



## Offshore Wind

### Phase Two Consultation

*Coastal Concern Alliance is an independent voluntary citizens' group, set up in 2006 to campaign for reform of Foreshore Legislation and for the introduction of Marine Spatial Planning to balance competing interests in our seas and conserve marine wildlife, habitats and coastal landscapes. We are supportive of the development of offshore renewable energy to meet climate and energy targets when developments are properly sited, to a proper scale and managed under a democratic fit-for-purpose marine planning regime. We have no affiliation with any political party or industry group.*

9<sup>th</sup> March 2022

## PREFACE

**Coastal Concern Alliance** have been seeking a democratic system of marine planning (reform of The Foreshore Act 1933) for more than 15 years. During that time, we have accumulated a wealth of knowledge about various aspects of government' plans and policies related to management of state-owned waters. In this context, we wish to preface our submission with the following key observations relating to this consultation.

1. While there have been welcome moves over the past few years to reform the Foreshore Act 1933, with regard to the advancing of legacy windfarm applications, now classed 'relevant projects', **the planning process remains deeply flawed.**
2. These development proposals, most originating **more than 20 years ago** and conceived in a completely different era from the point of view of **the technology of wind development** and the **critical need to protect biodiversity**, are now being advanced by a flawed and utterly undemocratic process.
3. No objective unbiased information has been given to the Irish public on the possible **environmental or economic costs** of the extensive development that is being supported.
4. The designation of these development proposals as 'relevant' projects was not subject to any public consultation or environmental assessment and was announced in May 2020 in the middle of a Covid lockdown with no explanation as to how the designations had come about. **It transpired that it was a process agreed with wind development companies, with no reference to the Irish public, apparently in breach of the Aarhus Convention and Public Participation Directive.**
5. A framework for marine planning has also been developed, largely during Covid, and was adopted in 2021. This **National Marine Planning Framework (NMPF)** is the Irish government's effort to meet the requirements of the Maritime Spatial Planning Directive, Directive 2014/89/EU. **This Directive requires national Maritime Spatial Plans to be based on an ecosystem approach.**
6. Ireland's NMPF does not comply with this ecosystem-based requirement.
7. The NMPF was based on **Harnessing Our Ocean Wealth, A Marine Plan for Ireland, 2012 (HOOW)** which clearly falls into the category of being 'a plan or programme' that should have been subject to Directive 2001/42/EC, the Strategic Environmental Assessment Directive (SEA). However, **HOOW was not subject to SEA** or, indeed, to any public consultation or, we understand, Dáil debate.
8. **Consequently, it is not appropriate for the Minister for Environment, Climate and Communications, or any other body, to grant Maritime Area Consents with reference to the NMPF.**
9. This failure to adhere to the ecosystem-based approach is reflected in the fact that the NMPF supports the progression of development while just 2.1% of Ireland's marine area is designated for protection under the Natura 2000 network and even the tiny percentage that is designated is not adequately managed.
10. **Marine Protected Areas must be designated in advance of the progression of development plans.**
11. Neither of these two critical sets of regulations, the **Maritime Area Planning Act 2021**, incorporating the designation of 'relevant' projects nor the **National Marine Planning Framework**, that does not comply with an ecosystem-based approach, is fit for purpose.
12. These legal instruments should provide democratic and environmental safeguards in support of Ireland's aspiration to develop offshore wind, but dismally fail in this regard.

## INTRODUCTION

This purpose of this consultation is to gather views on Phase Two of offshore wind deployment. The statement accompanying the consultation document emphasises the government's commitment 'to *engaging with stakeholders in a clear, open and transparent manner*'.

This statement is immediately undermined by the misrepresentation of the situation with regard to Offshore Renewable Energy Development Plans 1 and 2. The **Background Section** ( p4 ) states '*The DECC has commenced work to update OREDP 1, published in 2014 and reviewed in 2018, with a second plan OREDP 11 which will provide an evidence base for the identification of areas most suitable for the sustainable development of wind, wave and tidal activities and will include an assessment of other maritime activities and marine biodiversity*'.

This statement is misleading:

- a) The Offshore Renewable Energy Development Plan (OREDP 1), published in 2014, which covers the extensive East coast sea areas claimed by developers in advance of any marine planning, was not **reviewed** in the accepted sense of the word in 2018, when only the actions proposed in the plan were considered.
- b) OREDP 11 cannot provide any reliable '*evidence base for the identification of areas most suitable for sustainable development of wind, wave and tidal technologies*' because large tracts of sensitive East coast waters covering hundreds of thousands of hectares have already been rubberstamped for development by the Government's endorsement of developers' site selection through the designation of legacy projects as 'Relevant Projects' for priority advancement in Phase One.

