

Ref: FS006859

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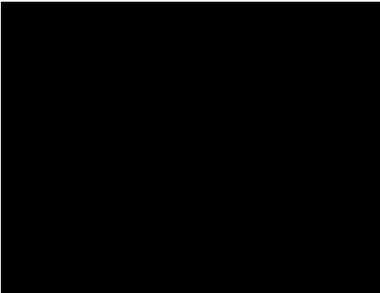
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09 October 2020

Dear Sir/Madam,

Please find attached the formal response to public submissions regarding Foreshore Licence Application Reference FS006859.

Yours sincerely



Director

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## 1 Responses from Members of the Public.

Inis Ealga Marine Energy Park Ltd's (The Applicant) Application for a Foreshore Licence received 124 responses during the extended consultation period.

Of the 124 responses, 89 (or some 70%) are in the form of generic templates (4 templates in total) with minimal editing or changes by the individual respondent.

Whilst a number of submissions are detailed and specific, many comments are at a high level. The tone of the submissions range from very structured and detailed to more personal.

In many cases respondents either equate the Foreshore Licence Application (FLA) with an application for development consent for an offshore wind farm and object on that basis, or simply object to the potential impacts of the possible future wind farm, not the FLA.

A number of objections reference potential impacts on locations significantly further east of The application site e.g. Waterford Greenway, the Gaeltacht area in County Waterford, and the Copper Coast UNESCO Global Geopark which The Applicant would assume would be more sensitive in respect of proposed offshore projects off the Waterford Coast given the distance. However, clearly this is conjecture and The Applicant has addressed the comments on the basis that they relate to the Inis Ealga project.

Topics are as follows:

### 1.1 Visual/Landscape

100 submissions (some 80%) express concerns that wind turbines will be visible from locations along the coast and will negatively impact on the landscape.

### 1.2 Tourism

88 of the submissions (some 70%) express concerns that the presence of a wind farm will negatively impact on tourism in the area. In many cases these concerns are linked with the potential for visual impact and the perception that a wind farm would be close to the shore.

### 1.3 Fishing

50 submissions (around 40%) reference fishing in relation to both the site investigation and the construction and operation phases of a wind farm. These concerns include:

- A perception of a poor understanding of the impacts of offshore wind farms by the scientific community.
- The possibility of damage to fish stocks/populations, primarily by impacting on spawning or nursery grounds as a result of acoustic disturbance, increased sedimentation in the water or the presence of electromagnetic fields.
- The possibility of displacement of fish stocks from traditional fishing grounds.
- Deficiencies in the documentation provided by The Applicant – for example, that the seasonal presence of tuna in the proposed licence area is not covered.
- Exclusion or displacement of fishing vessels from fishing grounds due to the presence of a wind farm.
- Restriction of access to port facilities.
- The risk of entanglement or collision with wind farm infrastructure.
- The risk of 'funnelling' marine traffic into a smaller area which may impact on fishing activities.

- Concerns regarding infrastructure left on the seabed following decommissioning of a wind farm.
- General concerns about a proposed wind farm.
- That the opinion of both The International Council for the Exploration of the Sea (ICES) and The International Commission for the Conservation of Atlantic Tuna (ICCAT) should be sought in relation to impact of geophysical studies.
- The potential impact of geophysical studies on cetaceans and pinnipeds.
- That a full Environmental Impact Assessment should be completed.

Some of the submissions are positive regarding the consultation process undertaken with the fishing industry to date, whilst others are critical or ambivalent.

A number of submissions on this topic raise the question of potential compensation for potential disruption to fishing activities should a proposed wind farm proceed.

#### 1.4 Technical Deficiencies with The Application

16 respondents (around 13%) comment on perceived technical deficiencies with The Application. These include:

- Issues with the indicative programme.
- References to the Irish Sea rather than the Celtic Sea.
- Assertions that The Application should not proceed until the National Marine Planning Framework is finalised.
- Issues around the date on which The Application was submitted.
- Exclusion of inland waterways.
- Assertion that the proposed activities are regarding development of an offshore wind farm and therefore require planning permission from both Cork and Waterford planning authorities.
- Assertion that an Environmental Impact Assessment (EIA) is needed in order to assess the risks associated with The Application.
- Assertion that The Applicant should give formal notice of The Application to every EU state, a list of EU bodies including the EU Council and European Court of Justice and every fish producer in the EU.
- A suggestion that The Application is misleading as it describes the investigation site as being located off the Cork coast whilst it was in fact off the Cork/Waterford coast.
- Assertion that The Application should be regarded as strategic infrastructure and therefore The Application should be submitted to An Bord Pleanála.
- Assertion that the Precautionary Principle has been not been applied in this instance.
- Assertion that the public have been denied access to expert environmental information regarding the opinions and considerations of environmental bodies, including those with statutory environmental protection responsibilities, in respect to this application.
- Assertion that The Application is incomplete because of unassessed impacts of a proposed offshore wind project on the national fishing resource.
- Assertion that The Application is inadequate because it fails to complete an EIA.

