

# Submission HLG 00565-22: FS007188 RWE Renewables Ireland, Site Investigations for the proposed Dublin Array Offshore Wind Farm.

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

AUTHOR: ██████████ (Housing)  
OWNER: ██████████ (Housing)  
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DIVISION: Foreshore  
DECISION BY:

## Final comment

Approved by Minister Burke 29/11/2022

## Action required

Ministerial approval is sought to grant a Foreshore Licence to RWE Renewables Ireland Ltd., under Section 3 of the Foreshore Act 1933, as amended.

## Executive summary

The approval of the Minister is sought to grant RWE Renewables Ireland Ltd a 5 year Foreshore Licence under Section 3 of the Foreshore Act 1933, as amended, to carry out Site Investigations located in the Irish Sea, off the coast of Counties Dublin and Wicklow, to establish cable routes & landfall for the proposed Dublin Array wind farm.

## Detailed information

### 1.0 Overview

RWE Renewables Ireland Ltd (RWE) has applied for a Foreshore Licence and Consent under the Foreshore Act 1933 to carry out Site Investigation (SI) surveys in the application area. RWE are applying for authorisation to undertake a geotechnical and geophysical site investigation for the proposed Dublin Array offshore wind farm development, in addition to ecological and wind, wave and current monitoring. The site is located immediately south of Dublin City in the foreshore adjoining the functional areas of Dublin City Council, Fingal County Council, Dun Laoghaire and Rathdown County Council, Wicklow County Council and extends approximately 17 km offshore and includes the vicinity of the Kish and Bray Banks. The Foreshore Licence application area lies within the 12 nautical mile limit and includes the proposed wind farm array area in the vicinity of Bray Bank (REF: FS006463) and Kish Bank (REF: FS006462).

The potential output of Dublin Array Offshore Wind farm will be circa 600 MW to 900 MW (subject to technical and environmental assessments).

The Foreshore Licence site investigation area has a total area of 112,986.34ha

The survey activities include:

- Geotechnical surveys - to provide further information on ground conditions including soil stability to refine the foundation design, sizing and installation methodology and to finalise cable route and landfall detailed design and installation methodology.
- Geophysical surveys - to provide further detail regarding seabed feature variability and seabed mobility across the site to inform detailed foundation and cable burial design and installation methodologies.
- Wind and metocean monitoring – to provide additional data regarding wind, wave and currents across the proposed site to assist with detailed wind farm design and layout optimisation.
- Ecological monitoring – to collate data on the pre-construction baseline against which to monitor change in the environment.

Further details of the proposed activity are outlined in the application form and associated documents at the Department's web

link:

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

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

## **2.0 Background**

The Dublin Array project was initially developed by Saorgus Energy Ltd a privately-owned Irish company specialising in the development of large wind energy sites in Ireland. In March 2018 innogy Renewables Ireland Ltd (a wholly owned subsidiary of innogy SE) entered into a 50:50 partnership with Saorgus Energy to take the project forward. In July 2020 the global renewable energy portfolios of E.ON and innogy combined to form RWE Renewables. In September 2019 innogy (now RWE) submitted a Foreshore Licence application (**FS007029**) for permission to conduct site investigations, including geophysical survey, associated seabed sampling and deployment of buoy mounted metocean equipment.

## **3.0 Application**

A number of application documents were submitted by RWE:

- ORE Application Form for Site Investigation Licence (**TAB 01**)
- Foreshore Licence Area Map (**TAB 02**)
- Supporting Information Report (**TAB 03**)
- Annex A Co-ordinates of the Proposed Foreshore Licence Area (**TAB 04**)
- Annex B Drawings (**TAB 05**)
- Annex C EIA Screening and Environmental Report (**TAB 06**)
- Annex D Marine Archaeology Assessment (**TAB 07**)
- Annex E Report to Inform Appropriate Assessment Screening (**TAB 08**)
- Annex F Applicant's Natura Impact Statement (**TAB 09**)

## **4.0 Description of Proposed Works**

### **Geotechnical Survey**

The purpose of the geotechnical survey is to provide an understanding of ground conditions to refine the foundation design, sizing and installation methodology and to finalise cable route and landfall design and installation methodology.

