

Confidential Response

## Statkraft response to DECC's Consultation on Maritime Area Consent Assessment for Relevant Projects.

### Introduction

Statkraft would like to thank the Department for Environment, Climate and Communications (DECC) for the opportunity to respond to the consultation document regarding the Maritime Area Consent Assessment for Relevant Projects. Ireland is at a critical stage in its journey to decarbonisation. To deliver on our targets and vision for a zero-carbon future, it is vital that industry expertise is harnessed and supported so that Ireland can be a country that is run wholly on clean, renewable energy.

Ireland is fast becoming a world leader in renewable energy production, harnessing the abundant, clean, national resources that our island offers. This is the key reason that Ireland needs to be very ambitious when it comes to our climate action targets for 2030 and further to achieve net zero status by 2050 and the development of the grid network to support the achievement of these targets. Statkraft shares this vision and is an experienced and committed key player in realising these targets.

### How Statkraft is a key player in delivering a decarbonised electricity system

As a Norwegian state-owned utility, Statkraft is a dependable partner, committed to playing a leading role in the Irish market. Statkraft is Europe's largest renewable energy company. In Ireland, Statkraft develops, owns, and operates renewable energy and is also involved in power trading. It is at the forefront of developing renewable energy across a broad spectrum of technologies. The company's global ambition is to increase its portfolio of wind power assets. This includes an ambitious pipeline of projects in Ireland.

### Industry Coordination

Statkraft is a member of Wind Energy Ireland (WEI) and broadly supports the submissions made by WEI to this consultation with the exceptions as detailed below.

### Maritime Area Consent Assessment for Relevant Projects Consultation Response – Key Points

#### Technical Capability Assessment

- 1. To what extent do you consider that the Guidance sets out a technical capability assessment process that is effective, efficient, and transparent? Are there any specific aspects of the Guidance that you consider require further clarification??**

Statkraft are supportive of DECC's approach to assess the technical capability of MAC applicants to deliver large scale offshore renewable energy projects. Statkraft recognises that a thorough and robust assessment process is necessary of all applicants, but it should be noted that the level of detailed information which the Department is seeking to be provided at MAC application stage may not be consistent with the early stage development phase of projects applying for a MAC.

Statkraft seek further clarity of the specific detail which must be provided with regard to "wind turbine technology" as indicated in Section 3.1.1. Statkraft wish to highlight that this information may be considered commercially sensitive and thus assume that high level detail would suffice.

Section 3.1.2 provides little clarity as to whether the MAC Area is considered to be both the array area and the cable corridor. Will two MAC's be awarded (to facilitate subsequent transfer of transmission infrastructure MAC to Eirgrid), or will one MAC with two schedules be awarded?

In addition, Statkraft note that where one member of the consortium may be challenged to evidence its technical capability, the Relevant Authority may request that each MAC Applicant, as part of the consortium, agrees to be joint and severally liable to deliver the ORE project(s) under the relevant MAC(s) and demonstrate how the consortium will contract joint and several liability.

Additional aspects on which Statkraft seek further clarification are outlined in subsequent responses below.

**2. Do you consider the criteria to be appropriate? What alternative criteria, if any, would you suggest?**

Although, as previously stated, Statkraft are supportive of DECC's approach to assess the technical capability of MAC applicants to deliver large scale offshore renewable energy projects, we consider the criteria to be overly prescriptive and as presented will significantly reduce the opportunity for local, Irish entities and team members to be awarded MAC's and lead development teams.

Consideration should be given to alternative criteria such as 10 years relevant experience of which 5 years is within the three areas described in the Guidelines.

The prescriptive nature of the technical capability criteria does not acknowledge that the majority of Phase 1 projects will be developed by Special Purpose Vehicles (SPV's). These SPV's are subsidiaries to parent companies ("supporting entities" per the guidance) which are dedicated project development teams. Hence by the nature of their structure, they will not be able to meet the corporate experience criteria outlined and all applicants will have to rely on supporting entity project experience from other jurisdictions. In addition, it should be highlighted that all SPV's will retain technical advisors, owners engineers and major contractors throughout the development process who will be key to the delivery of these projects.

