

REPORT OF THE MARINE LICENCE VETTING COMMITTEE (MLVC)

ON

**FORESHORE LICENCE APPLICATION FOR MARINE SITE INVESTIGATIONS
OFF THE DUBLIN AND WICKLOW COAST IN THE VICINITY OF THE KISH
AND BRAY BANKS (FS007029)**


Marine Licence Vetting Committee
28 July 2020

Innogy Renewables Ireland Ltd – Site Investigations off Dublin and Wicklow coast in the vicinity of the Kish and Bray Banks (FS007029).

Background

Innogy Renewables Ireland Ltd has submitted an application for a Foreshore Licence to carry out site investigations in the western Irish Sea off the coast of Dublin and Wicklow in the vicinity of the Kish and Bray Banks.

The location of the proposed site investigations area is shown in the following drawing submitted by the applicant:

- Drawing No 1330-B-01 application , “Foreshore Licence Map 1 Foreshore Licence, Geophysical Survey Area and Metocean Monitoring” , Ver 3 dated 30/08/2019

The overall aim of the site investigations is to collect the necessary data and information required to inform the Environmental Impact Assessment Report (EIAR), Natura Impact Statement (NIS) and preliminary design for a proposed wind farm array and ancillary infrastructure in the vicinity of the Kish and Bray Banks.

The possible installation of a windfarm and associated infrastructure in the area in the future would be the subject of a separate Foreshore Lease / Licence application and is not the subject of this current application.

It is proposed that the site investigations will include:

Geophysical Survey - involving the use of multibeam echo sounder, magnetometer, sub-bottom profiler and side scan sonar

Geotechnical survey – involving cone penetration testing as well as vibrocoring and drilling of boreholes. The exact location, quantity and type of geotechnical samples collected would be subject to the results of the geophysical survey. The following indicative numbers, may be collected:

- 48 vibrocores – approximately 150mm diameter and penetration depth of up to 6m
- 15 cone penetration tests – in intertidal areas, approximately 4cm diameter and depth of up to 15m
- 3 boreholes – approximately 10cm diameter and depth of up to 20m

Ecological Survey – It is anticipated that benthic grab samples will be collected at up to 30 sampling sites in the survey area. The exact location would be subject to the results of the geophysical survey. Drop down video will also be collected.

It is also intended to deploy of 2 No. buoy mounted Floating Lidar (FLidar) units and up to 2 Wave Rider Buoys incorporating wave and current devices in the survey area.

The indicative location of the geotechnical sampling sites, benthic grab samples as well as the proposed location for the deployment of the LIDAR buoy and Wave Rider Buoys is shown in the following drawings submitted by the applicant:

- Drawing No. 1330-B-02-application, “Foreshore Licence Map 2 Indicative Benthic Sampling Stations” , Ver 3 dated 30/08/2019
- Drawing No. 1330-B-03-application, “Foreshore Licence Map 3 Indicative Vibrocore Sampling Stations” , Ver 3 dated 30/08/2019
- Drawing No. 1330-B-04-application, “Foreshore Licence Map 4 Poolbeg / ShellyBanks Intertidal Area” , Ver 3 dated 30/08/2019
- Drawing No. 1330-B-05-Pre-application, “Foreshore Licence Map 5 Shanganagh Cliffs Intertidal Area” , Ver 3 dated 30/08/2019
- Drawing No. 1330-B-06-Pre-application, “Foreshore Licence Map 6 Shanganagh Park Intertidal Area” , Ver 3 dated 30/08/2019
- Drawing No. 1330-B-01-application, “Foreshore Licence Map 7 Overall Survey and Sampling” Ver 1, dated 30/08/2019.

Additional details of the proposed survey including survey methods, equipment to be used, proposed survey schedule etc are provided in the following document submitted by the applicant:

“Planning Report for in support of the Foreshore Licence Application for Geophysical, Geotechnical, Environmental, Archaeological Metocean Survey of Dublin Array Wind Farm and Export Cable Route Corridors. Revision 6: 17th September 2019. This report also includes an AA Screening report and Natura Impact Statement (NIS)

In the event of a Foreshore Licence being granted it is intended that the proposed geophysical survey and seabed sampling works would likely be carried out between 1st March and 31st October within the two years following the granting of the Foreshore Licence. The total duration of these elements of the survey campaign is expected to be 4 to 5 months and some works may be carried out concurrently. The metocean monitoring equipment is likely to be deployed during Q3 2020; the equipment will remain on site for a minimum of two years.