Survey techniques will comprise:

- Cone Penetration Tests;
- Vibrocores;
- Boreholes.

The final geotechnical sampling locations will target proposed turbine locations and cable routes and will be selected with the benefit of available geophysical, environmental, engineering and construction data which will be reviewed to optimise engineering design and to avoid anomalies of potential archaeological origin and the presence of sensitive ecological features such as subtidal reef. The sampling locations will be micro-sited where necessary to avoid archaeological or ecological impacts. Should the review of the geophysical data identify areas of paleoarchaeological interest which require further archaeological investigation the sampling locations will be micro-sited to achieve this aim.

### **Cone Penetration Tests (CPTs)**

In-situ cone penetration tests will be carried out across both the array area and the export cable corridor. Up to 61 seafloor CPTs up to an approximate geologically shallow depth of 80m below seafloor are proposed within the array area and 31 CPTs to an approximate depth of 6m below the seafloor in the export cable corridors which extend into the array. Five of the 31 cable route CPTs may be located within the intertidal areas.

In the subtidal locations a CPT rig will be lowered to the seafloor from a suitable vessel by a deck mounted crane or A-frame. An instrumented cone, with a diameter of approximately 40mm, will then be pushed into the seabed at a constant speed. Continuous measurement of the cone end resistance, the friction along the sleeve of the cone and the pore water pressure will be recorded. The cone will then be recovered to the rig and the rig returned to the vessel. The duration of operation at each CPT location within the array area is expected to be up to 6 hours. In the intertidal area a similar process will be undertaken from a tracked vehicle.

### **Vibrocores**

Vibrocores will be taken across the export cable routes which extend into the array. Up to 48 vibrocores, approximately 150 mm diameter and penetration depth of up to approximately 6 m will be taken. Five of the 48 vibrocores may be located within the intertidal areas.

A vibrocore rig will be lowered to the seafloor from a suitable vessel by a deck mounted crane or A-frame. A vibrocore head will be attached to the core barrel and will induce high frequency vibrations in the core liner. The sediment in immediate contact with the core barrel forms a 'liquefied' boundary layer enabling the core barrel to penetrate the sediment strata. A core catcher is attached to the end of the barrel which holds the sediment inside the barrel when withdrawn from the sediments. Each core would have a sediment sample volume of approximately 0.05 m<sup>3</sup>. The expected duration of the vibrocore operation at each location is less than 5 minutes. In the intertidal a similar process will be undertaken from a tracked vehicle.

### **Boreholes**

Up to 61 subtidal boreholes to a geologically shallow depth of 80 m below seafloor are proposed within the array area to target proposed foundation locations.

A borehole is a method of drilling into the seabed to recover samples and enable downhole geotechnical testing to be completed. A drilling head is lowered to the seabed via a drill string with an outside diameter of up to 254 mm and stabilised using a seabed frame. The drill string is then rotated to commence boring. Tools are lowered into the drill string to recover samples or conduct in-situ soil testing. The drilling flush and drill cuttings are largely returned to the vessel and re-used or returned to shore for disposal, however some loss of flush and cutting should be expected. All drilling fluids will be fit for purpose and where possible selected from the 'OSPAR List of Substances/Preparations Used and Discharged Offshore which are considered to Pose Little or No Risk to the Environment'. The offshore boreholes will be left to back-fill naturally. The duration of the operations at each borehole location within the array area is expected to be approximately 48 hours.

Four boreholes are also planned at each of three possible landfall locations (i.e. 12 in total). The nearshore boreholes will be in water depth of 0 to 7 m and will be to a target depth of 45 m below seafloor. The external diameter of the drill pipe will be approximately 100 mm.

### **Geophysical Survey**

The geophysical survey area will comprise of the following survey techniques:

- Bathymetric Survey, (Multibeam Echosounder);
- Side Scan Sonar;
- Shallow Reflection Seismic (Sub-bottom Profiling);
- Marine Magnetometer and gradiometer;
- 2D Ultra-High Resolution Seismic; and
- Refraction (landfalls only).

The geophysical survey will cover a dedicated, narrow corridor over turbine foundation locations, inter-array, and export cable routes to the selected landfall location(s). Survey coverage will be restricted to narrow corridors estimated to be 50 m to 500 m in width, depending on project requirements.

