

BirdWatch Ireland submission to the Draft ORE Future Framework Public Statement

A submission by [REDACTED], BirdWatch
Ireland

**Address for correspondence: BirdWatch Ireland, Unit 20 Block D, Bullford Business
Campus, Kilcoole/Greystones, Co. Wicklow.**

[REDACTED]

Offshore Environment and Future Development

Department of the Environment, Climate and Communications

29-31 Adelaide Road

Dublin 2

D02 X285

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Introduction

BirdWatch Ireland is the largest independent conservation organisation in Ireland. Established in 1968, we currently have over 15,000 members and supporters and a local network of over 30 branches nationwide. As an organisation, our conservation team is actively involved in seabird conservation, research, and monitoring. Our policy and advocacy team are active stakeholders contributing to marine conservation at a national and EU level. We are proud members of Birdlife International, the Irish Environmental Network, Stop Climate Chaos, and the Sustainable Water Network, and a founding partner of the Fair Seas coalition.

Our vision is that Ireland should become a world leader in marine conservation and the sustainable management of our marine environment. As an island nation, Ireland could be a pioneer in ocean protection within the EU by putting in place ambitious legislation to protect at least 30% of Ireland's sea by 2030, with at least 10% strictly protected. BirdWatch Ireland is calling on the government to expand Ireland's network of Marine Protected Areas to protect our seabirds, marine life, and ecosystems. An ecologically coherent network of well-managed and well-resourced MPAs will enable Ireland to meet its commitments under the Marine Strategy Framework Directive, the OSPAR Convention, and the Kunming-Montreal Agreement under the UN Convention on Biological Biodiversity (COP15).

Where the protection and restoration of Irish ecosystems is vital, so too is rapid decarbonisation. The Intergovernmental Panel on Biological Diversity (IPCBD) and the Intergovernmental Panel on Climate Change (IPCC) make it clear that we face twin climate and nature emergencies. BirdWatch Ireland therefore supports the production of renewable energy and offshore wind; however, ORE devices and infrastructure must be sensitively located to minimise negative impacts on seabirds, ecosystems, and biodiversity.

Carbon sinks, our seas must be healthy and resilient if we are to mitigate the impacts of climate change. However, our seas face high levels of maritime and human activity and existing protections for the marine environment are inadequate. BirdWatch Ireland would therefore caution calls for "green growth" in the Draft Statement and urge the government to be mindful of balancing

potential pressures from ORE and other maritime activities (i.e. fisheries, aquaculture, transport, and tourism) with the overall health of Irish seas. Furthermore, cost competitiveness must not come at the expense of the environment. Costs to biodiversity and the climate will ultimately cost the State far more in the long-term.

Ireland could lead the EU as a champion for marine conservation during the Irish presidency of the EU in 2026, and beyond; however, this will only be possible with a robust and strategic planning system and effective marine protection, both underpinned by scientific evidence and stakeholder engagement.

Consultation process

BirdWatch Ireland welcomes the opportunity to respond to the latest Draft ORE Future Framework Policy Statement Consultation. The response, and the recommendations included in this submission, does not form an exhaustive list of recommendations, but makes suggestions for some of the actions which need to be taken. We would welcome further engagement on these suggestions with the Irish Offshore Wind Delivery Taskforce, and the opportunity with the Department to discuss our response in more detail. However, as an organisation, our current capacity for engagement is extremely limited and we need to bolster our staff complement to address issues in the marine environment, especially when it comes to planning and further research on how seabirds use Irish waters.

ORE Delivery

Environmental considerations

BirdWatch Ireland supports the production of renewable energy and offshore wind where devices and infrastructure are sensitively located to minimise negative impacts on ecosystems and biodiversity. The positive environmental, social, and economic benefits of ORE, outlined in the Draft ORE Future Framework Policy Statement, must not be compromised by poor planning and lack of due diligence when it comes to environmental impacts. There needs to be a very context-specific approach taken in each area, and the needs and concerns of stakeholders in each area need to be fully incorporated into any plan or DMAP investigating the potential for ORE in an area. Additionally, cumulative impacts, especially on seabirds and the various feeding, roosting and breeding habitats that they utilise as well as migration routes, need to be fully considered as part of this planning.