## 1.5 Gaeltacht

71 submissions (around 57%) express concern that site investigation will impact on the status of Gaeltacht na nDéise; a Gaeltacht area in County Waterford consisting of the areas of Ring and Old Parish. These concerns are linked with those regarding tourism and the potential for visual impact from an offshore wind farm.

## 1.6 Economic

91 submissions (around 74%) express concerns regarding the economic impacts of a potential wind farm, including potential detrimental impacts to the tourism, fishing and Gaeltacht industries.

## 1.7 Environment

30 submissions (around 24%) express concern for the environment in a general sense with others raising separate concerns relating to fishing and birds/mammals.

## 1.8 Natural Heritage

53 submissions (some 43%) express concerns regarding the potential impact of an offshore wind farm on the natural heritage of the surrounding area.

## 1.9 Greenway

38 submissions (~31%) express concerns about the potential detrimental effect that an offshore wind farm could have on the ability to enjoy the Waterford Greenway (which stretches between the city of Waterford and Dungarvan).

## 1.10 Birds and Marine Mammals and Protected Areas

25 submissions (around 20%) express concerns regarding birds and marine mammals which use the site and nearby areas, including an SPA near to the site. In some cases, the concerns relate to the investigation work whilst others relate to the construction and operation of a wind farm.

- Impact on nearby protected areas.
- Impact of noise generated by a wind farm.
- Risk of bird collisions with a wind turbine.

## 1.11 Noise

7 submissions (~5.5%) outline fears of noise from investigative work and construction of an offshore wind farm, including noise during the operation of an offshore wind farm which may cause disturbance or have an impact on the health of residents. A number of these submissions refer to experience with onshore wind turbines.

## 1.12 Proximity

73 submissions (some 59%) raise concerns over the proximity of an offshore wind farm to the coast, particularly since the proposed offshore wind farm, is proposed to have floating foundations. In some cases, these concerns pertain to the potential for visual impact on the tourism sector. Other submissions suggest that the state ban offshore wind farm projects within specific distances from the shoreline. Some respondent's express concerns about impacts on the residential property market.

## 1.13 Lack of Consultation

18 of the submissions (14.5%) express dissatisfaction with the level of consultation to date. One submission expresses concern that there has been no public consultation to date.

### 1.14 Cumulative Impact

4 responses (~3%) highlight the fact that several offshore wind projects have been proposed along the south coast of Ireland and that the cumulative impact of these projects has not been addressed to date.

### 1.15 Legal Validity and Completeness

14 submissions (some 11%) describe concerns regarding elements of The Application which relate to The Applicant's name. In some cases, the submissions challenge the process for applying for a foreshore licence for this type of activity or outline additional steps which they believe are required.

### 1.16 Timelines

14 responses (~11%) outline issues with the timelines described in the application for various elements of the site investigations.

### 1.17 Ports/Shipping/Dumping

Of the 2 submissions that mention ports/shipping or dumping at sea, one submission highlights the potential for interference of investigation activities with the daily activities and static collision hazards within the Port of Cork including shipping traffic, navigation aids, berths and dumping at sea activities. The submission requests direct communications where such interference is possible, in order to avoid issues. Another submission highlights the limited access to harbour facilities at Helvick Quay.

### 1.18 Natura Impact Statement (NIS) Deficiencies or Inaccuracies

12 respondents (9.5%) suggest that there are deficiencies relating to the Natura Impact Statement (NIS) which accompanies the Foreshore Licence Application. These are summarised as follows:

- Spawning grounds in the application area are more important than stated in the NIS.
- Spawning and nesting of prawns in the application area is omitted.
- No examination of the risk of injury and disturbance to fish stocks from geophysical surveying.
- Mitigation of risk to the biogenic reef is given inadequate consideration.
- Certain species are more common in the application area than stated by the NIS.
- The inclusion of parameters describing the potential for injury and other negative impacts to mammals from noise related to the application activities implies that The Applicant believes that such injuries and impacts will occur.
- Assertion that the application will cause significant adverse impacts to protected habitats and/or species and accordingly, the application must be refused.

### 1.19 Other/Miscellaneous

4 submissions include topics which are not mentioned by other respondents. These include a concern that a local architecture business will be impacted if a wind farm is visible from potential sites for residential development. Another submission is concerned with elements of the National Marine Planning Framework and the consultation process supporting that piece of policy. The same submission is also concerned with the impact on the Copper Coast UNESCO Global Geopark. One submission suggests that all stakeholders should be held with equal importance. One submission asserts that his home will become completely worthless as a result of the construction of the wind farm.

## 2 Response to Input from Members of the Public

### 2.1 Visual/Landscape

Each of the submissions relate to the construction and operation of an offshore wind farm. The current application pertains only to site investigation activity under the Foreshore Licence Application. All activities relating to the current application are temporary in nature. Visual impacts will be extremely limited in nature; predominantly limited to minor equipment deployment and vessel movements.

However, The Applicant recognises the importance of addressing potential visual impacts (particularly from potential wind turbines) for stakeholders and will undertake a detailed analysis of the potential visual impact for the Inis Ealga offshore wind farm during the consultation and Environmental Impact Assessment (EIA) for the Development Consent.

