

Submission HLG 00544-22: FS007062 SEAI Site Investigation for Floating Offshore Wind testing at AMETS Site Mayo

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

AUTHOR:
OWNER:
REVIEWERS:

Nina Murray (Housing)

DIVISION: Foreshore
DECISION BY: 18/11/2022

Final comment

Approved by minister, 23/11/2022

Action required

Ministerial approval is sought to grant a Foreshore Licence to Sustainable Energy Authority of Ireland, under Section 3 of the Foreshore Act 1933, as amended.

Executive summary

The approval of the Minister is sought to grant Sustainable Energy Authority of Ireland a Foreshore Licence under Section 3 of the Foreshore Act 1933, as amended, to carry out Site Investigations relating to a floating offshore wind (FOW) demonstration project at the Atlantic Marine Energy Test Site (AMETS) off the coast of County Mayo.

Detailed information

1.0 Project Overview

The AFLOWT (Accelerating market uptake of FLoating Offshore Wind Technology) project - a consortium with Interreg North West Europe (NWE) funding, has a main objective of demonstrating high survivability, cost competitive, Floating Offshore Wind (FOW) technology.

SEAI is a lead partner of the project in Ireland and holds an existing Foreshore Lease for the AMETS test site.

SEAI was granted a Foreshore Lease in November 2015 to test for wave energy devices on the AMETS site. Subsequent pipeline analysis by the applicant of wave energy projects worldwide suggests that there will be no wave technologies suitable for testing at this site until the mid-2020s. However, due to water depth and weather conditions, the applicant considers the site suitable for floating wind technologies.

2.0 Brief Description of Works

This application is for a Site Investigation (SI) Licence to inform the detailed design of a 6MW FOW turbine, cable and associated infrastructure.

The site investigation works include:

- Multi-Beam Echo Sounder (MBES)
- Side-Scan Sonar (SSS)
- Sub-Bottom Profiling (SBP)
- Cone Penetration Testing (CPT)
- Benthic sampling of the subtidal and the intertidal sediment

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

gov.ie - FS007062 SEAI Site Investigation for Floating Offshore Wind testing at AMETS Site Mayo (www.gov.ie)

These SI activities (geophysical and geotechnical) are required in order to provide information on the make-up of the various layers

of sediment and / or rock under the seafloor and the soils / sediments and stratigraphy of the seabed.

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 site investigation activities which are the subject of this application are being fully assessed under the relevant environmental legislation.

3.0 Application

A number of application documents were submitted by SEAI:

- Investigative Foreshore Licence Application form (ORE) **(Tab 01)**
- Foreshore Licence Map **(Tab 02)**
- Site Location Map **(Tab 03)**
- Schedule of Works **(Tab 04)**
- AMETS Distance Summary **(Tab 05)**
- Support Document **(Tab 06)**
- Natura Impact Statement **(Tab 07)**
- Name Change Statement **(Tab 08)**

4.0 Other Relevant Consents and Government Policies

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."

An email reminding the applicant of the need to satisfy themselves that they have other appropriate regulatory consents was issued on 26 October and duly acknowledged by the applicant. **(Tab 27)**

The [Climate Action Plan 2021](#) recommit 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.

5.0 Public Participation

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").

5.1 Public Consultation under S19 of EC Birds and Natural Habitats Regulations 2011 as amended.

An initial Public Consultation was held between March-April 2020. A Natura Impact Statement was submitted and a repeat Public Consultation was held between 17 August 2020 and 16 September 2020. Notices announcing the consultation were published in the Irish Independent and the Western People.

Application documents were made available throughout the consultation period at the following locations:

- Belmullet Garda Station, Belmullet, Co Mayo
- Belmullet Library, Belmullet Civic Centre, Belmullet, Co Mayo.

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

gov.ie - FS007062 SEAI Site Investigation for Floating Offshore Wind testing at AMETS Site Mayo (www.gov.ie)

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One submission was received in the initial consultation under S19 **(Tab 09)** to which the applicant responded **(Tab 10)** and three submissions were received in the repeat consultation under S19 **(Tab 11)** to which the applicant responded **(Tab 12)**.

Following this consultation process, RPS Group plc were engaged as Independent Environmental Consultants (IEC) to assess the application and supporting documents. A request for further information (RFI) was made by the IEC and the Applicant responded to this request on 10 March 2021. The application, supporting documentation and the Applicant's response to the (RFI) was reviewed to assess whether it included the following:

- - Robust scientific information and analysis including the reasoning and justifications for the conclusion.
- - Compliance with the tests and standards of AA as presented in European and national guidance.
- - A robust scientific assessment on the likelihood of significant effects.