Environmental Impact Assessment Regulations

The proposed Site Investigations are not of a class that would require the submission of an EIS.

Birds and Natural Habitats Regulations

The proposed site investigation works are located within the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024), the South Dublin Bay SAC (Site Code 000210) and the Rockabill to Dalkey Island SAC (Site Code 003000) and adjacent to (within 15Km) of a number of other Natura 2000 sites. These sites include

- North Bull Island SPA (Site Code 004006)
- Dalkey Islands SPA (Site Code 004172)
- Howth Head Coast SPA (Site Code 004113)
- Baldoyle Bay SPA (Site Code 004016)
- Ireland's Eye SPA (Site Code [004117)
- Malahide Estuary SPA (Site Code 004025)
- The Murrough SPA(Site Code 004186)
- Wicklow Mountains SPA (Site Code 004040)
- North Dublin Bay SAC (Site Code 000206))
- Bray Head SAC (Site Code 000714)
- Howth Head SAC (Site Code 000202)
- Ballyman Glen (Site Code 000713)
- Knocksink wood SAC (Site Code 00072)
- Glen of the Downs SAC (Site Code 000719)
- Baldoyle Bay SAC (Site Code 000199)
- Ireland's Eye SAC (Site Code 002193)
- The Murrough Wetlands SAC (Site Code
- Wicklow Mountains SAC (Site Code 002122)
- Malahide Estuary SAC (Site Code 000205)
- Carriggower Bog SAC (Site Code 000716)
- Glenasmole Valley SA (Site Code (001209)
- Codling Fault Zone SAC (Site Code 003015)

A separate Appropriate Assessment document has been prepared which addresses the potential impact of the proposed site investigations on the Conservation Objectives of these sites. It is concluded that the proposed Site Investigation works are not likely to pose a significant likely risk to nature conservation interests of any Natura 2000 site provided the recommended mitigation is undertaken

Public Consultation

Public notices concerning this application were published in the "Irish Times", "Bray People" and "Wicklow People" on 16th October 2019 as well as in the "Dublin Gazette

– City”, “Dublin Gazette – Fingal”, “Dublin Gazette – South” and “Dublin Gazette – West” on 17th October 2019.

The relevant documentation was on display at Blackrock, Bray, Clontarf, Dun Laoghaire, Greystones, Howth, Irishtown, Pearse Street, Shankill and Wicklow Garda Stations for the required period of 21 working days and was also available to view on the Department’s website.

10 submissions were received during the public consultation and 1 submission was received from a local Councillor.

Submission 1, 2, 3, 4, 5 and 6

These submissions raised issues in relation to impacts on fishing, wildlife, recreational activities in the Dun Laoghaire Harbour area, environmental, ecological and marine issues related to Dublin Bay in general and to the coastal area of Dún Laoghaire in particular, cultural and amenity areas, coastal and marine fauna and flora. These issues were raised primarily in relation to the construction of a wind farm in the area.

As noted above the possible installation of a windfarm and associated infrastructure in the area in the future would be the subject of a separate Foreshore Lease / Licence application and is not the subject of this current application and these issues are therefore not considered further in this report.

Submission 5

It was stated that the Foreshore Act, 1933 is outdated and is now under reform and that on this basis it would be 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. It was also stated that Ireland should follow good international practice and site these huge industrial developments outside the 22Km zone

The comments related to the relevant legislations are legal / administrative matters for consideration by the Department’s Marine Planning and Foreshore Unit and are outside the scope of this report. Similarly, the siting of offshore wind farms outside the 22Km zone is a policy matter and is also outside the scope of this report.

Submission 7, 8

It was stated that works are premature pending the full decision making and implementation of the proposed Marine Spatial Planning reform.

This is a legal / policy matter for consideration by the Department’s Marine Planning and Foreshore Unit and is outside the scope of this report.

This submission also raised issues in relation to the impact of noise on marine mammals and impact of silt plumes on marine fauna and reef habitats arising from the site investigation works. These are addressed further below.