These geophysical surveys are non-intrusive in that they do not cause any disturbance of the sea-bed. They will comply with the requirements as set out in "Guidance to manage the risk to marine mammals from man-made sound sources in Irish waters" (DAHG, 2014) or other updated guidance as agreed with the National Parks and Wildlife Service (NPWS) and with the general requirements of the Underwater Archaeology Unit of the Department of Housing, Local Government and Heritage for a geophysical survey for archaeological purposes.

### **Wind, Wave and Current Measurement**

The FLiDaR (floating light detection and ranging) and wave and current measurement devices selected will be robustly designed and constructed for deployment in hostile marine environments. These devices may be the current devices which are in situ or

replacement devices. The devices will be inspected and maintained as a minimum in accordance with manufacturers recommendations.

Marking, lighting and other navigational safety requirements will be agreed with Irish Lights and the Department of Transport, Tourism and Support, Marine Survey Office prior to deployment and will be compliant with International Association of Aids to Navigation (IALA) requirements.

### **Ecological Monitoring**

Pre-construction ecological monitoring may be required prior to any construction of the wind farm commencing which will be subject to a separate development consent under the Marine Area Planning Act. These surveys can be repeated post construction in order to monitor any change in ecological receptors. A broad suite of activities is included within this Foreshore Licence application and the final scope of ecological monitoring will be agreed in consultation with the appropriate statutory agencies.

### **5.0 Other Relevant Consents and Government Policies**

This application is for the completion of geotechnical and geophysical site investigations and ecological, wind, wave and current monitoring to provide further data to refine wind farm design, cable routing, landfall design and associated installation methodologies for Dublin Array offshore wind farm. (REF: FS006463 and REF: FS006462).

The published Programme for Government has committed to achieving 5GW capacity in offshore wind by 2030 off Ireland's Eastern and Southern coasts. Furthermore, the National Marine Planning Frameworks states that "Proposals that assist the State in meeting the Government's offshore renewable energy targets, including the target of achieving 5GW of capacity in offshore wind by 2030 and proposals that maximise the long-term shift from use of fossil fuels to renewable electricity energy, in line with decarbonisation targets, should be supported. All proposals will be rigorously assessed to ensure compliance with environmental standards and seek to minimise impacts on the marine environment, marine ecology and other maritime users."

The Climate Action Plan 2021 recommits Ireland to the ambition to install 5GW of offshore wind capacity in our maritime area by 2030, and introduces a new objective, that by the same year, up to 80% of our electricity will be sourced from renewables.

In addition to increasing our renewable energy share, these targets will support our carbon emission reduction commitments, meet anticipated increases in domestic electricity demand and increase our security of electricity supply.

### **6.0 Public Participation**

#### **6.1 Public Consultation under Section 19 of the Foreshore Act 1933**

The Foreshore Section of the DHLGH conducted the public consultation. All consultation was undertaken to conform to the requirements of the Section 19 of the Foreshore Act 1933 as amended, Regulation 42 of the European Communities (Birds and Natural Habitats) Regulations 2011 and the European Directive 2003/35/EC (known as the Public Participation Directive or "PPD").

An initial consultation period was held between 18th November 2021 and 18th December 2021. Notices announcing the consultation were published in the Irish Independent, Wicklow/Bray People and The Dublin Gazette newspapers on 17th November 2021.

Application documents were made available throughout the consultation period in:

- Dún Laoghaire-Rathdown County Council, County Hall, Marine Road, Dún Laoghaire, Co. Dublin, A96 K6C9
- Dublin City Council, Civic Offices, Wood Quay, Dublin 8
- Bray Library, Eglinton Road, Bray, Co. Wicklow, A98 W627
- Greystones Library, Mill Road, Greystones, Co. Wicklow, A63 KN52
- Wicklow Library, The Mall, Main Street, Wicklow Town, Co. Wicklow, A67 X504
- Shankill Garda Station, Dorney Court, Shankill, Dublin 18, D18 CD50
- Dún Laoghaire Garda Station, Corrig Avenue, Dún Laoghaire, County Dublin, A96 N299
- Blackrock Garda Station, 15 Sweetman's Avenue, Blackrock, County Dublin, A94 X660
- Clontarf Garda Station, Strandville Avenue East, Clontarf, Dublin 3, D03 FA46
- Irishtown Garda Station, Irishtown Road, Irishtown, Dublin 4, D04 YE33
- Pearse Street Garda Station, 1-6 Pearse Street, Dublin 2, D02 W289
- Howth Garda Station, 8 Dunbo Hill, Howth, County Dublin, D13 YR70
- Wicklow Garda Station, Bachelor's Walk, Wicklow, County Wicklow, A67 HK20

