TETHRA

MAC ASSSSMENT CRITERIA

SUBMISSION IN RESPONSE TO THE OFFSHORE RENEWABLE ENERGY MARITIME AREA CONSENT ASSESSMENT FOR RELEVANT PROJECTS CONSULTATION DOCUMENT JANUARY 2022 (THE "CONSULTATION DOCUMENT")

The following consultation questions are asked at page 22 and page 23 respectively of the Consultation Document in respect of the MAC Technical Capability Assessment:

- 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?

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

RESPONSE

We have prepared a joint response to the above two questions.

Whilst we welcome and recognise the need for a more efficient and streamlined MAC application process, we believe the current guidance on the technical capability expectations that MAC applicants, or their "Supporting Entity", are "expected" to have are restrictive and indeed prejudicial against Irish entities seeking to gain access to Ireland's offshore wind market.

Section 4.1 and 4.2 of the Technical Capability Guidance Document respectively set out the onerous (i) corporate experience and (ii) relevant project team experience expectations that a MAC applicant, or their Supporting Entity, are expected to have, under the rationale that "*A MAC Applicant with previous offshore wind experience is more likely to be able to deliver on commitments under a MAC*". It is respectfully suggested that this rationale does not justify creating experience expectations that are inherently restrictive.

The corporate experience expectations set out at section 4.1 of the Technical Capability Guidance Document are summarised as follows:

> *"(a) At least twelve months continuous experience at the development stage of an offshore wind farm of greater than or equal to 100MW capacity...*
>
> *(b) At least twelve months continuous experience at the construction stage of an offshore wind farm of greater than or equal to 100 MW...*
>
> *(c) At least twelve months continuous experience at the operational stage of an offshore wind farm of greater than or equal to 100 MW..."*

The relevant project team expectations set out at section 4.2 of the Technical Capability Guidance Document are summarised as follows:

> *"1. Senior Members of the Team shall be able to demonstrate at least 10 years of offshore wind development experience where development experience means the development and construction stages of an offshore wind farm up to the point at which first generation of all or part of the offshore wind farm is achieved*
> *2. Senior Members of the Team shall be able to demonstrate at least 10 years of renewable energy development experience where development experience means the development and construction stages of a renewable energy development up to the point at which first generation of all or part of the renewable energy project is achieved*
> *3. Senior Members of the Team shall be able to demonstrate at least 10 years of experience of the Irish Planning system"*

It is noted that the criteria are described in the Technical Capability Guidance as expectations as opposed to pre-requisites.

It is our submission that the expectations, if they are in fact applied as pre-requisites to the successful grant of a MAC (which distinction in itself is confusing and does not lend itself to an "*effective, efficient and transparent*" process), are restrictive and will act to exclude the vast majority of Irish entities from participating in the MAC application process as there are currently no offshore wind farms built in Irish waters with a capacity of greater than or equal to 100MW. Furthermore, the expectation that Senior Team Members have at least 10 years of offshore wind development experience will make the recruitment process for entities applying for a MAC extremely difficult, if not impossible, as there are very few candidates that will be able to demonstrate at least 10 years of offshore wind development experience at development and construction stages. It is respectfully suggested that these expectations should be reconsidered and reviewed in light of what is realistic and achievable in the Irish market.

There is a vast level of experience in renewable energy within Ireland, albeit specific experience in offshore renewable energy is admittedly limited. This is not to say however that highly experienced renewable energy developers in the onshore wind and other renewable energy sectors should be excluded from the MAC process, which is what the current Technical Capability Guidance expectations seem to suggest. The exclusion of otherwise highly experienced renewable energy developers from the MAC process in our opinion creates an anti-competitive process open to challenge.

The financial undertaking for developers seeking to bring offshore wind projects to fruition is not small. We respectfully suggest that this considerable financial undertaking required to even get to the stage of being able to make a MAC application, coupled with the financial capability requirements under the MAC application process itself, should be reassurance enough for the MARA and the Department that any such entities would not be coming to the table without believing they have the expertise to deliver on commitments under a MAC. In addition, naturally there will be entities seeking to bring a project to a certain stage before seeking an exit sale. It is not justified that such entities be excluded from the MAC process on the basis that they

may not have the relevant experience for the operation and maintenance side of an offshore wind farm.

Finally, more clarity is required around the concept that a "Supporting Entity" may be relied on to satisfy the technical capability experience "expectations". Section 2.6 of the Technical Capability Guidance states that the "*MAC Applicant may, to prove its technical capability, rely on the resources of entities or undertakings with which it is* ***directly or indirectly linked*** *(the Supporting Entity). In such a scenario the Supporting Entity and not the MAC Applicant will be subject to the technical capability assessment.*" What is actually meant by a Supporting Entity that is directly or indirectly linked? Is this expected to be an investor, a joint venture partner or is a third party advisor with the relevant experience sufficiently linked to constitute a Supporting Entity? Please provide further guidance on this concept.