### 2.2 Tourism

Responses that reference the tourism industry voice specific concerns about the effect of visual impact on the tourism industry. Clearly concerns of the potential for visual impact and tourism impacts are closely related. As discussed in Section 2.1 the current application pertains only to site investigation activities which are both temporary in nature and limited.

A smaller number of responses voiced concerns regarding the impact on recreational activities such as sailing, recreational fishing and other sea-based activities. Small areas of the application area will experience some restrictions or disruption at certain times during the site investigation work, but these restrictions will be temporary in nature and localised. Where required, notices to mariners will be issued by the survey contractor requesting that vessels keep a safe distance from the works where appropriate. Disturbance to any recreational users will be temporary.

Beyond the FLA, The Applicant recognises the concerns of the tourism industry over potential impacts on visitor numbers resulting from the presence of a wind farm and will engage with the industry to address these concerns and undertake a detailed analysis of the potential socioeconomic impacts, including tourism, during the Environmental Impact Assessment.

### 2.3 Fishing

In order to address specific concerns and recognising the importance of the fishing industry to the coastal communities and economy as a whole The Applicant has appointed a specialist fisheries liaison officer (FLO) (through Fisheries Liaisons Ltd) to assist in the early engagement process and to provide technical feedback on fisheries concerns raised.

Issues to be addressed are listed and responded to below:

#### Fish Stocks

- The possibility of damage to fish stocks/populations, primarily by impacting on spawning or nursery grounds through acoustic disturbance, increased sedimentation in the water or the presence of electromagnetic fields.
- The possibility of displacement of fish stocks from traditional fishing grounds.

**Response:** *Potential effects on fish will be limited to disturbance from underwater sound generated by the vessel and survey equipment. Most sound generated by the geophysical survey is likely to be at frequencies above the auditory capacity of fish. Fish may avoid the survey area once operations have started but will not experience a significant effect other than*

*temporary displacement from the immediate area surrounding the survey activity. Any loss of individuals (adults or juveniles) within the immediate area of the survey is considered to be unlikely and given the wider geographic extent of the spawning and nursery areas, the effect will be slight. Therefore, the effects of the marine survey on commercial fish will be temporary, short-term and negligible.*

*The sub bottom profiler used during the proposed survey will only target the top ten's of meters of sediments. Seismic equipment used in the oil and gas industry is a lot more powerful, targeting hundreds of meters of sediment. Therefore, sounds generated from the proposed survey will be less intense and less harmful than sounds generated from oil and gas seismic surveys.*

For the sake of completeness in this regard we also note the comments from both Marine Institute and Department of Agriculture Food and Marine:

*The response of the Marine Institute states that no significant impact is anticipated as a result of the proposed activities.*

*The response of the Department of Agriculture Food and Marine states that the site investigations as proposed will not have a significant impact on the marine environment in the survey area.*

Other wind farm related issues regarding fishing and fishing activity impacts

- Deficiencies in the documentation provided by The Applicant – for example, that the seasonal presence of tuna in the proposed licence area is not covered.
- A perception of a poor understanding of the impacts of offshore wind farms by the scientific community.
- Exclusion or displacement of fishing vessels from fishing grounds due to the presence of the proposed wind farm.
- The risk of entanglement or collision with proposed wind farm infrastructure.
- The risk of 'funneling' marine traffic into a smaller area which may impact on fishing activities.

***Response:*** *As discussed in Section 2.1 the current application pertains only to site investigation activities which are temporary and short term in nature. The five concerns above reference the possible impacts on fishing activities due to the presence of a wind farm which is not pertinent to this application.*

*It is acknowledged that a degree of temporary displacement of fishing activity may result during some survey work particularly during towing of equipment and The Applicant is committed to engaging with the fishing community to minimise disturbance as far as possible and to engage on discussion of potential impacts in an open manner. The Applicant will give timely notice to all relevant bodies before commencement of survey works.*

- Concerns regarding infrastructure left on the seabed following decommissioning of a wind farm.

***Response:*** *As discussed in Section 2.1 the current application pertains only to site investigation activities which are temporary and short term in nature. The concerns above reference the potential impact of the decommissioning of a wind farm which is not pertinent to this application.*

- General concerns about a proposed wind farm.

**Response:** As discussed in Section 2.1 the current application pertains only to site investigation activities which are temporary and short term in nature. The concerns above reference the construction of a wind farm which is not pertinent to this application.

- Access to port facilities.

**Response:** As discussed in Section 2.1 the current application pertains only to site investigation activities which are temporary in nature. Individual survey vessels have no potential to block access to port facilities.

- Opinion of both ICES and ICCAT should be sought in relation to impact of geophysical studies.

**Response:** The response from the Marine Institute with regard to this FLA (which is available from the Department of Housing, Planning and Local Government) states that The Marine Institute is satisfied that the site investigation as proposed, will not have a significant impact on the marine environment in the survey area and will not have a significant impact on other legitimate uses / users of the area and therefore the Marine Institute has no objections to a licence being granted. The Marine Institute carry out all commercial fisheries surveys on behalf of the Irish State which are included in all ICES and ICCAT reports. The response from the Marine Institute does not include the need for an ICES and ICCAT report.

