

My submission/observations on the (MAC – ARP) document which I ask you to take into consideration are as follows:

*Quote: “Ireland’s increased climate and energy ambition is reflected in the Government target set under the Climate Action Plan 2021, to increase the proportion of renewable electricity to up to 80% by 2030, including an increased target to achieve up to 5 GW of installed offshore wind generation by 2030. There is a further commitment in the Programme for Government to develop a longer-term plan to utilize the potential 30GW of offshore floating wind power in our Atlantic waters. The 5GW target will be primarily met through development of offshore renewable energy (ORE) in Ireland’s eastern and southern coastal regions. This reflects the suitability of water depths in these regions for deployment of conventional fixed bottom offshore wind turbines and existing electricity grid infrastructure to connect these projects to the onshore grid.”*

While citing Climate Change objectives in its above preamble to the MAC – ARP terms, I feel that this consultation document highlights the fact that the government is now involved in a face saving exercise whereby it feels obliged to allow climate change objectives to be shaped by industry ORE investment priorities. In promoting or upcycling wrongful nearshore marine development projects (to relevant project status and then to MAC status), the government will allow for irreversible deterioration and damage to biodiversity at ecologically important zones of influence along the East Coast.

It seems to me that the government and departments involved in the drafting of this MAC – ARP paper are caught between the problem of historic/ legacy developer-selected nearshore wind projects and a pressing need to perform on climate change objectives by all means possible. The proposals in this document point to a Government plan to simply rebrand these flawed legacy foreshore licence/lease ‘zombie’ projects to ‘relevant projects’ and then to MACs in an effort to bolster the impression that the government is enacting quick and decisive offshore renewable energy measures. In repurposing and rebranding such ill-conceived legacy projects as relevant projects (or Phase One projects) and then MACs, the government wishes to fast-track these projects as quick fix answers to meeting climate change objectives but risks enabling a legal and ecological travesty. I feel this document also points to a deep seated and longstanding problem which taints both the recent MAP legislation and this MAC – ARP document, whereby “invested” energy companies have too much power in promoting a ‘makeover’ of potentially ecologically disastrous nearshore wind projects. What is more, these relevant projects/ MACs in waiting, were bagged by private interests years ago through developer-led site selection over and around sensitive and protected nearshore areas of the East Coast. These sites which would be rejected as too close to shore, ill-sited and thus unacceptable on an environmental impact basis, by any other European country.

*Quote: “The Act provides for a completely new regime for the entire maritime area underpinned by the National Marine Planning Framework. Foreshore Authorisations will be replaced by a more focused and streamlined MAC regime. The planning permission system will be extended into the entire maritime area with development subject to a single comprehensive environmental assessment by An Bord Pleanála (ABP). Compliance and enforcement activities are supported through robust provisions.”*

Many of these Relevant Projects’ (RPs) vast and sometimes unilaterally increased marine areas, were obtained on a first come first served, no refusal basis as far back as 1999. Having read much of the supporting documentation to the foreshore applications which have facilitated the notion that these proposed RPs are still environmentally acceptable it is clear that the government is refusing to start afresh and fulfil its obligations in protecting marine, coastal and avifauna habitats from irreversible deterioration and damage and is going to condone the conscription of bad legacy projects into a

misconceived campaign to show action on addressing climate change at any cost. In this conscription of such projects, we stand to do serious damage to marine habitats, benthic habitats, coastal habitats and protected species on the East coast. The approach outlined in this MAC – ARP hopes to slide these bad nearshore projects, generated under the “not fit for purpose” Foreshore Acts (and which would have never withstood scrutiny under Natura 2000 /habitats/ birds directives requirements) under the proposed convenient MAC permission process. I think what is even more questionable is the process for irreversibly cementing the continuing existence of these environmentally unviable RPs, which should have been wiped from Ireland’s ORE slate before or at the MAP stage. In this way, I see industry interests and subsidy-padded, risk adjusted profit margins being allowed to compromise “much-needed reform of marine governance” and good and objective planning for offshore renewables to an degree that will see irreversible ecological damage to the marine areas most in need of the much touted legislative “protection”. The NPWS has been found in a recent review to be not fit for purpose in its role of monitoring, assessing and policing our offshore marine habitat. How is ABP, with its own patchy history of granting onshore consents (and it’s inevitable lack of expertise in relation to large offshore infrastructure projects and effects on the marine habitats and environment) supposed to do any better?