Submission 8,9,10

It is stated that this application should include history of Foreshore Lease applications previously submitted by applicant so that any divergence or alterations in the applications made can be considered and understood. It is also stated that no specific information has been provided on liaison with fishing industry prior to the submission of the application. Additionally it is stated that there is no proposal set out for any compensation package to compensate our clients for loss of earning and/or activities (sic) on or about the survey and surrounding areas.

These are legal / administrative matters for consideration by the Department's Marine Planning and Foreshore Unit and are outside the scope of this report.

Concerns have been raised in relation to the impact of noise on marine ecosystems, marine mammals and fish, in particular on whelk and other shellfish, during sub-bottom profiling and vibrocoring as part of the proposed site investigations. Concerns have also been raised in relation to impacts on fishing and navigational safety as a result of the proposed deployment of the Floating Lidar (FLidar) units and up to 2 Wave Rider Buoys incorporating wave and current devices in the area.

These issues are addressed further below.

Submission from local Councillor

It is stated that no photomontages have been presented and that visual impact has not been addressed.

This concern appears to be related to the visual impacts that may arise from the construction of an offshore wind farm in the area. This Licence application, however, is for Site Investigation works only and the possible installation of a windfarm and associated infrastructure in the area in the future would be the subject of a separate Foreshore Lease / Licence application. The proposed site investigations would be carried out from a ship and visual impacts would not, therefore, be significant.

It is stated that cumulative visual impacts with other proposed windfarms would be significant on Greystones, that the Councillor would favour the construction of a windfarm of the Codling Bank only and that the licence application for the proposed site investigations should be refused. Additionally it is stated that Greystones, Kilcoole and Newcastle need to get a significant benefit from the construction of a windfarm on the Codling Bank and this should be built into the permissions as a condition.

The possible installation of a windfarm and associated infrastructure in the area in the future would be the subject of a separate Foreshore Lease / Licence application and is not the subject of this current application and therefore not considered further in this report

Prescribed Bodies Consultation

Written submissions on the proposed works were received from the following:

Department of Housing, Planning and Local Government (Water and Marine Advisor), Department of Culture, Heritage and the Gaeltacht (Nature Conservation and Underwater Archaeology), Marine Institute, Department of Agriculture, Food and the Marine (Aquaculture and Foreshore Management Division), Marine Survey Office, Inland Fisheries Ireland, the Sea Fisheries Protection Authority and Dun Laoghaire Rathdown County Council.

There were no objections raised.

Issues Considered

The following documents were considered:

- Foreshore Licence Application and associated document and drawings submitted Innogy Renewables Ireland Ltd
- “Planning Report in support of the Foreshore Licence Application for Geophysical, Geotechnical, Environmental, Archaeological Metocean Survey of Dublin Array Wind Farm and Export Cable Route Corridors. Revision 6: 17th September 2019. This report also included an AA Screening report and Natura Impact Statement (NIS)
- Written submissions from Department of Housing, Planning and Local Government (Water and Marine Advisor), Department of Culture, Heritage and the Gaeltacht (Nature Conservation and Underwater Archaeology), Marine Institute, Department of Agriculture, Food and the Marine (Aquaculture and Foreshore Management Division), Marine Survey Office, Inland Fisheries Ireland the Sea Fisheries Protection Authority and Dun Laoghaire Rathdown County Council, and the applicant’s responses to these submissions
- Written submissions received on foot of the Public Consultation and the applicant’s responses to these submissions.

There will be no impact on the water column or seabed arising from the geophysical survey methods intended to be used. There will be no direct impacts on fishing grounds resulting from these survey techniques.

There will be impacts on the seabed resulting from the Geotechnical surveys involving cone penetration testing, vibrocoring and collection of grab samples. Given the number of sampling sites proposed and the nature and scale of the sampling method proposed, significant impact on the seabed, including species and habitats, are not considered likely. The vibrocores which are proposed are of small diameter, up to 150 mm and to a shallow depth, up to 6m. The expected duration of the coring operation at each location is less than 1 minute. Considering the dimensions of the cores, and the short duration involved in coring, significant sediment plumes will not be produced. Depending on the type and size of grab sampler used, volumes of sediment recovered per grab will range from between 0.003 – 0.015m³ will be circa 20cm deep. No sediment will be removed during cone penetration testing.