CCA argue that before Phase 2 of offshore deployment is advanced, based on OREDP 11, a Full Review of OREDP 1 and its accompanying Strategic Environmental Assessment (SEA), underpinning Phase 1 (legacy / Relevant Projects) must be undertaken as required by official Government commitment.

We call on the current administration to urgently commission a **Full Review** of the outdated **OREDP 1, its accompanying SEA and Appropriate Assessment**, to ensure sustainable development of Phase 1 projects (relevant projects) in line with commitments made by government, international best practice and national and EU environmental legislation.

The following submission sets out:

1. **Background: OREDP 1 FULL Review Required**
2. **The Unacceptable Discrepancy between Phases One, Two and Three.**
3. **Managing grid potential**

## 1. BACKGROUND: OREDP 1 FULL Review Required

In 2010 following a decade of unfettered speculative activity by potential offshore wind developers in Ireland's coastal waters, the Government produced a draft *Offshore Renewable Energy Development Plan*. At the request of the then Minister, Eamon Ryan, The Sustainable Energy Authority commissioned a *Strategic Environment Assessment (SEA)* to identify and evaluate the likely significant environmental effects.

### Data & Information Gaps- Key Limitation

At the time of publication of the draft OREDP and its accompanying SEA in 2010, CCA and other environmental groups expressed concern, that very significant data and information gaps in the plan undermined a key conclusion reached *i.e.* that up to 4,800 MW of offshore wind development '*could potentially occur off the East coast without significant adverse effects on the Environment, (taking into account mitigation)*'. (Part 2, page 3. OREDP).

These concerns were acknowledged in the Plan's SEA, Section 1.8.2 Data and Knowledge Gaps which states: '*As discussed above...gaps in data, information and knowledge relating to the distribution of certain receptors and the potential effects of different technologies and device types on the marine environment are a key limitation to this SEA. Ultimately data and knowledge gaps influence the certainty with which the likely significance of potential effects can be determined*'.

### Large Scale Development already permitted

Prior to the production of OREDP 1 in 2010, government had granted permission for construction of some of the biggest offshore wind farms in the world off the East coast in a planning vacuum. Foreshore leases for construction had been granted to 520MW Arklow and 1100MW Codling projects and licences for initial investigation were granted close to the coast in Dundalk Bay, Co. Louth (Oriel, Dundalk Bay), Dublin (Kish and Bray Banks, Dublin Bay) and in Galway (Sceirde Rocks, Galway Bay) under the outdated and undemocratic Foreshore Act 1933 **on the sole authority of the Minister for the Marine.**

Permissions were awarded on sites selected by developers on a '*first come first served*' basis on shallow near-shore east coast sandbanks (Annex 1 habitat). There was no statutory involvement of local authorities, no tender for use of public seas and no public right of appeal. In spite of **widespread recognition by all political parties of the need to reform the legislation**, developers were allowed to pick out any site they wished, based, one presumes, on potential profitability, with **no restriction on size or scale of development or proximity to shore.**

### Already existing renewable Infrastructure.

A major concern was the manner in which, following obvious lobbying by development interests, the large-scale offshore wind projects permitted (Codling and Arklow) and progressed (Oriel, Dublin Array) off the East coast, under outdated Foreshore Act 1933, in advance of any Plan or SEA were unaccountably described in the document circulated for public consultation as '*already existing renewable infrastructure*'. (It is important to note that at that time just seven turbines did actually exist, erected in Arklow Bank Phase 1, and this remains the case today).

The SEA section 1.6 **Links between SEA, OREDP and current Foreshore Licence Applications** attempts to explain this extraordinary situation. It states '*while these offshore wind projects need to be taken into account in the SEA in the context that they are existing or potential future developments, a Parliamentary Statement provided by Eamon Ryan Minister of DCENR confirmed that the SEA should not influence or affect the processing of existing foreshore lease applications.*'

So, the SEA, a vital process designed to ensure that plans for extensive marine development do not result in damaging impacts on the marine environment itself, e.g. habitats, marine mammals, birds, fish, and coastal processes (e.g. coastal erosion), was totally compromised by the Minister's statement. The Minister's statement was then used during the consultation process to erroneously state that what were in fact development proposals from industry interests were '*already existing*' infrastructure.

In 2014, the OREDP and its accompanying Strategic Environmental Assessment were published and adopted. The output of the offshore wind farms was earmarked for export to the UK. The Policy Context section states that since Ireland's renewable energy targets could be met primarily by onshore renewable generation, primarily wind, '*the development opportunity identified for offshore wind to 2020 and beyond is the potential to export energy to the UK in the first instance with the possibility in the future of participation in the North west European energy market, provided it is economically beneficial to the State.*'

### **OREDP Interim Review, 2018**

In presenting the Plan and SEA statement to consultation authorities and the Public, the Department committed to an interim review of the Plan in 2017 and a full review of the Plan and SEA in 2020.

This important commitment was emphasised in DCCA's *OREDP Interim Review May 2018* which states: *The OREDP commits to an interim review of the plan and associated Strategic Environmental Assessment (SEA) in 2017, with a full review of both to be carried out in 2020... 'This Interim Review of the Offshore Renewable Energy Development Plan focuses exclusively on the OREDP and does not incorporate a review of the associated SEA. It is important to note that this review does not make any changes to the OREDP, rather the review aims to chart progress on the Plan, identify challenges that have emerged and identify areas that need to be prioritised or require attention. A full review of the Plan and associated SEA will take place in 2020'* (Page 3, Interim Review, May 2018).

The Interim Review made the following observations:

#### **Environmental Monitoring - Challenges**

- *Lack of ORE development – There is an absence of environmental data or monitoring results to indicate potential significant environmental impacts arising from the development of ORE installations.*
- *Landscape character assessment – A view was expressed that there is no landscape character assessment for Ireland and this area should be addressed in a coordinated way to fill a key data gap (seascape/landscape/coastscape).*

#### **Recommendations for Action included the following:**

- *R.22: Consider the identification of initial development zones, in association with the introduction of the Marine Spatial Planning process, and the prioritisation of ORE as one of the marine sectoral activities. Ensure supporting infrastructure such as ports, roads and grid connections are considered when allocating these zones.*
- *R.24: Investigate the development of a seascape/landscape character assessment. Responsibility DHPLG/ DCCA/NPWS. Delivery time 2018 /2019*

#### **CCA Comment:**

- The absence of environmental data highlighted in the Initial Review 2018 has still not been addressed. Marine Protected Areas have not been designated to protect, restore and

conserve Ireland's unique marine environment. Ireland's MPA coverage is at 2.13% is lagging behind even our closest neighbours in Scotland at 37%. Ireland has not met its previous target of 10% protection by 2020.

- Initial development zones were not identified in conjunction with the Maritime Spatial Planning process.
- Developers have been allowed to pick out any sites they wish on a 'first come first served' basis with no environmental constraints and this continues today with the most recent application being submitted on 23<sup>rd</sup> December 2021.
- A long overdue initial seascape/landscape character assessment has been carried out. However, this has not been followed up with the **essential seascape sensitivity analysis** (as carried out in the UK) to determine visual impact of large scale nearshore offshore windfarms proposed near to coastlines designated as AONBs because of their natural beauty. This omission is particularly striking and a clear indication of developer interests dominating procedures.
- The average distance from shore of offshore windfarms under construction in the EU in 2021 was c. 45 km. This compares with an average of 10km in Ireland for Phase I offshore wind farm 'Relevant Projects'.

### **Full Review of OREDP and SEA Required 2020**

The OREDP, drawing on SEA and Appropriate Assessment (AA) research carried out prior to 2010, is **now totally out of date**. **The Full Review** of the OREDP and its associated SEA, required to take place by 2020, **has not been carried out**. OREDP 1 remains a pivotal document in Ireland's marine policy development, frequently quoted by development interests and Government to justify extensive marine development, close to the East coast (*e.g.*, Harnessing Our Ocean Wealth, 2012).

Coastal Concern Alliance (CCA) have been in regular contact with the responsible Department (DECC) seeking an update on the required full review of the OREDP and associated SEA scheduled to take place in 2020. To date, we have not received a relevant response.

### **Phase 1 - Relevant Projects**

It is extremely concerning that legacy East coast projects, in vastly extended format, have recently been designated by the Government as **Relevant Projects** for priority advancement in Phase I of offshore wind farm development. These large-scale industrial projects, proposed on sensitive near shore sites (largely Annex 1 Habitat) have been picked out by developers with no environmental constraints, all along Dublin, Louth, Wicklow and now threaten to irreparably degrade marine biodiversity and landscape.

**It is clear, that the required FULL review of the OREDP 1, and its accompanying SEA and AA must be carried out prior to the advancement of Phase I projects (proposed to amount to 2 GW) off East and South coasts, (OREDP Assessment Areas 1 & 2).**

## **2. Discrepancy between Phase One, Two and Three must be addressed**

The current consultation document focuses mainly on **Phase Two**, setting out the plans for transforming Ireland's outdated foreshore regulatory system from a developer led to a plan led system. The proposals set out for Phase Two and Phase Three are broadly welcomed by CCA as they appear to be a vast improvement on the discredited developer-led system which the Government is rubber stamping via the designation of Phase One projects as Relevant Projects for priority advancement.

To give just a few examples of the unacceptable discrepancy in the three phases

- **There is no justification** for allowing one Minister, Eamon Ryan, Minister for Environment, Climate and Communications, to award Marine Area Consents (MACs) in Phase 1 when a new, properly staffed Maritime Area Regulatory Authority (MARA) is on the point of being set up to award MACs for Phase 2 and 3.
- **There is no justification** for advancing industrial scale Phase One projects (relevant projects) that have not been subject to SEA and are, therefore, in breach of EU environmental legislation, when the Government is on the cusp of identifying potential development zones (Designated Marine Areas) in line with current practice in all other EU countries.
- **There is no justification** for allowing Phase One 'relevant' projects to **progress in the absence of the required Full Review of OREDP 1** and its accompanying SEA and AA to ascertain and evaluate environmental effects to ensure **protection of marine biodiversity, habitats and species**.

### 3. Managing Grid potential

A number of the questions posed in **Section 8** of the consultation document are related to management of grid connections. **Irrespective of the options selected, it is vital that the basic principles that apply to democratic marine planning and biodiversity protection are adhered to.**

This requires **robust independent environmental impact assessment**, to ensure that in seeking to reduce reliance on fossil fuels, there is not a consequent negative impact on Ireland's marine biodiversity, which is still significantly under-protected and is being seriously side-lined. An example of this is the failure to publish, and initiate urgent action in response to, the excellent 2021 **Review of the National Parks and Wildlife Service**.

This Review quotes Minister Malcolm Noonan who stated "*Nature-based solutions, such as protecting and restoring wetlands, peatlands and coastal ecosystems, the sustainable management of marine areas, forests, grasslands and agricultural soils, are essential for emission reduction and climate adaptation.*"

With regard to the **NPWS Marine Expertise (4.9)**, the NPWS Review states:

*'The Review has identified that the NPWS lacks capacity to deliver on its statutory roles in regard to Marine development and conservation, as set out in the EU Habitats and Birds Directives (for which the NPWS is responsible) and Marine Strategy Framework Directive (for which Marine Environment in the Water Division of DHLGH have the responsibility) and looking ahead, in the EU Biodiversity Strategy.*

*Ireland's marine area is nine times bigger than the terrestrial area. Ireland currently has 2.1% of the marine area protected under the Natura 2000 framework but this will increase significantly as the network of **Marine Protected Areas (MPAs)** expand in line with Irish and EU policy. The NPWS will have an important role to play in the conservation and management of this resource, working alongside other national Agencies such as the Marine Institute and the evolving Marine Planning entities that are envisaged in current legislation.'*

This lack of Marine Expertise in NPWS must be understood, not just in relation to future roles and responsibilities that NPWS will have as plans for offshore wind advance in Ireland. **It has also had a major detrimental impact on how proposals for development have been managed to date.** This is especially pertinent with regard to the government's 'relevant' projects that have been advanced in an era when the skill and knowledge base and personnel in NPWS have been found to '*lack capacity to deliver on statutory roles in regard to marine development and conservation*'. This critical deficit is a major factor that undermines the whole concept of 'relevant' project prioritisation.

Ireland is now moving towards modern, ecosystem-based, development procedures for Phase Two and Phase Three of offshore wind development. By pressing for reform, the authorities have, de facto, acknowledged the flaws in the current regulatory system which underpins Phase One.

There is no point reforming offshore wind regulation, while at the same time allowing vast industrial scale, legacy projects which would not be permitted in any other EU country, to degrade our marine environment, biodiversity and landscapes. The Irish people have been side-lined in the reform process which has demonstrably been dominated by development interests. **Citizens are relying on their politicians and officials to act responsibly in the public interest.**

We call on Minister Eamon Ryan and his Government colleagues to ensure that development procedures for Phase One /Relevant Projects are revised to conform to the modern good practice proposed for Phase Two and Three. **Otherwise, Ireland's near-shore marine biodiversity will be degraded for ever by developers operating under a system, long acknowledged to be not fit for purpose.**

Referring to Irish action on biodiversity protection at the **Environment Ireland Conference**, Jan 18-19 2022, **EU Director Ciobanu-Dordea, DG Environment**, stated *'There is an urgent need to make tangible progress to finalise work on the identification and designation of marine sites to reflect the huge wealth of marine biodiversity that Ireland has within its waters. With less than 2.5% of the marine waters protected this represents one of the poorest records across the Natura 2000 network in Europe.'*

Unless these issues are addressed, far from becoming a leader in marine renewables, Ireland will clearly stand out as an international poster boy for bad marine planning and will retain *'one of the poorest records in Europe'* for protection of *'the huge wealth of marine biodiversity that Ireland has within its waters'*.

Ends.