Going forward (and beyond the FLA) The Applicant will be working closely with the Marine Institute and other Stakeholder to ensure compliance.

- A full EIA should be completed

**Response:** There is no requirement to undertake an assessment on commercial fisheries for a site investigation application other than to describe the potential likely interaction and measures proposed to minimise inconvenience to other users.

The Environmental Impact Assessment Report (EIAR) Commercial Fisheries Chapter will be informed through desktop studies (i.e. ICES block landings data) and consultation.

## 2.4 Technical Deficiencies with The Application

In order to address specific technical concerns, The Applicant has provided technical responses:

- Issues with the indicative programme.

**Response:** With respect to comments on the date of works, it is acknowledged that the proposed start dates for works has passed, however The Application stated that work would be undertaken within five years of licence award. Indicative dates were provided to show a proposed programme should consent be forthcoming. To provide worst-case assessment, the NIS assumed that works would be carried out between April and October in any one of the 5 years. The conclusions of the assessment are therefore valid if there is a delay to start dates and The Applicant disagrees that an updated or new application requires submission.

- References to the Irish Sea rather than the Celtic Sea.

**Response:** Information for the environmental baseline is primarily sourced from the following references and these sources cover both the Irish and Celtic Seas as a whole. The Applicant acknowledges the typo on page 22 of the NIS which should have read Celtic Sea but the information in The Application is a correct representation of the area.

- Irish Offshore Strategic Environmental Assessment (IOSEA) 5 (DCCAE 2015);
  - Estimates of cetacean abundance in European Atlantic waters in summer 2016 from the SCANS-III aerial and shipboard surveys (Hammond et al 2017); and
  - Ireland’s Marine Atlas (Marine Institute 2019).
- Assertions that foreshore licence investigation should not proceed until the National Marine Planning Framework is finalised.

**Response:** Concerns regarding the National Marine Planning Framework and the other pieces of policy and regulation which are either in place or expected to be enacted are best managed through the relevant process. These concerns can be considered to be beyond the scope of the consultation process for a site investigation licence.

- Issues regarding the date on which The Application was submitted.

**Response:** The purpose for the recording of the dates is to merely record when correspondence was received and subsequently acted on.

- Exclusion of Inland waterways.

**Response:** The Applicant submits that this legislation has no relevance to the application. Specifically, a number of the public responses contend that the subject area of the application is not confined to sea areas situated “**below the Baseline**”. This premise informs the assertion that the application must, therefore, encompass Inland Waters, and based upon that flawed conclusion, The Applicant, in addition to making this application or otherwise, is obliged to make a planning application(s) to the relevant planning authorities.

The concept of the “Baseline” is of no relevance to the application. The term “Baseline” does not appear in the Act at all but, rather, is a concept and term defined in section 85 of the Sea Fisheries and Maritime Jurisdiction Act, 2006 (“SFMJA 2006”). The SFMJA 2006 was promulgated to achieve a number of various purposes including the consolidation of a diverse array of acts relating to the jurisdiction of the sea. It is notable that the Foreshore Act, 1933 does not appear in the list of acts referred to in the SFMJA 2006. In short, the concept of “the Baseline” and, more broadly, the contents of the SFMJA 2006 have no relevance to the application. The relevant area of the sea the subject of the application is the Foreshore which is defined in the Act as “the bed and shore, below the line of high water of ordinary or medium tides, of the sea and of every tidal river and tidal estuary and of every channel, creek, and bay of the sea or of any such river or estuary...”.

- Assertion that the proposed activities are regarding development of an offshore wind farm and therefore require planning permission from both Cork and Waterford planning authorities.

**Response:** *The current application pertains to minimally invasive site condition studies; it is not an application for permission to develop a wind farm, which might fall under Schedule 5 of the Planning and Development Regulations 2001 – 2009. With this in mind, there are no sustainable grounds for the contentions and/or objections to the validity of The Application.*

*The current application pertains only to a site investigation and as such there is no justifiable legal or factual basis to found an argument that the provisions of the various Planning Acts, including the Planning and Development (Strategic Infrastructure) Act, 2006, should, or legally could, apply to The Application.*

- Assertion that The Applicant (Inis Ealga Marine Energy Park Ltd) should give formal notice of The Application to every EU state, a list of EU bodies including the EU Council and European Court of Justice and every fish producer in the EU.

**Response:** *The Applicant is not aware of any legal basis or mechanism whereby The Application may be stalled pending some form of ad hoc notification of the application to various Member States as suggested in some of the public responses.*

- A suggestion that the application is misleading as it describes the investigation site as being located off the Cork coast whilst it was in fact off the Cork/Waterford coast.

**Response:** *The site investigation area is largely off the Cork coast and its location is clearly illustrated in the mapping provided. The commentary does not have any material impact on the understanding of the location of proposed FLA.*

- Assertion that the application should be regarded as strategic infrastructure and therefore The application should be submitted to An Bord Pleanála.

**Response:** *The current application pertains only to a site investigation and as such there is no justifiable legal or factual basis to found an argument that the provisions of the various Planning Acts, including the Planning and Development (Strategic Infrastructure) Act, 2006, should, or legally could, apply to the application.*

- Assertion that the Precautionary Principle has been not been applied in this instance.
- Assertion that the public have been denied access to expert environmental information regarding the opinions and considerations of environmental bodies, including those with statutory environmental protection responsibilities, in respect to this application.