Application documents and notice of the consultation were published in the appropriate locations on the Department's website:

<https://www.gov.ie/en/foreshore-notice/96643-fs007188-rwe-renewables-ireland-site-investigations-for-the-proposed-dublin-array-ore-development/#invitation-for-public-submissions-for-purpose-of-conducting-stage-2-appropriate-assessment-now-closed>

Seventeen public submissions were received **(Tab 10)**, to which the applicant responded **(Tab 11)**.

(Concurrent to the Public Consultation, a Prescribed Body Consultation took place; this is further outlined in Section 7.0 below. Arup also reviewed the 8 observations received during the concurrent Prescribed Bodies Consultation, and the applicant's responses to same:- Prescribed Bodies Observations – (Tab 11) - Applicants Response to Prescribed Bodies Observations – (Tab 12))

ARUP were engaged as Independent Environmental Consultants (IEC). They completed the Screening for Appropriate Assessment technical review on 27 May 2022. **(Tab 12)** It concluded that, a Stage 2 Appropriate Assessment was required as the project, individually or in combination with other plans or projects, is likely to have a significant effect on European sites.

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

- Physical disturbance to the seafloor
- Disturbance due to the physical presence of the survey vessels
- Underwater noise

The IEC concluded that the proposed development, individually or in-combination with other plans or projects, is likely to have a significant effect on the following European sites, in view of the sites' conservation objectives:

Lambay SAC, Rockabill to Dalkey Island SAC, South Dublin Bay SAC, North Bull Island SPA and South Dublin Bay and River Tolka Estuary SPA.

The IEC concluded that, a Stage 2 Appropriate Assessment was required as the project, individually or in combination with other plans or projects, is likely to have a significant effect on the above European sites.

This Screening for Appropriate Assessment technical review, along with all relevant material, was considered by the Department's Marine Environment Advisor who agreed with and accepted the IEC's report and its conclusions.

The Minister, following on from this advice, made an Appropriate Assessment (Stage 1) Screening Determination and concluded that a Stage 2 Appropriate Assessment was required. **(Tab 13)**

#### 6.2 Public Consultation under Section 42 of EC Birds and Natural Habitats Regulations 2011, as amended

As part of the assessment of the foreshore licence application, the Minister has determined, in accordance with Regulation 42(6) of the European Communities (Birds and Natural Habitats) Regulations 2011, as amended, that an Appropriate Assessment was required in respect of the proposed plan or project.

Therefore an additional period of public consultation (second public consultation) ran from between 30 June 2022 and 29 July 2022.

The public notice for the extended period of 30 days appeared in the "Irish Independent" and "Bray & Wicklow People" newspapers on the 30 June 2022. The documents were also made available at the following public locations:

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

-Wicklow Library

Application documents and notice of the consultation were published in the appropriate locations on the Department's website:

<https://www.gov.ie/en/foreshore-notice/96643-fs007188-rwe-renewables-ireland-site-investigations-for-the-proposed-dublin-array-ore-development/#invitation-for-public-submissions-for-purpose-of-conducting-stage-2-appropriate-assessment-now-closed>

During this second Public Consultation, under Section 42 of EC Birds and Natural Habitats Regulations 2011, there was nineteen public submissions made by members of the public, fishers and groups (**Tab 14**), to which the applicant responded, (**Tab 15 & Tab 15A**).

Any member of the public that made a submission in the first period of public consultation was contacted individually to inform them of the second consultation.