The assessment was carried out on the entirety of information submitted as part of the consent application.

The Minister, on advice from this Department's Marine Advisor (Environment) concurred with the findings of the IEC and made an Appropriate Assessment (Stage 1) Screening Determination and concluded that a Stage 2 Appropriate Assessment was required.

5.2 Public Consultation under Reg. 42 of S.I. No. 477/2011 - European Communities (Birds and Natural Habitats) Regulations 2011

Following the determination that an Appropriate Assessment was required, a further Public Consultation was initiated and a Public Notice was issued in the Irish Independent and the Western People that invited public submissions for the purpose of conducting the Appropriate Assessment, in accordance with Section 42 (1) of S.I. No. 477 of 2011, the European Communities (Birds and Natural Habitats) Regulations 2011, as amended.

The 30 calendar day Public Consultation commenced on 19 April 2022 and ended close of business on 18 May 2022. All documents that informed the Screening for Appropriate Assessment Determination (links available above) were made publicly available at the following locations:

- **Belmullet Garda Station**
- **Belmullet Library**

These documents were also published on the Departments website at the following Link:

gov.ie - FS007062 SEAI Site Investigation for Floating Offshore Wind testing at AMETS Site Mayo (www.gov.ie)

In addition to the application documents submitted by SEAI, the following documents were also on public display at the above locations and published on the Department's website:

- Screening for Appropriate Assessment Submission
- Screening for Appropriate Assessment Determination Approved
- Marine Advisor Environmental Report (Prepared by MA-Environment)
- Screening for AA (Prepared by IEC)

The Department received no public submissions during the public consultation under Section 42.

6.0 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
- Commissioner of Irish Lights

There were no objections in principle to the proposed works. A number of the submissions from the Prescribed Bodies raised particular observations and put forward suggested conditions to be included in any licence issued (**Tab 13 PB Obs 1**) (**Tab 14 PB Obs 2**) (**Tab 16 PB Obs 3**).

Detailed responses to the Prescribed Bodies submissions were received from the applicant and these have to be considered as part

of the overall assessment of the proposed application. The applicant's responses to the Prescribed Bodies' observations are attached at **(Tab 15 Applicant's Response to PB Obs 1 and 2) (Tab 17 Applicant's Response to PB Obs 3)**

7.0 Environmental Assessment

Independent Environmental Consultant (IEC): In addition to the Departments in-house Marine Advisor (environment), the Department engaged RPS Group plc Environmental Consultants as IEC to provide assistance with regard to the statutory and non-statutory environmental assessments of this Foreshore Licence application.

Environmental Impact Assessment (EIA) Regulations

The proposed project is for site surveying including boreholes to test the suitability of the sub sea bed conditions. The IEC determined that the proposed project does not fall within the classes defined under Annex I or Annex II of the EIA Directive **(Tab 18)**.

Having considered the application by SEAI, the Department's Marine Environment Advisor agreed with and accepted the IEC's determination that the project does not require a mandatory EIA. As the Consent Authority, the Department must complete a Screening for EIA as part of their obligations under the EIA Directive.

The EIA Screening Examination was provided by the Department's Marine Environment Advisor **(Tab 19)**.

It is recommended that the Minister adopts the finding that the proposed site investigation activities which are the subject of this application are not of a class that require Environmental Impact Assessment and that the activities come outside the scope of the EIA Directive.

Screening for Appropriate Assessment (Environmental Assessment)

As part of the assessment of the Foreshore Licence application, RPS Group Ltd were commissioned as Independent Environmental Consultants to conduct a Screening for Appropriate Assessment (stage 1 screening) and, if required, an Appropriate Assessment (AA stage 2) of the likelihood of significant impact on European sites from the application for a Foreshore Licence. The reports prepared by RPS are to inform the Minister's decision in relation to AA screening and Appropriate Assessment.

The Independent Environment Consultants completed their Screening for AA Report 'Screening for Appropriate Assessment', which concluded that it cannot be excluded, on the basis of objective scientific information, following screening under the European Communities (Birds and Natural Habitats) Regulations 2011 as amended, that the proposed project, individually or in combination with other plans or projects will have a significant effect on the following European sites:

- West Coast Connacht SAC
- Inishkea Islands SAC
- Duvillaun Islands SAC

It was therefore determined that a stage 2 Appropriate Assessment (AA) of the project was required

A submission on Screening for Appropriate Assessment was made to the Minister of State for the Department of Housing, Local Government and Heritage, who made a determination following Screening that an Appropriate Assessment was required as the project individually or in combination with other plans or projects, was likely to have a significant effect on a European site. The Department's Marine Advisor (Environment) prepared the Environmental Screening Stage Report **(Tab 21)**. The Screening Determination for Appropriate Assessment which was prepared by the Department's Marine Advisor (Environment) was approved and signed by the Minister **(Tab 20)**. (Submission on Screening for Appropriate Assessment attached below).