**Response:** *As part of the application process The Applicant has sought the advice and opinion of all relevant prescribed bodies, namely The Department of Agriculture, Food and Marine; The National Parks and Wildlife Service; The Marine Institute; The Marine Survey Office; Inland Fisheries Ireland. Responses of these prescribed bodies can be obtained from The Department*

of Housing Planning and Local Government. The Applicant is bound to respond to and act on all responses.

- Assertion that the application is incomplete because of unassessed impacts of the proposed offshore wind project on the national fishing resource.

**Response:** As discussed in Section 2.1 the current application pertains only to site investigation activities which are temporary and short term in nature. The concern above makes reference to the possible impacts on fishing activities due to the presence of a wind farm which is not pertinent to this application.

- Assertion that an Environmental Impact Assessment (EIA) is needed in order to assess the risks associated with the application.
- Assertion that the application is inadequate because it fails to complete an Environmental Impact Assessment (EIA).

**Response:** This Foreshore Licence Application is sought solely for the proposed site investigation works which will be a temporary and short-term activity. The site investigation works do not require an EIA and therefore there is no requirement for EIA screening. The proposed construction phase of any potential wind farm will be subject to a full EIA and therefore a full screening assessment and consultation process will be undertaken as required by the appropriate legislation at the time of that application.

## 2.5 Gaeltacht

With respect to specific concerns about the impact on the Ring Gaeltacht. Primarily these concerns relate to the potential for visual impact and socio-economic impacts of a potential wind farm on the Gaeltacht area. As discussed above, the current application pertains only to site investigation activities associated with a FLA which are temporary in nature and will have insignificant impact short-term or otherwise on the surrounding Gaeltacht area.

However, The Applicant recognises the potential for impacts of any future wind farm development on the Ring Gaeltacht and will carry out a detailed analysis of the potential socioeconomic impacts, including the Ring Gaeltacht, during the consenting process. Engagement with this community will be a key part of our stakeholder communication.

## 2.6 Economy

With respect to references to the impact on the economy of the surrounding area including the fisheries industry with specific concerns around livelihoods and employment. As discussed in Section 2.1 the current application pertains only to site investigation activities which are temporary and short term in nature and will not significantly impact the socio-economic situation at the application site.

Again, the applicant recognises the potential for impacts of any future wind farm development with on the economy (whether positive or negative) and will undertake a detailed analysis of the potential socioeconomic impacts, including on the fishing industry, during the consenting process. Engagement with those with economic interests (fishing/tourism and beyond) will be a key part of our stakeholder communication.

## 2.7 Environment

The current application is for early site investigation works which will be both temporary and short term in nature; predominantly limited to minor equipment deployment and vessel movements. The activities form part of the works necessary to assess the potential for impact on the surrounding environment.

Beyond the FLA surveys, the proposed construction (and operation/decommissioning) phase of the potential wind farm will be subject to a full EIA and therefore a full screening assessment as required by the appropriate legislation at the time of assessment.

## 2.8 Natural Heritage

The current application pertains only to a site investigation under an FLA and all activities relating to the current application are both temporary and extremely limited in nature, predominantly limited to minor equipment deployment and vessel movements. Any impacts on Natural Heritage would therefore be minimal and temporary.

## 2.9 Waterford Greenway

The current application pertains only to a site investigation under a FLA and all activities relating to the current application are both temporary and extremely limited in nature, predominantly limited to minor equipment deployment and vessel movements. Any impacts (presumably visual) on the Waterford Greenway would therefore be minimal and temporary.

The Applicant recognises the importance of the Waterford Greenway and will include analysis of the potential impacts an offshore wind farm may have on the greenway during the site consenting process.

## 2.10 Birds/Mammals

The current application pertains only to a site investigation under a FLA and all activities relating to the current application are both temporary and extremely limited in nature, predominantly limited to minor equipment deployment and vessel movements. Effects on marine mammals and birds likely to be present in the area will be negligible as marine surveys works will be short term and transient.

**Birds:** As stated in the NIS which accompanied the application, *the physical presence of the survey vessels could cause a small degree of disturbance to birds in the vicinity of the works. Whilst birds present on the surface waters near the survey vessel could be temporarily displaced from their chosen feeding/resting location, they are likely to readily move to another nearby location. Given the short duration of the operations with the vessel moving steadily forward along the survey route any disturbance at a given location is likely to be minimal. Combined with the existing shipping activity in the region, the introduction of the survey vessel(s) is unlikely to be felt against typical fluctuations in background levels. Therefore, most birds are unlikely to be significantly disturbed.*

**Mammals:** The NIS which accompanies the Foreshore Licence Application concludes that *all cetaceans and pinnipeds are at risk of injury or disturbance from the geophysical survey. However, it goes on to discuss that this risk is extremely small with respect to injury due to the distances involved. Although*

*marine mammals could experience noise levels sufficient to cause auditory injury, evidence (Stone and Tasker 2006, Stone et al. 2017) demonstrates marine mammals move away from the survey area.*