## **7.0 Prescribed Bodies Consultation**

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

- Department of Housing, Local Government and Heritage Marine Advisors (Engineering and Environmental)
- Department of Housing, Local Government and Heritage (NPWS)
- Department of Housing, Local Government and Heritage (Underwater Archaeology)
- Department of Agriculture Food and the Marine
- Marine Institute
- Inland Fisheries Ireland
- Marine Survey Office
- Sea Fisheries Protection Agency
- Commissioners of Irish Lights
- Louth County Council

### 7.1 Consultation under S. 19 of the Foreshore Act 1933

During the first consultation period, which ran concurrent to the first Public Consultation period of 18 November 2021 and 17 December 2021, the Department received eight Prescribed Body submissions from Marine Advisor (Environment), Marine Institute, Marine Survey Office, NPWS and Underwater Archaeology Unit, Department of Agriculture, Food and Marine and Inland Fisheries Ireland. Submissions were also received from Dublin City Council and Wicklow County Council. (**Tab 16**)  
The applicant responded to these eight Prescribed Body submissions. (**Tab 17**)

### 7.2 Consultation under S. 42 of EC Birds and Natural Habitats Regulations 2011

During the second consultation period which ran from 30 June 2022 and 29 July 2022, the Department received four Prescribed Body submissions, (**Tab 18**) from Marine Advisor (Engineering), Marine Advisor (Environment), Inland Fisheries Ireland and Commissioner of Irish Lights. These were forwarded to the applicant. There were no objections in principle to the proposed works. The applicant responded (**Tab 19**) to these Prescribed Body submissions.

## **8.0 Environmental Assessment**

The Department's in-house Marine Advisor (environment) provided assistance with regard to the statutory and non-statutory environmental assessments of this Foreshore Licence application. The MA conducted independent assessments of the information provided by the Applicant, having regard to the Habitats Directive, the Birds and Natural Habitats Regulations and the public and prescribed bodies' consultations.

### Environmental Impact Assessment (EIA) Regulations

The submitted application is for site investigations only. The environmental effects of the proposed activities have been considered by the Department's in-house Marine Advisor (environment). Their report forms part of the basis of this assessment and is

considered robust and comprehensive. Prospective environmental effects have been considered as has the received third party submissions. With respect to uses specified under the EIA directive. A number of boreholes are proposed as part of this activity to ascertain the soil conditions in the survey area. The proposed project is for site surveying including boreholes to test the suitability of the sub sea bed conditions. This activity which is to ascertain soil stability does not fall within the classes defined under Annex I or Annex II of the EIA Directive and it is concluded based on the referred to report and the developments outlined in the Annex's of the EIA directive that an EIAR is not required.

#### Screening for Appropriate Assessment (Environmental Assessment)

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

A number of application documents submitted by RWE informed the Screening for Appropriate Assessment.

These were:

- ORE Application Form for Site Investigation Licence **(Tab 01)**
- Foreshore Licence Area Map **(Tab 02)**
- Supporting Information Report **(Tab 03)**
- Annex A Co-ordinates of the Proposed Foreshore Licence Area **(Tab 04)**
- Annex B Drawings **(Tab 05)**
- Annex C EIA Screening and Environmental Report **(Tab 06)**
- Annex D Marine Archaeology Assessment **(Tab 07)**
- Annex E Report to Inform Appropriate Assessment Screening **(Tab 08)**
- Annex F Applicant's Natura Impact Statement **(Tab 09)**

The IEC also reviewed the two submissions received during the initial Public Consultation (Public Consultation under S. 19 of Foreshore Act 1933) held from 18th November 2021 and 18th December 2021.

See:

- Consolidated Public Submissions from s.19 consultation **(Tab 10)**
- RWE's Response to Public Submissions from s.19 consultation **(Tab 11)**

The IEC also reviewed the eight submissions received during the concurrent Prescribed Bodies Consultation, as well as reviewing RWE's response to all submissions.

See:

- Consolidated Prescribed Body Submissions from s.19 consultation **(Tab 16)**
- RWE's Response to Prescribed Bodied Submissions **(Tab 17)**

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

<https://www.gov.ie/en/foreshore-notice/96643-fs007188-rwe-renewables-ireland-site-investigations-for-the-proposed-dublin-array-ore-development/#invitation-for-public-submissions-for-purpose-of-conducting-stage-2-appropriate-assessment-now-closed>

The IEC completed the 'Screening for Appropriate Assessment' (**Tab 12**) report in May 2022. The Screening for an Appropriate Assessment was undertaken to determine if the proposed project, alone or in-combination with other plans or projects, was likely to have significant effects on any European sites. This process was carried out in accordance with the Habitats Directive and to the European Communities (Birds and Natural Habitats) Regulations 2011 and is consistent with national (OPR 2021) and EU (DEHLG 2010) guidance.

