nature of survey effort and opportunistic reports from a range of sources.*' We hold, pending better research on this species in particular, the full effects of sound and vibration on the species, the use of the proposed survey equipment and the carrying out of the survey during the calving season, is very much against good practice and the best practice protection of the species.

In my view the *Marine Planning and Foreshore Section* should not allow this work as it is very likely it will impact on the mammals mentioned, which enjoy the legal protection of the SAC and the Habitats Directive. The works are premature pending the full decision making and implementation of the proposed Marine Spatial Planning reform, and there is a sense in the coastal community that the Dublin Array project is being advanced and submitted to ensure consents are in place before the outdated and inadequate marine planning laws are reformed.

We have only one Dublin Bay and South Dublin coastal zone, the highest level of vigilance is needed to protect it.

 Dalkey

FS007029 SSE Site Investigations at Arklow - Public Consultation  
Submission 8

**From:** [REDACTED]@aclsolicitors.ie]

**Sent:** 12 November 2019 16:37

**To:** foreshore <[foreshore@housing.gov.ie](mailto:foreshore@housing.gov.ie)>

**Subject:** RE: Application for a Site Investigation Licence to carry out Geophysical Surveys, Geotechnical Surveys, Ecological Surveys and Wind and Metocean Surveys Approximately 10km off Dublin Coast in the vicinity of Kish and Bray Banks

Augustus Cullen Law thoughtful clear advice

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12<sup>th</sup> November 2019

Marine Planning and Foreshore Section,  
Department of Housing Planning and Local Government  
Your reference FS0007029  
[Foreshore@housing.gov.ie](mailto:Foreshore@housing.gov.ie)

Application for a Site Investigation Licence to carry out Geophysical Surveys, Geotechnical Surveys, Ecological Surveys and Wind and Metocean Surveys Approximately 10km off Dublin Coast in the vicinity of Kish and Bray Banks

Application of [REDACTED] of innogy Renewables Ireland Ltd

Dear Sirs ,

We are instructed on behalf of [REDACTED] in his fishing boat [REDACTED] to make submission and object to the proposed the proposed INNOGY –Site Investigation- Dublin Array at Kish and Bray Banks –

1. The Application makes reference to “Two Foreshore Lease applications were submitted for a proposed offshore windfarm on the Kish and Bray banks in 2006. Supplementary environmental information was provided in 2009 and 2012/13” but no evidence is furnished with the application setting the responses from the Department , any decisions made and the reasons for such decisions .An application should include history of similar applications to date by the Applicant , and any divergence or alterations in the applications made.
2. In relation the Geophysical Survey in particular the Shallow Reflection Seismic (Sub-bottom Profiling)at paragraph 1.3 the Code of Practice for the Protection of Marine Mammals during Acoustic Seafloor Surveys in Irish Waters should be required to be followed . It is well established that Short-term behavioural changes might be observed in fish populations in close proximity to the seismic source. No assurances or particulars of safety measures are provided.