The prescriptive nature of this criteria also risks limiting the involvement of financial investors (as opposed to technical ORE development partners). Financial investors may have reduced requirements to return on capital compared to technical partners and this is a key factor in ensuring the levelised cost of energy (LCOE) remains as low as possible for the consumer.

It is vital that the need for flexibility in how the projects satisfy the criteria is inherent in the assessment process, especially as there will be potentially distinct differences between the projects and how they and their supporting entities are formed.

**3. Do you consider the templates sufficiently clear to understand the specific information being requested in each case?**

Statkraft consider the templates sufficiently clear, although would seek clarity on the following aspects

- Appendix B Table 2; Contact Details for confirmation of information provided. Under what circumstances will this contact be used? Have GDPR Requirements been considered in this request?
- Appendix C; Delivery timeframes – Department must acknowledge that these are indicative at best and largely outside the applicants control. In addition, aspects of this information may be considered commercially sensitive.
- Appendix D – Documentation List; what type of documents does the Department anticipate will be submitted in support of the application?
- Appendix E; Not clear on the purpose of this self-assessment.

#### MAC Financial Capability Assessment

**4. To what extent do you consider that the Guidance sets out a financial viability assessment process that is effective, efficient, and transparent? Are there any specific aspects of the Guidance that you consider requires further clarification?**

Statkraft are supporting of DECC's intention to set an effective, efficient and transparent financial viability assessment process; however, there are some specific aspects that require reconsidering in the context of how immature all of the ORE Projects will be at the time of the initial assessment.

Annex 2 Appendix F requires specific details of "committed" funding of the project. At this early stage, projects will not be able to provide detail on source of funding given that the market is at least one year away from securing an ORESS contract and approx. two years away from securing planning consent, and likely a year beyond achievement of consent to reaching financial close. At this stage, therefore, we would suggest this level of detail is excessive. It is important to note that facility details such as the level of working capital facility etc. will, at this stage, be undetermined.

We do, however, understand the interest in ensuring applicants have considered where they will receive funding from.

**5. Do you consider that the Guidance is sufficiently clear to understand which parties within a consortium need to submit documentation for assessment?**

The Guidance is sufficiently clear; however, the Guidance does not acknowledge that the majority of Phase 1 projects will be developed by SPV's, which would be the Relevant Person under this Guidance. By the nature of their structure, it is unlikely that this Relevant Person will be able to pass the financial viability assessment criteria outlined and all applicants will have to rely on Supporting Entity. Therefore, the role of the Relevant Person in the majority of ORE Projects will be limited for the purpose of this assessment.

**6. Are there any specific aspects of the pro-forma Supporting Entity Guarantee that would prevent you from undertaking your ORE Project(s)? To what extent do you consider the Relevant Authority should be able to recover costs under the guarantee?**

Statkraft submits that the requirement for an explicit sponsor guarantee in respect of financial obligations under the MAC lease is overly onerous, as the sponsors will be sufficiently commercially motivated to deliver the project within the required parameters and timelines, by virtue of their own vested interest in and financial commitment to the project. As such, the financial viability test of the sponsors as Supporting Entities of the MAC Applicant, as well as their technical capability and track record in offshore wind development, should give sufficient comfort as to their commitment to the project and ability to deliver.

The Consultation and the Guidance for the Financial Assessment of Maritime Area Consent Applications are not clear either in the extent of cover expected of the Supporting Entity guarantee or the period for which it should be required. Regarding the extent of cover, in Section 3.3 of the Guidance, it is stated that *"Where the Relevant Person proposes to rely on a Supporting Entity, confirmation is required stating that the Supporting Entity will guarantee the obligations of the Relevant Person to complete the proposed ORE Project(s) if the Relevant Person is unable to meet its Financial Commitments"*. While Appendix K states that *"the purpose of the Guarantee is to ensure that the financial commitments or obligations in respect of the MAC will be discharged in full and on time"*. We note that *"total financial commitments"* is not capitalised therefore we assume that it refers only to financial obligations under the MAC, i.e. the levy payments due, and not Total Outstanding Financial Commitment as defined on page 21 and referred to within section 4.5.