While there is little information on the effect of noise on shellfish species, the absence of gas-filled cavities such as those possessed by marine mammals and finfish, means that there is no mechanism for marine invertebrates to detect pressure changes associated with sound waves. There are a number of ecological field studies which compared mortality of a range on invertebrates, including scallop, lobster and clam at sites where seismic survey occurs compared to sites where it does not. These concluded that there is no evidence of increased mortality due to exposure to seismic surveys

There is commercial fishing activity within the proposed site investigation area on the Foreshore and therefore some interaction with fishing activity may occur. It is considered that such interaction will be limited and overall will not be significant. It is noted that a Fisheries Liaison Officer has been appointed and that the applicant's engagement with the fishing industry has already commenced and that it is intended to maintain this engagement by way of a Fisheries Liaison Working Group. The appointment of the Fisheries Liaison Officer and continued liaison with the fishing sector during the course of the site investigations should be a condition of any licence that may be granted.

In the absence of appropriate marking and lighting there could be impacts on fishing and navigational safety as a result of the proposed deployment of the Floating Lidar (FLidar) units and up to 2 Wave Rider Buoys incorporating wave and current devices in the area. It is noted, however, that applicant has stated that *“Prior to deployment of the buoy mounted equipment marking, lighting and other navigational safety requirements will be agreed with the Department of Transport, Tourism and Sport (DTTS), Marine Survey Office and Commissioners of Irish Lights. Lighting and marking will be compliant with International Association of Aids to Navigation (IALA) requirements”* and in this regard it is recommended that this should be a specific condition of any licence that may be granted.

There will be no direct discharges of material to the marine environment during the survey works and water quality will not be impacted.

There are no licenced aquaculture sites in or immediately adjacent to the proposed Site Investigation area on the Foreshore and therefore significant impacts on the aquaculture activity are not considered likely.

Rockabill to Dalkey Island SAC is designated for its harbour porpoise community. Bull Island is a known seal haul out site and grey seals occur here. Ireland's Eye is a known seal breeding site. Harbour seals also haul out at Bull Island, Lambay Island and Ireland's Eye. In the absence of appropriate mitigation measures there is a potential for exposure to underwater noise to affect the Rockabill to Dalkey Island SAC harbour porpoise community through disturbance during the site investigations. Similarly, there is a potential for exposure to underwater noise to affect the Bull Island and Ireland's Eye seal populations. It is considered that full compliance with the requirements set out in the "Guidance to Manage the Risk to Marine Mammals from Man-made Sound Sources in Irish Waters" (January 2014) in respect of dredging activity on the foreshore will minimise and mitigate any such interactions with these marine mammals and it is recommended that this should be a specific condition of any licence that may be granted. This guidance, although focussed on mitigation for marine mammal species includes detailed ramp-up procedures which will benefit a wider range of species, including fish, that are able to detect underwater sound pressure.

Conclusions and Recommendations

The MLVC considers that, subject to compliance with the specific conditions set out below, the proposed marine site investigation survey would not have a significant effect on the marine environment, on sensitive marine species or on other legitimate uses / users of the area and it is recommended that a licence be granted

Proposed Specific Conditions

1. The Licensee shall use that part of the Foreshore the subject matter of this licence for the purposes as outlined in the application and for no other purposes whatsoever.
2. The Licensee shall notify the Department of the Housing, Planning and Local Government at least 14 days in advance of the commencement of the works on the foreshore.
3. The Licensee shall ensure that all works are carried out in accordance with the drawings and documents submitted in support of the application.
4. In order to ensure the preservation of underwater archaeological sites and features the Licensee shall engage the services of a suitably qualified archaeologist to monitor all seabed disturbance works. The archaeologist shall be licensed under the National Monuments Acts 1930-2004. Should archaeological material be found during the course of monitoring, the archaeologist may have work on the site stopped, pending a decision as to how best to deal with the archaeology. The Licensee shall be advised by the National Monuments Service of the Department of

Culture, Heritage and the Gaeltacht with regard to any necessary mitigating action (e.g. preservation *in situ*, dive and/or geophysical survey or excavation). The licensee shall facilitate the archaeologist in recording any material found. The National Monuments Service of the Department of Culture, Heritage and the Gaeltacht shall be furnished with a report describing the results of the monitoring.