*With respect to disturbance effects, evidence of the effects of geophysical surveys on cetaceans is limited but BEIS (2018) summarises the results of a study carried out in the Moray Firth. The study observed responses to a 10-day 2D seismic survey which exposed a 200km<sup>2</sup> area to noise throughout that period. A relative decrease in density of harbour porpoise within 10km of the survey vessel was reported, but effects were brief with marine mammals returning to the area within 19 hours of cessation of activities.*

*The closest European site designated for a marine mammal (Saltee Island SAC - designated for Grey Seals) lies 51km from the application area. As the zone of influence from the survey will not overlap with the European sites, The Applicants screening concluded that Appropriate Assessment would not be required. It is recognised that marine mammals are mobile species and marine mammals from European sites may be present within the application area but the proposed geophysical survey will be transient and short-term. Marine mammals will have sufficient time to avoid the survey vessels, and it is unlikely that they will swim over operating equipment. Marine mammals may actively avoid the activity but will return to the area once the vessels have passed through. The proposed works will therefore not act as a barrier to movement or cause significant short or long-term disturbance.*

*The Applicant has committed to following the DAHG (2014) 'Guidance to Manage the Risk to Marine Mammals from Man-made Sound Sources in Irish Waters'. This includes pre-start monitoring and soft-start procedures. These measures are industry best practice, and it is anticipated that they will be included as a licence condition on the Foreshore Licence.*

As part of its process The Applicant will engage with the relevant stakeholders and will get advice from its specialist consultants to ensure impacts on marine mammals and birds even during the limited FLA activities.

## 2.11 Noise

**Human impacts:** The responses that highlight specific concerns with regards the potential for noise from wind turbines reference experiences with onshore wind farms and relate to the operation of terrestrial wind turbines. The current application pertains only to site investigation activities associated with the FLA which are temporary in nature not to the operation of wind turbines.

Whilst the FLA survey operations will generate noise from a variety of sources, including vessel activity; side scan sonar; multi-beam echosounder; sub bottom profiler; geotechnical borehole sampling; and vibrocore and Cone Penetration Test sampling, it is not anticipated that any of these activities would create noise that would be audible on land to any degree.

**Fish and Mammals:** The potential for underwater noise to impact on fish and mammal populations is discussed in the application documentation. The NIS that accompanies the Foreshore Licence Application concludes that there will be no significant adverse effects on any fish or marine mammals from any of the European sites assessed. Effects on other marine mammals and fish likely to be present in the area will be negligible as marine surveys works will be short term and transient and as noted above The Applicant is committing to minimising any impacts even during the FLA surveys on birds and marine mammals.

The comment from Irish Whale and Dolphin Group (IWDG) regarding the frequency and source levels of sub-bottom profilers has been taken into account and will be considered for future applications of this nature and during the construction phase of any future wind farm. It should be noted that the

example provided by the IWDG is for a sub-bottom profiler with a penetration depth of up to 100m. The sub bottom profiler used during the proposed survey will target only the top 10m or so of sediments. Seismic equipment used in oil and gas industry is a lot more powerful, targeting hundreds of meters of sediment.

The UK Joint Nature Conservation Committee (JNCC) Marine Noise Register closeout entry for a marine survey with an almost identical scope of work was checked to see actual recorded sound values for a sub-bottom profiler. The recorded sound pressure level was 194 dB re 1 $\mu$ Pa (peak) with a frequency of 2.5 hertz. The sound levels modelled within Appendix A of the NIS are appropriate values for equipment anticipated for this type of survey.

Beyond the FLA surveys and current application process The Applicant recognises the potential for noise impacts during both construction and operation and the need to undertake a comprehensive noise assessment as part of the consenting process for the wind farm proposal.

## 2.12 Proximity

The submissions that reference proximity focus largely on the visual impact of an offshore wind farm, the potential for house prices to be impacted, and a resident's right or ability to enjoy their property. These in essence all relate to the construction and operation of an offshore wind farm not to the FLA in hand and indeed a number of submissions called for a minimum distance from shore for offshore wind farms. These matters lie outside the scope of the FLA survey and application process.

One submission addresses the potential for interference with various nearshore activities which could be construed to relate to impacts from nearshore FLA surveys but the activities relating to the current application are both temporary and extremely limited in nature, predominantly limited to minor equipment deployment and vessel movements. Any potential for impacts on other nearshore activities by virtue of proximity are therefore limited. However, The Applicant is committed to good neighbourly approach and working with other stakeholders as far as practicable to minimise survey impacts.

Overall the effects of any future wind turbine developments proximity to shore (visual impact etc) will be addressed as part of the full consultation and application for development consent but this does not relate to the current FLA survey application.

## 2.13 Lack of Consultation

The Applicant has engaged extensively with the local fishing industry as a key stakeholder in the marine environment and submission of a Foreshore Licence Application has been widely publicised in both Local and National Press. This engagement has indicated the broad outline of what a future possible wind farm project might look like in terms of turbine size, spacing, location and possible interaction with fishing activity etc far beyond the realms of the FLA. Given the early stage of Foreshore Licence Application and future development of an offshore wind farm itself it, would be difficult to undertake a more advanced and detailed meaningful conversation at this stage.