Statkraft submits that if a guarantee is to be required then the parameters of that guarantee need be very clearly defined and limited so as to reasonably reflect the specific credit exposure borne by the Government in respect of a project/sponsors' MAC obligations only; noting that separate performance securities and financial guarantees will be provided to various obligees such as relevant planning authorities, EirGrid and CRU, so the State's credit risk to the project is appropriately allocated under these various mechanisms.

Following precedent in other markets, the guarantee should be calculated by reference to a fixed number of levy years, we suggest [1-2] years is reasonable.

The guarantee also needs to consider that as of financial close the project will be fully capitalised. Project level guarantees will, at that point, be provided via the project finance debt facilities and as such, the sponsors will no longer remain directly obligated to the Government in this regard.

Statkraft further asserts that the requirement for a guarantee should fall away as and from Commercial Operation Date (COD) of the project. At this stage, the project will be operational, will have its own turnover and will be sufficiently creditworthy so as to be able to meet the liabilities which were previously guaranteed on its behalf.

Bearing the above in mind, we suggest the following amendments / clarifications in respect of the Supporting Entities guarantee:

- (i) the MAC guarantee should cover [1-2] years of MAC levies, calculated on a forward-looking basis
- (ii) at financial close, the guarantee may be provided via project finance bank debt facilities, where the project opts for project finance;
- (iii) at COD, any project finance bank guarantee should no longer be required as the project will then be sufficiently creditworthy so as not to need any support by guarantee.

**7. Do you consider the criteria to be appropriate? What alternative criteria, if any, would you suggest?**

Requiring Cash Cover of greater than 1.0x for a period of three years from the initial MAC application is not appropriate, particularly if it is feasible that an ORE Project would enter the construction phase in this period. The level of development uncertainty engrained in the ORE Project at the point of initial MAC application would be too high to justify a cash or cash equivalents balance of this amount, either in the Relevant Person or in the Supporting Entity. The sources of expected financing for the construction phase may also not be clear at the initial MAC application stage.

**8. Are there any quantitative metrics within the criteria that you consider should change? For example, the current and gearing ratios have been deliberately set at levels that would identify companies at significant risk of financial distress. Should these metrics be more stringent?**

Statkraft supports the current and gearing ratios and understands the intention to identify companies at significant risk of financial distress. As set out in our response to Qu. 7, Statkraft considers the Cash Cover metric to be inappropriate at the initial MAC application stage.

**9. The net assets and cash criteria assess the financial capacity of Relevant Persons to deliver ORE Projects at scale. To what extent do you consider these metrics will limit market competition, including from new entrants?**

The net assets and Cash Resources criteria may limit new entrants from the existing Irish market; however, there are sufficient parties in the global ORE market who would pass these criteria to mean that overall market competition would be maintained. As set out in our response to Qu. 7, Statkraft does not consider the cash criterion to be appropriate at the initial MAC application.

**10. Do you consider that the outcome of the financial viability assessment is adequately clear?**

Given that the Relevant Authority has the ability to depart from the methodology, it is not fully clear to Statkraft what the outcome of the financial viability assessment would be in the event that criteria are not met; however, Statkraft are supportive of the Relevant Authority having this power at its absolute discretion.

- 11. Do you consider that the Relevant Authority has too much / too little flexibility to ensure that Relevant Persons with the financial capability to deliver ORE Projects pass the financial viability assessment?**

Statkraft considers the Relevant Authority's flexibility to be appropriate given the long expected timeline between the initial MAC application and the start of construction for ORE Projects.