3. The proposed Geotechnical survey techniques include Vibrocoring and 48 vibrocores, approximately 150 mm diameter and penetration depth of up to 6 m which involve driving a tubular steel cylinder 6 m into the seabed , which will disrupt and prejudice with sound and vibrations the surrounding marine ecosystem and fish life in the surrounding area .
4. The proposed two buoy mounted Floating Lidar (FLiDAR) Units and up to two wave rider buoys incorporating wave and current measurement devices are likely to cause danger and interference with fishing operations and adequate precautionary and safety features are not set out .
5. It is acknowledged in the application at paragraph 1.09 that the foreshore within which the surveys are proposed is used by ..... fishing industry, targeting mainly shellfish species ... and that” Fishing and recreational vessels are also active in the area.” ...and “in advance of the survey. The statement that “Early engagement with the fishing industry has been undertaken and will be maintained through a Fisheries Liaison Working Group which is currently being established and on-going communication with industry groups and individual operators “ are denied . The application was filed on 24<sup>th</sup> September 2019 prior to any meeting on 29<sup>th</sup> October 2019 with fishermen , so it is untrue I the application to say that such engagement at occurred prior to application . The Applicant should be required to re-file the application to correctly reflect what engagement claimed had occurred .It is denied that meaningful engagement has occurred as required by law .
6. It is denied as claimed at paragraph 1.10 that there has prior to filing of application on 24<sup>th</sup> September 2019 been “On-going engagement with affected stakeholders, such as fishing and navigational stakeholders....” Refiling of application should be required to ensure integrity of the process.
7. It states at paragraph 2.9 “The proposed licence area lies within spawning and nursery grounds of whiting, haddock and cod. The area also lies within the extensive nursery grounds for mackerel and horse mackerel which includes the entire Irish Sea and a large area of the Celtic Sea. Due to the extent of the area of spawning and nursery activity and the limited spatial and temporal extent of the proposed surveys no impacts are predicted.” The omits to disclose that this area is the major fish spawning area for shellfish on East Coast and omits to take into account hazards ,safety measures or concerns set out herein in relation to the detrimental effect on fish stocks . See “See Figure 12 of the Planning Report.”
8. For the reasons set out above it is submitted that the declaration that “The details provided here are correct to the best of my knowledge” is incorrect and the application should be required to be re-submitted and in particular the fresh application should include the likely impact of proposed activities on the fishing activities of our clients in the surrounding areas.
9. There is no proposal; set out for any compensation package to compensate our clients for loss of earning and/or activates on or about the survey and surrounding areas.
10. The application ought include details of any procedure or mechanism required to progress this engagement with our clients.
11. Our client is licenced by Ireland to fish these waters and have done so for 30 years or more .He has particular concern about the detrimental effect of the seismic survey equipment effect on this prolific whelk fishing grounds .
12. The fishing report of the Applicant states that 540 tons of whelks worth €8m per year , based on Department of Marine Figures, were caught in Ireland . This figure understates the true size of the industry catch which is far greater because under 10 metre boats are not required to provide log sheets to the Department . This is a major economic activity and source of livelihood and culture which is ignored by this application .
13. The core concern is that international evidence demonstrates that previous seismic surveys , particularly the Shallow Reflection Seismic (Sub-bottom Profiling)at paragraph 1.3, cause fishing returns drops of up to 80% short term and 50% long term in surveyed and

surrounding areas . Shellfish do not tolerate loud noise or vibration . Consideration of this serious concern is not addressed in this application

Yours Faithfully,



**██████████ Solicitor Accredited Mediator and Collaborative Practitioner | Diploma in Commercial Litigation & Mediation & Certificates in Health Care Law , Human Rights , Advanced Advocacy and Arbitration and IT and IP Law | ██████████ | Augustus Cullen Law | Email: ██████████@aclsolicitors.ie | Wicklow Office: 7 Wentworth Place, Wicklow | Tel: +353 (0) ██████████ | Fax: +353 (0) ██████████ ██████████ | Dublin Office: 18 Bow Street, Duck Lane , Smithfield Dublin 7 | Tel: +353 (0) ██████████ | Web: [www.aclsolicitors.ie](http://www.aclsolicitors.ie)**

Augustus Cullen Law Three times Winner of Irish Law Awards

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**From:** [REDACTED]@aclsolicitors.ie]

**Sent:** 12 November 2019 10:56

**To:** foreshore <foreshore@housing.gov.ie>

**Cc:** [REDACTED]

**Subject:** Application for a Site Investigation Licence to carry out Geophysical Surveys, Geotechnical Surveys, Ecological Surveys and Wind and Metocean Surveys Approximately 10km off Dublin Coast in the vicinity of Kish and Bray Banks

**Augustus Cullen Law** thoughtful clear advice

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12<sup>th</sup> November 2019

Marine Planning and Foreshore Section,  
Department of Housing Planning and Local Government  
Your reference FS0007029  
[Foreshore@housing.gov.ie](mailto:Foreshore@housing.gov.ie)

Application for a Site Investigation Licence to carry out Geophysical Surveys, Geotechnical Surveys, Ecological Surveys and Wind and Metocean Surveys Approximately 10km off Dublin Coast in the vicinity of Kish and Bray Banks