With respect to consultation with key stakeholders in particular, the importance of engagement with the fishing industry as one of the key commercial stakeholders The Applicant has employed a Fisheries Liaison Officer (FLO) to ensure regular and ongoing consultation is undertaken with all the fisheries representative groups and prescribed bodies, and individual fishermen. In fact the number of

responses to the FLA indicate that the messaging and consultation effort undertaken has been successfully distributed and widely delivered.

Going forward The Applicant intends to participate comprehensively with all necessary elements of the various consenting processes associated with a project of this scale and have employed a community and stakeholder liaison manager to focus on this task. The Applicant intends to proactively engage with all stakeholders, including the local community as the application proceeds.

#### 2.14 Environmental Impact Assessment

This Foreshore Licence Application (FLA) is sought solely for the proposed of early site investigation works which will be both temporary and short term in nature and part of the works necessary in order to facilitate and enable completion of an Environmental Impact Assessment (EIA) in the future. The site investigation works do not require an EIA and therefore there is no requirement for EIA screening.

Beyond the FLA surveys, the proposed construction (and operation/decommissioning) phase of the potential wind farm will be subject to a full EIA and therefore a full screening assessment as required by the appropriate legislation at the time of assessment.

#### 2.15 Cumulative Impact

The Stage 1 Appropriate Assessment of the NIS highlighted that there is potential temporal and spatial overlap with surveys for the Energia windfarm at Helvick Head. However, the Stage 2 – NIS concluded that, providing that the proposed mitigation measures are implemented, there will be no adverse effect on the integrity of the Helvick Head to Ballyquin SPA and Mid-Waterford Coast SPA, either alone or in combination with other plans or projects.

#### 2.16 Legal Validity & Completeness

**Validity:** A number of the submissions received concern the validity of the application; including the overtaken timelines of the various studies proposed, alleged deficiencies in the Natura Impact Statement, purported or potential impact with other areas of Governmental and/EU policy as it pertains to the sea. The Applicant suggests that these issues should be considered in the context of the Minister's determination, which is bound within section 3 of the Foreshore Act, 1933 (as amended) ("the Act"). The opinion of The Applicants Legal Team, on behalf of The Applicant, is that the application is complete "subject to the submission of updated timelines...".

There is no known legal basis to consider the application on a "whole project assessment" which might, therefore, make it necessary to consider the application in the context of the Planning Acts and/or associated Regulations where the application is for a Foreshore Licence, which must be considered under the Foreshore Act, 1933 (and, specifically, section 3).

Several of the public responses received suggest that the identity of The Applicant, Inis Ealga Marine Energy Park Limited, is open to reasonable mistake or misinterpretation; however, The Applicant maintains that the naming of the natural person in the application, Clodagh McGrath (an employee of DP Energy Ireland at the time) making an application on the behalf of The Applicant and the provision of her role is clear.

**Completeness:** This Foreshore Licence Application is sought solely for the proposed site investigation works which will be a temporary and short-term activity. The proposed construction phase of any future offshore wind farm will be subject to a full Environmental Impact Assessment (EIA) as per the appropriate legislation at the time of that application. As part of the EIA process, the construction phase of an offshore wind farm will be subject to Screening, Scoping and Consultation.

All appropriate licence and planning applications will be sought at the construction/development phase.

This Foreshore Licence Application is for works from Mean High Water Spring to the 12nm limit. The Marine Planning Policy and Development Unit have stated that applications for a Foreshore Licence should apply only to the Foreshore area itself. The A3 Licence map showing the boundary of The Application was subject to validation by the Marine Planning Policy and Development Unit and deemed acceptable.

The Irish Foreshore Acts 1933 – 2011 require that before the commencement of any works or activities on State-owned foreshore a license or lease must be obtained from the Minister of Agriculture, Food and the Marine. Therefore, The Applicant has applied for a Foreshore Licence for site investigation works. No other licence is required for site investigation activities.

There are currently no Marine Protected Areas (proposed or designated) under the Marine Strategy Framework Directive (2008/56/EC) within the search area for these site investigation works.

## 2.17 Timelines

The Application shows indicative timelines for the various activities proposed. It is acknowledged as noted by several submissions that a number of the dates have been superseded. However, The Applicant contends that it is the seasonality of the surveys which is of importance not the specific year in which these activities are undertaken. All survey works will be carried out within 5 years following licence award. The schedule of activities will be adjusted with respect to external constraints such as the timing of the licence award, the availability of suitable vessels, the appropriate time of each type of investigation activity and the requirements of the site investigation.

## 2.18 Ports/Shipping/Dumping

In respect of concerns over interactions with port, shipping and dumping activities The Applicant believes that these can be managed successfully with appropriate engagement and consultation prior and during operations. The Applicant is committed to engaging proactively with the owners and operators of ports and vessels in the area, along with other users of the marine environment.