#### Other Financing Arrangements

- 12. Do you consider that the financing arrangements listed in the Guidance are appropriate? Should any other financing arrangements be identified in the Guidance?**

The financing arrangements listed in the Guidance would be appropriate for Statkraft.

- 13. Do you consider that the other financing arrangements provide adequate flexibility for companies to demonstrate their ability to demonstrate their financial viability in the future? For example, financial close for ORE Projects may occur several years after the grant of any MAC. To what extent is the timing of the financial viability assessment problematic?**

The detail in Appendix F Source of funds is too detailed. Applicants will not know debt tranches at application stage.

As mentioned in our response to the questions on the proposed financial metrics, in particular the cash cover requirements, the timing of financial close is a key consideration for the timing of the financial viability assessment.

Areas where information will be sought from Relevant Projects, but will not be assessed

- 14. Are there any other public interest considerations which the Department should consider at MAC application stage?**

Statkraft are satisfied that the public interest consideration as outlined are adequate for the Relevant Projects and note that this information is not proposed to be assessed on a pass/fail basis.

#### Levy Framework

- 15. The Department invites feedback on the below proposed levy model for Relevant Projects:**

- **Operational Levy: 2% Gross Revenue/annum**

Statkraft consider the proposed operation levy is aligned with other markets.

- **Development Levy: €20,000/km<sup>2</sup>/annum**

The most relevant comparable example is that observed in the recent Scotwind process where successful parties have agreed to pay £100,000 per square kilometre, upfront for a 10-year option fee. This equates to approximately €12,000 per annum per square kilometre. This is more reflective of an equivalent market.

However, the development levy is considered high in an emerging market and evolving system. The resulting risks that we can see evolving are:

1. Confidence regarding timelines are low- if a per annum amount is set and the system takers longer than anticipated to establish then costs overall will increase. There may also be issues with regards to litigation for these costs, especially where delays are due to inefficiencies in the system
2. Competition for supply chain is high- other neighbouring markets have already commenced projects to meet their 2030 targets, Ireland will be in competition with these markets for access to turbines, towers, nacelles, ports, construction sites etc. Again, this will drive timelines to extend and so overall costs.
3. These costs will ultimately end up back with the consumer- if they are set too high per annum at the outset it will be difficult to pare them back when delays in the system or the supply chain emerge.

It is also recommended that there is a cap on the development levy, mitigating the impact of third-party delays on the delivery programme. Building this mitigation into the design of a MAC from the outset will help avoid what could become a significant administrative burden as developers attempt to 'stop the clock' for delays that are outside of their control, such as judicial review or delays in development consent application processing.

## Application Fees

### **16. Which of the two options is the most appropriate for the Relevant Projects? Are there any other application fee models which would be more appropriate?**

Statkraft are supportive of Option 2: Charge a handling fee based on the likely calculated workload in processing and assessing MAC applications. Statkraft consider this fee necessary to ensure the efficient and effective processing of applications.

## MAC Application Window

### **17. Is two months a reasonable duration for the MAC application window? If not, how long should the Department keep the MAC submission window open for? Responses should be informed by the readiness of applicants to submit all information required at MAC application stage, as outlined in this consultation**

Statkraft considers that the specified 2-month application window within which all applications must be made could be a limiting factor with regard to submitting robust applications. Clarity is required as to what the final applications requirements will be; it would be a welcome approach if these could be provided prior to the application window opening. Statkraft would welcome extending this application window to three months in order to acknowledge the significance of the information which is requested to fulfil the application process.

## Duration of a MAC

- 18. Based on international practice, a period of thirty years is often cited as a common duration for maritime area consent (or equivalent authorisation). Is thirty years an appropriate duration for a MAC?**

Statkraft recommends that the MAC duration should be extended to 60 years. This acknowledges the life cycle of projects (35 years operational and decommissioning) in addition to the consenting and construction phases which precede this.

Additional consultation questions

- 19. Are there any specific aspects of the assessment methodology that you consider requires further clarification?**