Application of [REDACTED] of innogy Renewables Ireland Ltd

Dear Sirs ,

We are instructed on behalf of [REDACTED] and [REDACTED] of the [REDACTED] and [REDACTED] to make submission and object to the proposed the proposed INNOGY –Site Investigation- Dublin Array at Kish and Bray Banks –

1. The Application makes reference to “Two Foreshore Lease applications were submitted for a proposed offshore windfarm on the Kish and Bray banks in 2006. Supplementary environmental information was provided in 2009 and 2012/13” but no evidence is furnished with the application setting the responses from the Department , any decisions made and the reasons for such decisions .An application should include history of similar applications to date by the Applicant , and any divergence or alterations in the applications made.
2. In relation the Geophysical Survey in particular the Shallow Reflection Seismic (Sub-bottom Profiling)at paragraph 1.3 the Code of Practice for the Protection of Marine Mammals during Acoustic Seafloor Surveys in Irish Waters should be required to be followed . It is well established that Short-term behavioural changes might be observed in fish populations in close proximity to the seismic source. No assurances or particulars of safety measures are provided.
3. The proposed Geotechnical survey techniques include Vibrocoring and 48 vibrocores, approximately 150 mm diameter and penetration depth of up to 6 m which involve driving a tubular steel cylinder 6 m into the seabed , which will disrupt and prejudice with sound and vibrations the surrounding marine ecosystem and fish life in the surrounding area .

4. The proposed two buoy mounted Floating Lidar (FLiDAR) Units and up to two wave rider buoys incorporating wave and current measurement devices are likely to cause danger and interference with fishing operations and adequate precautionary and safety features are not set out .
5. It is acknowledged in the application at paragraph 1.09 that the foreshore within which the surveys are proposed is used by ..... fishing industry, targeting mainly shellfish species ... and that” Fishing and recreational vessels are also active in the area.” ...and “in advance of the survey. The statement that “Early engagement with the fishing industry has been undertaken and will be maintained through a Fisheries Liaison Working Group which is currently being established and on-going communication with industry groups and individual operators “ are denied . The application was filed on 24<sup>th</sup> September 2019 prior to any meeting on 29<sup>th</sup> October 2019 with fishermen , so it is untrue I the application to say that such engagement at occurred prior to application . The Applicant should be required to re-file the application to correctly reflect what engagement claimed had occurred .It is denied that meaningful engagement has occurred as required by law .
6. It is denied as claimed at paragraph 1.10 that there has prior to filing of application on 24<sup>th</sup> September 2019 been “On-going engagement with affected stakeholders, such as fishing and navigational stakeholders....” Refiling of application should be required to ensure integrity of the process.
7. It states at paragraph 2.9 “The proposed licence area lies within spawning and nursery grounds of whiting, haddock and cod. The area also lies within the extensive nursery grounds for mackerel and horse mackerel which includes the entire Irish Sea and a large area of the Celtic Sea. Due to the extent of the area of spawning and nursery activity and the limited spatial and temporal extent of the proposed surveys no impacts are predicted.” The omits to disclose that this area is the major fish spawning area for shellfish on East Coast and omits to take into account hazards ,safety measures or concerns set out herein in relation to the detrimental effect on fish stocks . See “See Figure 12 of the Planning Report.”
8. For the reasons set out above it is submitted that the declaration that “The details provided here are correct to the best of my knowledge” is incorrect and the application should be required to be re-submitted and in particular the fresh application should include the likely impact of proposed activities on the fishing activities of our clients in the surrounding areas.
9. There is no proposal; set out for any compensation package to compensate our clients for loss of earning and/or activates on or about the survey and surrounding areas.
10. The application ought include details of any procedure or mechanism required to progress this engagement with our clients.
11. Our clients are licenced BY Ireland to fish these waters and have done so for 30 years or more .They have particular concern about the detrimental effect of the seismic survey equipment effect on this prolific whelk fishing grounds .
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13. The core concern is that international evidence demonstrates that previous seismic surveys , particularly the Shallow Reflection Seismic (Sub-bottom Profiling)at paragraph 1.3, cause fishing returns drops of up to 80% short term and 50% long term in surveyed and surrounding areas . Shellfish do not tolerate loud noise or vibration . Consideration of this serious concern is not addressed in this application