A non-exhaustive list of measures to be taken include:

- Notifying stakeholders of the date of commencement of activities prior to commencement.
- Ensuring all necessary Health and Safety guidelines, regulations and best practice are followed.
- Use of appropriate and adequate signage, lighting, notices, barriers and markers at locations to identify site investigation locations.
- Well considered methods, procedures and processes to ensure site activities do not impact or injure others or the environment supported by appropriate risk assessments.
- Ensuring all vessels have appropriate certification from the Marine Survey Office.

- Committing to the removal of all equipment and materials used during the site investigations.
- Issuing Marine Notices where required.
- Utilising appropriate lighting and communications equipment and procedures on all vessels.

## 2.19 Natura Impact Statement Deficiencies or Inaccuracies

The Stage 1 Appropriate Assessment of the Natura Impact Statement (NIS) assessed 19 Natura 2000 sites that were either within the direct zone of influence of the proposed surveys or contain mobile qualifying Interest features which could potentially travel into the application area. Of these 19 sites, assessment for likely significant effects concluded that for two sites (Helvick Head to Ballyquin SPA and Mid-Waterford Coast SPA) it cannot be ruled out that the proposed survey works either alone or in-combination with other plans and projects will not have a likely significant effect and that Stage 2 Appropriate Assessment is required. The Stage 2 NIS concluded that providing that mitigation measures are implemented there will be no adverse effect on the integrity of the Helvick Head to Ballyquin SPA and Mid-Waterford Coast SPA, either alone or in combination with other plans or projects.

### 2.19.1 Environmental Baseline – Referencing Irish Sea

Information for the environmental baseline is primarily sourced from the following references and these sources cover both the Irish and Celtic Seas as a whole. We acknowledge the typo on page 22 of the NIS which should have read Celtic Sea but the information in the application is a correct representation of the area.

- Irish Offshore Strategic Environmental Assessment (IOSEA) 5 (DCCA 2015);
- Estimates of cetacean abundance in European Atlantic waters in summer 2016 from the SCANS-III aerial and shipboard surveys (Hammond et al 2017); and
- Ireland’s Marine Atlas (Marine Institute 2019).

### 2.19.2 Environmental Baseline - Fish Spawning

The NIS provides a high-level baseline description of the fish ecology of the region. This is to provide context for the assessment which focuses on fish species listed in Annex I of the Habitats Directive which are Qualifying Interests of a European site. The NIS does not require an in-depth assessment of effects on all fish species. It is therefore not deficient.

### 2.19.3 Survey Equipment

The survey contract has not yet been awarded; therefore, it is not possible to ascertain what vessels and equipment will be used. The NIS is assessed on the worst-case footprint and sound generation of any equipment and vessels used. As detailed within the application, it is assumed that up to two boreholes will be drilled at the chosen landfall area. At this stage it is not known where the export cables will make landfall and it is therefore assumed that boreholes could be drilled at any onshore point of the Foreshore Licence Application area. The assessment of impacts from borehole works within the NIS has also been carried out on this assumption.

### 2.19.4 West Connacht Coast SAC

The search area used for marine mammals was the Celtic and Irish Sea Management Unit. West Connacht Coast SAC is not located within this management unit. There is evidence that large-scale movements may be undertaken by bottlenose dolphin around the Irish Coast (DEHLG 2009) and it is feasible that bottlenose dolphin may be present from the West Connacht Coast SAC. However, as disturbance from the geophysical survey will be limited in extent and duration, there will be no overlap

with the site and there is sufficient space in the surrounding environment for animals to temporarily relocate there will not be a likely significant effect on the site integrity.

#### 2.19.5 Biogenic Reef

The application area does not intersect any sites designated for the protection of Annex I Reef. The marine survey will be undertaken to characterise the seabed and map the distribution and extent of marine benthic habitats (including sensitive habitats such as biogenic reefs). Prior to any grab sampling a drop-down camera will be used to determine if there are any sensitive habitats (e.g. reef). No sampling (including boreholes) will be undertaken on reef habitat. The reef noted in Table 3-2 of the NIS is within a subtidal area; boreholes will be retrieved at the landfall sites.

#### 2.20 Other/Miscellaneous

Concerns relating to the impact of the proposed offshore wind project on the local area and areas further to the East will be fully addressed during the consenting process which will have a formal consultation process accompanied by extensive engagement by the developer with all stakeholders.

## Conclusion

The application for a Foreshore Licence received 124 responses during the extended consultation period which The Applicant contends reflects the outreach effort made and publicity received, albeit it is also noted that some of the consultation responses would appear to relate to potential wind farm activity further East of the Foreshore Licence Application site.

Of the 124 responses, some 70% are in the form of generic templates (4 templates in total) with minimal editing or changes by the individual respondent. This is not uncommon based on experience from onshore wind farms with established concern groups.

In many cases the respondents either equate the Foreshore Licence Application (FLA) with an application for development consent for an offshore wind farm and object on that basis, or simply object to the potential impacts of the possible wind farm, not the FLA. Where the comments or concerns relate to the FLA survey activities The Applicant contends that the application is valid and that all matters have been satisfactorily addressed.

The Applicant intends to continue engagement with stakeholders including statutory bodies, those with commercial interests and the broader community in a transparent and open manner throughout the life of the FLA, and the potential offshore wind farm application.

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