5. A 100m exclusion zone shall be established around the furthest known extent of all known wrecks with the exception of wreck site at 53 16.200N, 05 56.500W where an exclusion zone of 300m shall be established. The Licensee shall inform the National Monuments Service of the Department of Culture, Heritage and the Gaeltacht in the event that proposed works shall impinge on such exclusion zones.
6. The Licensee shall ensure that all available geophysical data for metocean monitoring equipment locations shall be assessed by a suitably qualified archaeologist to ensure that the proposed works do not negatively impact on locations where there is known or potential archaeology.
7. The Licensee shall ensure that the geophysical surveys are carried out in advance of the marine and intertidal geotechnical works (cone penetration tests, vibrocores and boreholes) taking place. The geophysical data for all proposed geotechnical investigation locations shall be assessed by a suitably qualified archaeologist to ensure that the proposed works do not negatively impact on locations where there is known or potential archaeology.
8. A report summarising the archaeological assessment of the geophysical data, including detailed charts showing the location of the magnetic anomalies, the wreck sites and the sidescan sonar anomalies (debris etc) and their associated exclusion zones in relation to the proposed investigation works shall be forwarded to the National Monuments Service of the Department of Culture, Heritage and the Gaeltacht for review prior to the commencement of each of the following licenced activities,
 - marine geotechnical works,
 - deployment of metocean monitoring equipment, and
 - inter-tidal geotechnical works.
9. The results of the geotechnical investigations shall be assessed by a suitably qualified archaeologist and this assessment should form part of the overall archaeological assessment of any proposed windfarm development.’

10. The Licensee shall arrange the publication of a Marine Notice through the Maritime Safety Directorate giving a general description of operations and approximate dates of commencement and completion of the site investigations.
11. The Licensee shall arrange the publication of Port Marine Notice through the Dublin Port Authority and the Dun Laoghaire Harbour Authority giving a general description of operations and approximate dates of commencement and completion of the site investigations.
12. The Licensee shall arrange the publication of a local marine notice giving general description of operations and approximate dates of commencement and completion of the site investigations
13. The Licensee shall appoint a Fisheries Liaison Officer who shall consult with the SFPA, relevant fishermen's groups and charter boat skippers in order that appropriate actions can be taken to avoid or minimize any interactions with ongoing fishing / angling activities in the area during the course of the investigations.
14. During the course of the near shore survey operations works the Licensee shall ensure that where relevant:
 - a. all necessary precautions are put in place to protect the public in accordance with relevant Health and Safety Legislation;
 - b. existing public access arrangements to the general foreshore area are not impeded by any plant or materials used in connection with the marine survey ,and where relevant this access should be made safe and guaranteed by the provision of appropriate signage/notices/barriers etc. to the satisfaction of the Department of the Housing, Planning, Community and Local Government;
 - c. procedures are adopted to ensure that the survey operations and any works associated therewith are not injurious to fishing, navigation, adjacent lands or the public interest;
15. The Licensee shall be fully compliant with the requirements set out in the NPWS (2014) "Guidance to Manage the Risk to Marine Mammals from Man-made Sound sources in Irish Waters".
16. The Licensee shall ensure that the mitigation measures set out in the document entitled "Appropriate Assessment Screening & Natura Impact Statement - Information for a Stage 1 (AA Screening) and Stage 2 (Natura Impact Statement) AA for the Foreshore Licence for Site Investigation of Dublin Array site and cable corridors and Metocean Data Collection", dated 19th September 2019, prepared by Altemar Ltd, are implemented in full..

17. During the course of the Site Investigation works the Licensee shall engage with the Irish Coast Guard with respect to Navigational Safety Radio broadcasts
18. Marine notice, marking and lighting of moored instrument arrays shall be carried out in consultation with the Department of Transport, Tourism and Sport, Marine Survey Office and Commissioners of Irish Lights. Lighting and marking shall be compliant with International Association of Aids to Navigation (IALA) requirements
19. On completion of the works the Licensee shall ensure that all equipment and materials are removed from the foreshore. .