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

- Physical disturbance to the seafloor
- Disturbance due to the physical presence of the survey vessels
- Underwater noise

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A total of 44 European sites together with their site specific conservation objectives were considered. Using the precautionary principle, significant effects of underwater noise on marine mammals from the geophysical surveys could not be excluded. Similar works in this area by the Offshore Renewable Sector means in-combination effects from man-made underwater noise cannot be excluded. Therefore a Stage 2 Appropriate Assessment was required.

The Department's Marine Advisor (Environment) drafted the Screening Determination for Appropriate Assessment which was approved and signed by the Minister on 23rd June 2022 (**Tab 13**)

#### Appropriate Assessment

The Appropriate Assessment Screening process determined that likely significant impacts as a result of underwater noise from geophysical surveys on Annex II species of marine mammals from four SACs and SPAs could not be rule out without mitigation. The possibility of significant impacts from disturbance to the seafloor to two Annex I marine habitats at one SAC. Therefore a stage 2 Appropriate Assessment was required.

The IEC completed an Appropriate Assessment Report, (**Tab 20**) and identified the mitigation measures required to ensure that the proposed site investigation works, individually or in combination with other plans or projects will not adversely affect the integrity of any Europeans Site.

The Marine Advisor's Environmental Assessment and Determinations Report of 28th September 2022, considered all the information submitted in support of this application and accepts the the conclusion and recommendations. (**Tab 21**)

On 24th November 2022, the minister approved the Appropriate Assessment and Conclusion and signed the Conclusion and Determination Statement. (**Tab 22**)

The MLVC stated that the Consent Authority (DHLGH) must publish this Appropriate Assessment Conclusion Statement and Determination as part of their obligations under the Directive.

#### Risk Assessment for Annex IV Species

Article 12 of the Habitats Directive (92/43/EEC) affords strict protection to those species listed in Annex IV, wherever they occur. The applicant provided an Annex IV Risk Assessment report (**Tab 23**). It concluded that, with the implementation of mitigation measures:

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

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

The IEC has conducted independent assessments of the information provided by the Applicant, having regard to the Habitats Directive, EIA Directive, and the public and prescribed bodies' consultations and provided a Annex IV Risk Assessment report. (**Tab 24**)

The Department's Marine Environment Advisor considered the application by RWE Renewables Ltd. and the IEC's Screening for Appropriate Assessment Report, agreeing with and accepting this report and its conclusions in the Marine Advisor's Environment Screening Stage Report. (**Tab 25**)



This assessment is separate to that undertaken under Article 6.3.

## **9.0 Estate Management**

All foreshore is presumed state owned unless proven otherwise. In this case there are no known established claims of private ownership of the foreshore at this location and no claims of private ownership were raised during the application and public consultation process; therefore, the foreshore the subject of this application is state owned. Accordingly Section 3 of the Foreshore Act applies for the proposed site investigation. The licence area for this proposed site investigation application is shown on the following map submitted by the applicant:

"Foreshore Licence Site Investigation Area Map" dated 30/09/2021 (TAB 2)

It is considered that from an estate management point of view the location and activities proposed are considered to be acceptable. The SI area covered by this application extends to 112,986.34ha. For clarity the submitted map should be attached to any licence issued. The applicant shall use that part of the foreshore, the subject matter of the application for the purposes as outlined in the application and for no other purposes whatsoever. Where relevant the foreshore and adjacent seashore area shall be restored to its original condition on completion of the works to the satisfaction of the Department of Housing, Local Government and Heritage.