Yours Faithfully,





**██████████ Solicitor Accredited Mediator and Collaborative Practitioner | Diploma in Commercial Litigation & Mediation & Certificates in Health Care Law , Human Rights , Advanced Advocacy and Arbitration and IT and IP Law | ██████████ | Augustus Cullen Law | Email: ██████████@aclsolicitors.ie | Wicklow Office: 7 Wentworth Place, Wicklow | Tel: +353 (0) ██████████ | Fax: +353 (0) ██████████ | Dublin Office: 18 Bow Street, Duck Lane , Smithfield Dublin 7 | Tel: +353 (0) ██████████ | Web: [www.aclsolicitors.ie](http://www.aclsolicitors.ie)**

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**From:** Gus Cullen [REDACTED]@aclsolicitors.ie]

**Sent:** Monday 11 November 2019 15:10

**To:** foreshore <[foreshore@housing.gov.ie](mailto:foreshore@housing.gov.ie)>

**Cc:** [REDACTED]

**Subject:** RE: INNOGY -SITE INVESTIGATION -DUBLIN ARRAY AT KISH AND BRAY BANKS

Augustus Cullen Law thoughtful clear advice

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Wentworth Place  
Wicklow, Ireland

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e [info@aclsolicitors.ie](mailto:info@aclsolicitors.ie)

11<sup>th</sup> November 2019

Marine Planning and Foreshore Section,  
Department of Housing Planning and Local Government  
Your reference FS0007029  
[Foreshore@housing.gov.ie](mailto:Foreshore@housing.gov.ie)

Application for a Site Investigation Licence to carry out Geophysical Surveys, Geotechnical Surveys, Ecological Surveys and Wind and Metocean Surveys Approximately 10km off Dublin Coast in the vicinity of Kish and Bray Banks  
Application of Peter LeFroy of innogy Renewables Ireland Ltd

Dear Sirs ,

We are instructed on behalf of [REDACTED] of [REDACTED], [REDACTED] OF [REDACTED], [REDACTED] of [REDACTED], [REDACTED] of [REDACTED], [REDACTED] of [REDACTED], [REDACTED] of [REDACTED], [REDACTED] of [REDACTED] and [REDACTED] of [REDACTED] and [REDACTED] hereinafter "East Coast Fishers" to make submission and object to the proposed the proposed INNOGY –Site Investigation- Dublin Array at Kish and Bray Banks –

1. The Application makes reference to "Two Foreshore Lease applications were submitted for a proposed offshore windfarm on the Kish and Bray banks in 2006. Supplementary environmental information was provided in 2009 and 2012/13" but no evidence is furnished with the application setting the responses from the Department , any decisions made and the reasons for such decisions .An application should include history of similar applications to date by the Applicant , and any divergence or alterations in the applications made.
2. In relation the Geophysical Survey in particular the Shallow Reflection Seismic (Sub-bottom Profiling)at paragraph 1.3 the Code of Practice for the Protection of Marine Mammals during

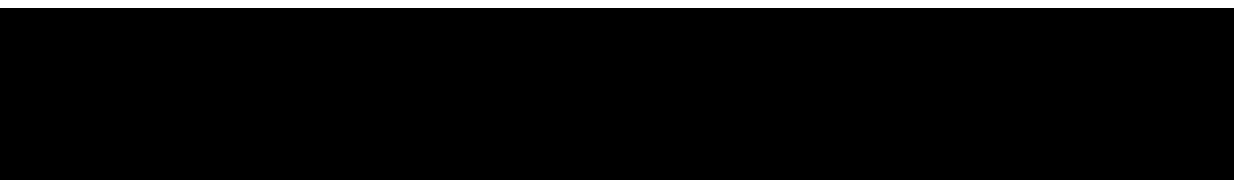
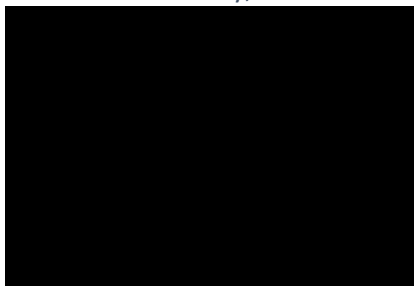
Acoustic Seafloor Surveys in Irish Waters should be required to be followed. It is well established that Short-term behavioural changes might be observed in fish populations in close proximity to the seismic source. No assurances or particulars of safety measures are provided.