Quote: “2.5.4 Surrender of any previous Lease/Licenses 2.5.5 Out of Scope

*The purpose of this consultation is to define the specific MAC assessment criteria and procedures which the Minister will have regard to when conducting the assessment of Relevant Projects for MAC, as provided for in Schedule 5 and Schedule 2 of the MAP Act. There are several activities and policy areas which are related to MAC, but which do not fall within the parameters of objectives of this consultation. Some of these areas which are out of the scope of this consultation include Decommissioning ... The Department is preparing separate guidance on seabed rehabilitation/decommissioning obligations, however it will not form part of this consultation .... The disposal/recycling of wind turbine blades at the end of life of a project is a matter of interest to the Department. These considerations will also be included in the decommissioning industry guidance ... Environmental considerations*

***There is no screening for either Appropriate Assessment or Environmental Impact Assessment at the MAC stage, as the MAC process is decoupled from the development permission process which will be made to ABP. Full environmental assessment of a project will occur at development permission stage, post-grant of MAC. Respondents should be mindful of this distinction when making submissions under this consultation. ...***

***The success or failure of a MAC applicant in each of the individual assessment areas will be informed by the strength of the information, documentation, evidence, or statements received from the applicant. The exact details of what will be required to be submitted by applicants in each assessment area is outlined in this consultation and informed by responses received.”***

This represents the side-lining of proper consideration of environmental impacts from the MAC Assessment Criteria stage to the Development Permission Stage. A further red flag arises in this MAC – ARP Assessment Criteria passage above. I feel it allows for industry interests to potentially promote the transitioning of these relevant projects to MACS while ignoring fundamental flaws in such relevant projects - such as proper siting. The scope of this misleadingly termed ‘seamless transfer’ stage focuses on financial and technical profiling of RPs to MAC status and screens out or postpones necessary environmental weighting in any pass/fail/competitive assessment process for relevant projects and Phase One projects, which then further enables the fast-tracking to MAC status. In doing this the government effectively attempts to screen out the prime determinant in “protecting our rich and unique marine environment” at the MAC assessment stage. The proposed process is designed to blank out the prime issue in allowing these relevant projects to achieve a conveniently “seamless transfer” to MAC status while circumventing at this critical stage, the potentially irreversible effects of this transfer on biodiversity and marine and coastal habitat integrity.

This appears to me to be simply a fudge which will leave such exercises in climate change 'box ticking' open to challenge under EU environmental legislation. The scoping out of environmentally relevant factors (such as irredeemably inappropriate project siting or lack of alternative proposed sites) from this MAC assessment criteria stage to a later (too late) stage allows ill-conceived ORE projects to be 'upcycled' to MAC status without any proper examination of environmental requirements, apart from at the later 'development' stage, and this is wrong. It flies in the face of the public interest and I feel that it perhaps shows a bias towards industry interests in transitioning forward troubled or unviable ORE projects and subsequently facilitating the negative effects on protected species (migratory birds, fish spawning grounds etc) or habitats such as sandbanks and biogenic reefs. One example of this is the Dublin Array project, a 'relevant project'. This project's own baseline 2002 bird report, which I presume was submitted to the department in charge of vetting the site investigations, advised that:

*"If birds feeding on the Kish and breeding/on passage at any of these other SPAs were affected, it is possible that the overall SPA populations of these species could be reduced. With the current lack of knowledge about how seabirds are affected by wind farm developments it can be concluded at this stage that as far as the most sensitive bird issue on the site is concerned, roseate tern, it would be inappropriate to construct a wind farm within its main area of use ... It would not be possible to be sure that significant impacts would not occur, and hence the only current solution would be to locate the wind farm outside the area used by this species.*

*In terms of the nationally important species, there are potentially significant issues with regard to the impacts on the Kish populations themselves and also in terms of possible impacts on neighbouring SPAs for a range of species, particularly including Manx shearwater, shag, kittiwakes, common terns, guillemots and razorbills."*

Since this 2002 baseline report, the site investigation area and turbine height of the Kish and Bray banks (Dublin Array) project has grown and to make matters worse, ESB has recently applied for a foreshore licence to explore another vast marine OWF project site which is immediately adjacent and surrounds on three sides the relevant project / future MAC/ Dublin Array's foreshore licence area, referred to above. How does it make sense or work in the public interest to allow such environmentally impactful projects to be promoted to MAC status whereby any vetting of above environmental issues is postponed to take place at a later developmental stage overseen by ABP? This works against the public interest and is not legitimised in any way by the Government's hurry to push through measures which they need to divert attention away from previous inaction on addressing climate change.

It is my opinion that the 'Criteria of new State consent' as outlined in the Maritime Area Consent Assessment for Relevant Projects (MAC – ARP) Consultation Document also avoids or refuses to take into account important ECJ findings on Ireland's past failures to adequately protect common marine habitat types, failure to preserve considered, proposed or designated SAC or SPA site integrity and failure to assess the impacts of a project or plan on the basis of the whole-site features. I also feel that it will be highly unlikely for most of the Relevant Projects to achieve MAC status while being as required in the MAC – ARP, to be "within the coordinates of the original foreshore lease [or licence?] application."