## **10.0 Public Interest**

Section 2 and 3 of the 1933 Foreshore Act, as amended, states that a lease or licence of state foreshore may be granted "If, in the opinion of the Minister, it is in the public interest". As foreshore is a finite and valuable national resource and public amenity, it is important that each plan and project is fully assessed to ensure, that if consented to, it is a sustainable and proper use of that finite and valuable resource. In assisting the Minister to establish if a particular plan or project is in the public interest, the MLVC considered and assessed the following:

It is considered that while taking note that the state owned foreshore is finite resource which must be utilised sustainably, the proposed project is in the Public Interest, as it supports Government policy to support the development of off shore wind power which will allow for increased sustainable energy supply not only environmentally but also from a security point of view.

## **11.0 MLVC Assessment and Conclusions**

The Marine Licence Vetting Committee (MLVC) is a non-statutory multi-disciplinary committee which is convened, as required, for the purposes of undertaking a technical assessment and an environmental assessment of an application under the Foreshore Act 1933, as amended, were requested by Foreshore Unit to undertake a technical assessment of this case. Members undertake to participate in each instance voluntarily, as representatives of their individual organisations.

The MLVC examined the application and supporting documents, the submissions and applicant responses received during the 1st and 2nd Public Consultations, the submissions and responses received during the Prescribed Body Consultations, conclusions regarding Appropriate Assessment Screening, Appropriate Assessment and Annex IV species, along with the Marine Advisor (Environment) Screening for Appropriate Assessment and Determination and Marine Advisor (Environment) Environmental Assessment Report with Appropriate Assessment Determination.

The MLVC concluded in its report (**Tab 26**) taking account of the totality of the documentation on file and subject to compliance with the specific conditions set out below, the proposed works would will not adversely affect Fishing, Navigation or the Environment and is in the Public Interest. Therefore, the MLVC recommend that the Minister issues a Foreshore Licence for the proposed site survey works as set out in the application.

## **12.0 Agreement of the Applicant**

RWE Renewables Ltd., has agreed to the recommended Site Specific Conditions to be attached to the Licence, if granted (**Tab 27**)

## **13.0 Financial Considerations**

RWE Renewables Ltd., has agreed to pay the one-off fee of €950.00 for the Licence.

## **14.0 Basis for Recommendation**

Having regard to:

-The application, together with accompanying documentation;

- The submissions received from prescribed bodies (statutory consultees);
- The public consultations undertaken;
- The applicant's responses to the prescribed bodies observations and public submissions;
- The Screening for Appropriate Assessment Report prepared by the IEC
- EU Habitats Directive: Risk Assessment for Annex IV Species Report prepared by the IEC
- The Department's Marine Advisor (Environment) Environmental Report and Conclusions
- The assessment of the proposed development by the MLVC, its conclusions and recommendations in this regard; and
- The consent conditions to be attached to the foreshore licence, if granted,

It is considered that the proposed works would will not adversely affect Fishing, Navigation or the Environment is in the Public Interest and is aligned with the objectives set out in the NMPPF.

It is recommended that a foreshore licence be granted to RWE Renewables Ltd, subject to the conditions recommended by the MLVC, and the financial considerations set out above.

**15.0 Notification of Ministerial Determination**

If approval is granted by the Minister, RWE Renewables Ltd will be informed accordingly, an appropriate licence will issue for execution, and a Notice of Determination regarding the decision (including the reasons) will be published on the Department's website.

The Notice of Determination will address:

- The outcome of the Minister's determination of the application.
- The main reasons and considerations for the Minister's determination.
- A statement that all relevant documentation on which the determination is based is available for inspection on the website of this Department.
- Confirmation that a review procedure is available before the High Court whereby the substantive or procedural legality of the Minister's determination may be challenged, together with practical information on the review procedure.

**Submitted for approval**

**Related submissions**

**HLG 00294 -22:** Screening for Appropriate Assessment Determination on Foreshore Application FS007188 RWE Renewables Ireland Ltd., Site Investigations for the proposed Dublin Array offshore wind farm

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

**User details**

INVOLVED: [REDACTED] (Housing)  
 [REDACTED] (Housing)  
 [REDACTED] (Housing)  
 [REDACTED] (Housing)  
 eSub MOS Burke Office  
 eSub MOS Burke

READ RECEIPT: [REDACTED] (Housing)  
 [REDACTED] (Housing)  
 [REDACTED] (Housing)  
 [REDACTED] (Housing)  
 [REDACTED] (Housing)