3. The proposed Geotechnical survey techniques include Vibrocoring and 48 vibrocores, approximately 150 mm diameter and penetration depth of up to 6 m which involve driving a tubular steel cylinder 6 m into the seabed, which will disrupt and prejudice with sound and vibrations the surrounding marine ecosystem and fish life in the surrounding area.
4. The proposed two buoy mounted Floating Lidar (FLiDAR) Units and up to two wave rider buoys incorporating wave and current measurement devices are likely to cause danger and interference with fishing operations and adequate precautionary and safety features are not set out.
5. It is acknowledged in the application at paragraph 1.09 that the foreshore within which the surveys are proposed is used by ..... fishing industry, targeting mainly shellfish species ... and that "Fishing and recreational vessels are also active in the area." ...and "in advance of the survey. The statement that "Early engagement with the fishing industry has been undertaken and will be maintained through a Fisheries Liaison Working Group which is currently being established and on-going communication with industry groups and individual operators " are denied. The application was filed on 24<sup>th</sup> September 2019 prior to any meeting on 29<sup>th</sup> October 2019 with fishermen, so it is untrue in the application to say that such engagement occurred prior to application. The Applicant should be required to re-file the application to correctly reflect what engagement claimed had occurred. It is denied that meaningful engagement has occurred as required by law.
6. It is denied as claimed at paragraph 1.10 that there has prior to filing of application on 24<sup>th</sup> September 2019 been "On-going engagement with affected stakeholders, such as fishing and navigational stakeholders...." Refiling of application should be required to ensure integrity of the process.
7. It states at paragraph 2.9 "The proposed licence area lies within spawning and nursery grounds of whiting, haddock and cod. The area also lies within the extensive nursery grounds for mackerel and horse mackerel which includes the entire Irish Sea and a large area of the Celtic Sea. Due to the extent of the area of spawning and nursery activity and the limited spatial and temporal extent of the proposed surveys no impacts are predicted." The applicant omits to disclose that this area is the major fish spawning area for shellfish on East Coast and omits to take into account hazards, safety measures or concerns set out herein in relation to the detrimental effect on fish stocks. See "See Figure 12 of the Planning Report."
8. For the reasons set out above it is submitted that the declaration that "The details provided here are correct to the best of my knowledge" is incorrect and the application should be required to be re-submitted and in particular the fresh application should include the likely impact of proposed activities on the fishing activities of our clients in the surrounding areas.
9. There is no proposal; set out for any compensation package to compensate our clients for loss of earning and/or activities on or about the survey and surrounding areas.
10. The application ought include details of any procedure or mechanism required to progress this engagement with our clients.
11. Our clients are licenced BY Ireland to fish these waters and have done so for 30 years or more. They have particular concern about the detrimental effect of the seismic survey equipment effect on this prolific whelk fishing grounds.
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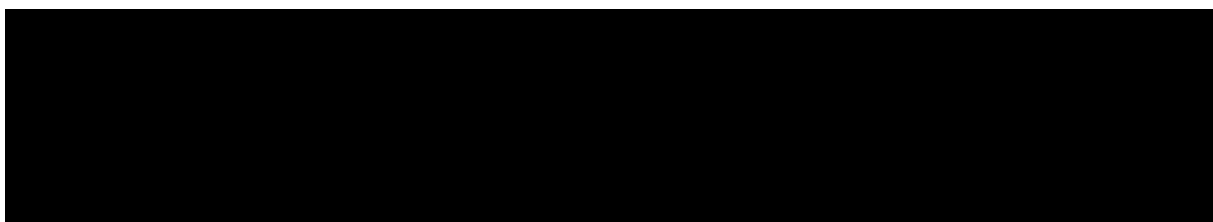
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