A number of application documents submitted by SEAI informed the Screening for Appropriate Assessment:

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

gov.ie - FS007062 SEAI Site Investigation for Floating Offshore Wind testing at AMETS Site Mayo (www.gov.ie)

The IEC had referred to Duvillaun Islands SAC (which was screened in) as Duvillaun Islands SPA (which was screened out) in the conclusion statement of the screening report which was part of the Screening for AA Determination. The amended report received from the IEC refers to Duvillaun Islands SAC which clarified the matter and does not alter the determination that a stage two AA was required.

It was therefore determined that a stage 2 Appropriate Assessment (AA) of the project was required.

Appropriate Assessment

The Appropriate Assessment Screening process determined that it is not possible to discount likely significant effects with respect to 3 number of European sites, namely West Connacht Coast SAC [IE002998], Inishkea Islands SAC [IE000507], and Duvillaun Islands SAC [IE000495].

In accordance with Regulation 42(6) of the European Communities (Birds and Natural Habitats) Regulations 2011 SI 477 as amended, the Department of Housing, Local Government and Heritage made a determination following screening that an Appropriate Assessment was required as the project, individually or in combination with other plans or projects, is likely to have a significant effect the integrity of European sites, in view of the said sites' conservation objectives.

Measures to mitigate against the likely significant effect are identified in the Natura Impact Statement (25th June 2020). The adherence to these measures is considered appropriate mitigation to avoid significant effects on conservation objectives of any European site

An Appropriate Assessment report was prepared by the Independent Environmental Consultant RPS Group, which adopts the comments from the Public Consultation on Appropriate Assessment. The IEC identified the mitigation measures required to ensure that the proposed project, either individually or in combination with other plans or projects, will not adversely affect the integrity of any Europeans Site.

The Minister approved the Appropriate Assessment Determination and signed the Appropriate Assessment Conclusion Statement. **(Tab 22)**

(Submission on Appropriate Assessment attached below).

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.

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Risk Assessment for Annex IV Species

A review of the applicant's environmental reports provide sufficient relevant information in order for a Risk Assessment of Annex IV species to be carried out by the Department's Environmental Marine Advisor **(Tab 23)**. It was deemed that intertidal work was very minor in scale and duration and therefore no negative impacts on the European Otter would occur from this element of the project. With strict adherence to the DAHG 2014 guidance on underwater noise as outlined in the applicant's Natura Impact Statement it is very unlikely that any of Annex IV species will be injured or killed as a result of the proposed site investigation works.

It should be noted that this risk assessment is not part of the Article 6.3 assessment and therefore identification and inclusion of mitigation measures within the risk assessment is appropriated at this stage.

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 map submitted by the applicant.

This 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, 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. This application is to allow for the development of a test site to allow for the assessment of future renewable energy technologies. This is considered to be in line with Government policy and the appropriate use of the foreshore to support future energy technologies, supply and energy security.

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 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 24)** 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

Sustainable Energy Authority of Ireland, has agreed to the recommended Site Specific Conditions **(Tab 25 and 26)** to be attached to the Licence, if granted.

13.0 Financial Considerations

Sustainable Energy Authority of Ireland, has agreed to pay the one-off fee of [REDACTED] for the Licence **(Tab 28)**.

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 Departments Marine Advisor (Environment)
- EU Habitats Directive: Risk Assessment for Annex IV Species Report prepared by the Departments Marine Advisor (Environment)
- 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 will not adversely affect Fishing, Navigation or the Environment, is in the Public Interest and is aligned with the objectives set out in the National Marine Planning Framework.

It is recommended that a foreshore licence be granted to Sustainable Energy Authority of Ireland, 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, Sustainable Energy Authority of Ireland 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

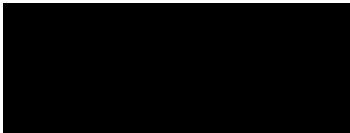
Related submissions

HLG 00085 -22: FS007062 Screening for Appropriate Assessment Determination re Site Investigations for a Floating Offshore Wind demonstration project at AMETS test site, Mayo

HLG 00479 -22: Appropriate Assessment Determination on Foreshore Licence Application FS007062 SEAI Ltd for Site Investigations off Co. Mayo

User details

INVOLVED:



Nina Murray (Housing)
eSub MOS Burke Office
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READ RECEIPT:

