

FS007062

**REPORT OF THE MARINE LICENCE VETTING COMMITTEE
(MLVC)**

ON

FORESHORE LICENCE APPLICATION FOR:

**Site Investigations for a Floating Offshore Wind demonstration project at
AMETS test site**

LOCATION:

AMETS Test Site, off the Mayo coast

APPLICANT:

Sustainable Energy Authority of Ireland

The Marine Licence Vetting Committee (MLVC)

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. Members undertake to participate in each instance voluntarily, as representatives of their individual organisations. The Foreshore Section of the Department of Housing, Local Government and Heritage requested the MLVC to undertake the technical assessment detailed below for case FS007358.

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

Section 1.4 of the application form and the Schedule of Works Report dated January 202 gives a detailed description of the proposed site investigation works.

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 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."

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.

4.0 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").

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.

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.

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

A further public consultation in accordance with the relevant regulations was held between the 19th of April to the 18th of May 2022. This included a copy of the application, the Appropriate Assessment Screening Determination, the Natura Impact Statement and all other documentation relevant to the application were made available for public on the Departments website and at the following locations:

Belmullet Garda Station, Belmullet, Co Mayo

Belmullet Library, Belmullet Civic Centre, Belmullet, Co Mayo.

Notification of the Public Consultation details were published on the 19 April 2022 in the Irish Independent and the Western People. Notification was also placed on the Departments website.

Public Submissions and Assessment

One submission was received in the initial consultation under S19 and three submissions were received in the repeat consultation under S19.

All public consultation submissions and applicant responses can be found on the Department's website and their contents have been considered as part of this assessment.

The submission received in the initial consultation under S19 was made by Wild Ireland Defence CLG, which raised the concern that the application is not compliant with case law. The submission quoted the High Court judgement in *Ted Kelly v An Bord Pleanála* [2014], which relates to the possibility of significant effects on a European site triggering an obligation to carry out an appropriate assessment. The applicant responded to the submission, reiterating their conclusions of no likely significant effects, as provided in their Appropriate Assessment Screening (AA Screening) document.

The three submissions received in the repeat consultation under S19 were made by individuals from the locality.

The individuals raised in essence the same concerns that the proposed activity would result in noise disturbances, negative impact on traffic in the vicinity of the works, the use of hazardous materials, ocean pollution and negative impact on views or the natural habitat of the onshore area.

The submissions have been noted and considered. Detailed and extensive consideration of the possible environmental effects of the proposed activities have been assessed and evaluated. It has been concluded that the effects of the activities proposed by this application are not environmentally detrimental to protected sites. What is proposed by

this application does not give rise to development onshore nor to largescale development offshore that would give rise to visual amenity considerations. It is to gather further information to inform the appropriate location of future test facility to assess future technology in the physical environment.

5.0 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 requested from:

Marine Institute

Marine Survey Office

Department of Housing, Local Government, and Heritage Underwater Archaeology and Nature Conservation Units

Department of Agriculture Food and the Marine (Aquaculture)

Sea Fisheries Protection Authority

Inland Fisheries Ireland (IFI)

Water and Marine Advisory Unit – Engineering and Environment (DHLGH)

Commissioner of Irish Lights

All submissions made by the prescribed bodies have been considered as part of this assessment. The prescribed bodies that responded had no objection, in principle, to the project and provided commentary which is listed in the Consolidated Prescribed Bodies and Public Submission document on the Department's website. A number of the submissions from the Prescribed Bodies raised particular observations and put forward suggested conditions to be included in any consent issued, these will be considered for their appropriateness.

6.0 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.

The IEC has conducted independent assessments of all documents submitted by the applicants. In carrying out the technical review for EIA Screening they have assessed the information submitted by the applicant against the requirements set out in Annex II and Annex III of the EIA Directive. Having regard to the scale and nature of the project and based on a considered assessment taking account of the available information, the overall probability of significant impacts on the receiving environment arising from the project is considered to be low. It is the opinion of RPS that sufficient evidence has been provided in the application documentation and it can be determined that the project will have no likely significant effects on the environment. Their report forms part of the basis of this assessment and is considered robust and comprehensive. Therefore, an Environmental Impact Assessment of the project is not required. This conclusion has been made by reference to the Annex II and Annex III criteria as set out in the EIA Directive.

Article 6(3) of Directive (92/43/EEC) (as amended) (Habitats Directive): Following a review of the proposed project, including assessment of the applicants Natura Impact Statement, which included a Screening Appraisal for Appropriate Assessment, the IEC concluded that likely significant effects could not be excluded.

Based on the information available on the project, it could not 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 could have a significant effect on the following European sites:

West Coast Connacht SAC
Inishkea Islands SAC
Duvillaun Islands SAC

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. We have since received the amended report from the IEC which 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.

As a result of the outcome of the Screening for Appropriate Assessment, an appropriate assessment was submitted by the applicant and was assessed. Measures to mitigate against the likely significant effect were identified in the Natura Impact Statement (25th June 2020). Further mitigation measures identified through the Prescribed Bodies Consultation will be included in the licence conditions. The adherence to these measures is considered appropriate mitigation to avoid significant effects on conservation objectives of any European site. It is therefore determined that the proposed project, either alone or in combination with other projects, will not adversely affect the integrity of any European Site.

Having considered the application, the submissions from the public and prescribed bodies' consultations and the IEC's assessment and endorsement of the Screening for Appropriate Assessment and Stage 2 Appropriate Assessment, this assessment report supports and adopts the Marine Advisors (Recommending Officers) Appropriate Assessment Conclusion Statement and Determination. The Consent Authority (DHLGH) must publish this Appropriate Assessment Conclusion Statement and Determination as part of their obligations under the Directive.

Following an assessment of the applicant's environmental reports it is considered that they 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. It was assessed and concluded 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 considered that the Annex IV

species will be not be detrimentally affected by the activities proposed subject to compliance with the attached conditions.

7.0 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.

8.0 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.

9.0 MLVC Conclusions

This application is for the carrying out of site survey work to inform the detailed design of a 6MW floating wind energy turbine, cable and associated infrastructure in the general area outlined on the submitted maps. It is further noted that this proposal is a project that satisfies the definition of relevant maritime usage under the Maritime Area Planning Act and its progression through the various consenting process has been accorded a high priority.

Submissions by the public and the prescribed bodies have been considered and responded to by way of proposed conditions. In particular the issues raised through submissions have been considered both as part of this report but also as part of the environmental assessment reports, all of which form the overall assessment of this proposed application.

Significant appropriate consideration has been given to environmental matters by Independent Environmental Consultants which is reflected in this report. The supporting environmental reports formed part of this assessment. Given the existence of other licences in this general area, it is considered prudent in the interests of mitigating the possible cumulative environmental effects that the applicant be required, in the event of a licence being granted, to coordinate with other licence holders that overlap with the survey area as submitted to ensure that no temporal overlap between two or more projects occurs. It is considered that this requirement shall form part of the notification condition.

The development of off shore wind developments is an important element of Government energy policy which has been further enunciated in the recently published energy security framework. It is both necessary and appropriate that surveying work be undertaken so as to site future proposed in locations technologies that is geotechnical safe. This application is such an activity and is considered to be necessary and appropriate.

It is concluded that 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.

The MLVC has had regard to both the Departments Marine Advisor (environment) environmental report date 26/02/2022 with Appendix 1 Examination of EIA attached which concluded that an EIAR is not required and also to AA Determination Report of 26/08/2022 and recommends that the Minister accepts and adopts the Marine Advisor's AA Determination Recommendation

It is also recommended that the Minister makes a finding that that the proposed site investigation activities, individually or in-combination with other plans or projects, will not adversely affect the integrity of European sites outlined in the report in view of the said sites' conservation objectives, and adopts the findings of the risk assessment to Annex IV species that has been carried out.

Subject to the Minister decision on the AA Determination, it is recommended that the Minister issues a Foreshore Licence for the proposed site investigation activities as set out in the application. Any Foreshore Licence issued shall be subject to the appropriate conditions outlined below.

Proposed Conditions:

1. The Licensee shall ensure that the works are carried out and completed in accordance with the plans and particulars lodged with the application.
2. The Licensee shall use that part of the Foreshore the subject matter of this licence for the purposes as outlined in the application and for no other purposes whatsoever.

3. The Licensee shall notify the DHLGH of the date of commencement of the site investigation/survey operations at least 14 days prior to commencement.
4. During the course of the site investigation/survey operations the Licensee shall ensure that:
 - All necessary precautions are put in place to protect the public in accordance with relevant health and safety legislation.
 - Where appropriate existing public access arrangements to the general foreshore area shall not be impeded by any vessels, plant or materials used in connection with the site investigations/surveys, and where relevant this access should be made safe and guaranteed by the provision of appropriate signage/notices/barriers to the satisfaction of the DHLGH.
 - Procedures shall be adopted to ensure that the site investigations/survey operations are not injurious to fishing, navigation, adjacent lands, or the public interest.
5. On completion of the site investigations/surveys the Licensee shall ensure that all equipment and materials are removed and the foreshore is reinstated to its original condition, to the satisfaction of the DHLGH.
6. The Licensee shall adhere to the project-specific guidance outlined in DAHG (2014) "Guidance to manage the risk to marine mammals from man-made sound sources in Irish waters" and will ensure that a suitably qualified visual observer is present for the duration of all acoustic surveying to minimise risk to marine mammals in the local environment.
7. A qualified and experienced marine mammal observer (MMO) shall be appointed to monitor for marine mammals and to log all relevant events using standardised data forms (Appendix 6, DAHG, 2014).
8. Sound-producing activities shall only commence in daylight hours where effective visual monitoring, as performed and determined by the MMO, has been achieved. Where effective visual monitoring, as determined by the MMO, is not possible the sound-producing activities shall be postponed until effective visual monitoring is possible.
9. An agreed and clear on-site communication signal must be used between the MMO and the Works Superintendent as to whether the relevant activity may or may not proceed, or resume following a break (see below). It shall only proceed on positive confirmation with the MMO.
10. In waters up to 200m deep, the MMO shall conduct pre-start-up constant effort monitoring at least 30 minutes before the sound-producing activity is due to commence. Sound-producing activity shall not commence until at least 30 minutes have elapsed with no marine mammals detected within the Monitored Zone by the MMO.
11. This prescribed Pre-Start Monitoring shall subsequently be followed by a Ramp-Up Procedure which should include continued monitoring by the MMO.
12. In commencing an acoustic survey operation the following Ramp-up Procedure (i.e., "soft-start") must be used, including during any testing of acoustic sources, where the output peak sound pressure level from any source exceeds 170 dB re: 1µPa @1m: a. Where it is possible according to the operational parameters of

the equipment concerned, the device's acoustic energy output shall commence from a lower energy start-up (i.e., a peak sound pressure level not exceeding 170 dB re: 1µPa @1m) and thereafter be allowed to gradually build up to the necessary maximum output over a period of 20 minutes. b. This controlled build-up of acoustic energy output shall occur in consistent stages to provide a steady and gradual increase over the ramp-up period. c. Where the acoustic output measures outlined in steps (a) and (b) are not possible according to the operational parameters of any such equipment, the device shall be switched "on" and "off" in a consistent sequential manner over a period of 20 minutes prior to commencement of the full necessary output.

13. Once the Ramp-Up Procedure commences, there is no requirement to halt or discontinue the procedure at night-time, nor if weather or visibility conditions deteriorate nor if marine mammals occur within a 500m radial distance of the sound source, i.e., within the Monitored Zone. Breaks in sound output
14. If there is a break in sound output for a period greater than 30 minutes (e.g., due to equipment failure, shut-down, survey line or station change) then all Pre-Start Monitoring and a subsequent Ramp-up Procedure (where appropriate following Pre-Start Monitoring) must be undertaken.
15. For higher output survey operations which have the potential to produce injurious levels of underwater sound (see sections 2.4, 3.2) as informed by the associated risk assessment, there is likely to be a regulatory requirement to adopt a shorter 5-10 minute break limit after which period all Pre-Start Monitoring and a subsequent Ramp-up Procedure (where appropriate following PreStart Monitoring) shall recommence as for start-up. Reporting
16. Full reporting on MMO operations and mitigation undertaken must be provided to the Regulatory Authority as outlined in Appendix 6 of DAHG (2014).
17. An appropriate marine notice shall be issued. In addition to the promulgation of a Marine Notice, a notice in a locally read newspaper will be required prior to the commencement of the site investigation works. This notice should provide commencement and completion dates, specific locations, type of activity and any other relevant information.
18. Prior to commencement of activities the local fishing community shall be liaised with in order to mitigate any risk of collision or damage to equipment. As part of this liaison the Belmullet angling club shall be notified before works commence in order to avoid any conflict with competitions held by the club. An outline of this process of liaison shall be included in the notification to DHLGH, as required under condition above.