We appreciate the Minister's reference to environmental considerations in his foreword (*"Environmental considerations and protections are also of the utmost priority during the development of new ORE projects in Ireland's maritime area."*) The Minister also discusses the DMAP process in the foreword, making particular reference to progress made along the South Coast. Where Minister Ryan discusses the stakeholder engagement associated with the planning process, he makes no reference to environmental factors. BirdWatch Ireland is also

disappointed that the South Coast DMAP did not take environmental factors sufficiently into account, with several protected areas in the area.

Whereas the Draft ORE Future Framework Policy Statement acknowledges that environmental considerations are of utmost importance during the development of new ORE projects in Ireland's maritime area, it does not seem like environmental concerns are at the forefront of this approach. The Future Framework policy statement is positioned within the context of Ireland's existing climate and ORE policy and legislative frameworks, including national policy, like the Climate Action Plan, as well as EU Policy, such as RePowerEU. However, EU nature laws, such as the Birds and Habitats Directives, are somewhat overlooked despite the provisions they make for the protection of marine biodiversity especially seabirds. They deserve a more prominent position and commitment to implementing them in full. In addition, a commitment to restoring marine biodiversity through a national Nature Restoration Plan should also be included and a demonstration on how DECC will work with other government departments to ensure that the research, ecological and conservation needs for seabirds in particular are aligned and addressed. There are many existing pressures and threats to seabirds that need to be addressed. A national commitment to addressing the issues of overfishing, eradicating invasive species at seabird breeding sites, tackling marine plastics and pollution all also need to be addressed in full. Too often government departments work in silos and are not 'nature led'. A whole of government approach is needed to address the myriad issues facing seabirds and this should be included in the final Statement.

The Draft Strategy emphasises the importance of an ecosystems-based approach, but specific measures related to seabirds under the current plans are lacking and it is unclear how they will improve conditions and outcomes for seabirds. Ireland's marine waters support hundreds of thousands of seabirds, some of continental and global importance, and these species are threatened by the harmful impacts of ORE to seabirds, including mortality by collision, disturbance and displacement, barrier effects and habitat loss. Seabirds and marine biodiversity are acknowledged as bringing monetary and non-monetary services and values to Irish society, and international legislation requires that Ireland takes steps to ensure the protection and conservation of these species. Moreover, in the Draft Statement, there is also no mention of ecosystem services, including the role of the ocean in carbon sequestration and storage or in providing communities with food.

Although BirdWatch Ireland welcomes the objective outlined in the SEA Screening Report to align "development of the ORE sector with work being progressed to improve and protect marine biodiversity through designation of MPAs, SACs and SPAs and implementation of the Birds, Habitats and Marine Strategy Framework Directives" [...], the overall impression from the Statement is that the work of Ireland's Offshore Wind Delivery Taskforce is divorced from the work in the Department of Housing, Local Government and Heritage. There is 1 mention of MPAs in the Draft Statement and no reference to the forthcoming MPA Bill. This will prevent full alignment between the development of the ORE and the protection of marine biodiversity. At the time of writing, the timeframes for the publication of national MPA legislation remain unclear, and there is a growing danger that this crucial legislation will fall within the current government. It is therefore essential that the Irish Government fulfil previous environmental and biodiversity commitments

and begin the MPA legislative and designation process as soon as possible. There is no doubt that the expansion of Ireland's MPA network will have a positive influence on the attainment of Ireland's ORE targets, providing certainty to industry. However, it is key that environmental considerations come before issues like access, industrial alignment, and infrastructure, and a question mark hovers over whether this will, indeed, be the case. In the document's conclusion, there is a worrying turn of phrase around how *"environmental concerns [...] may inform spatial designations, and adaptive maritime space utilisation."* BirdWatch Ireland holds that environmental concerns should always (rather than "may") inform spatial designations, and that they should be a central priority in the Framework and its outworkings.

Stakeholder consultation

The Draft ORE Future Framework Policy Statement recognises the importance of stakeholder consultation, and outlines some of the work already underway as part of the DMAP process to consult widely with local communities. The mention of environmental surveys and consultations with relevant environmental groups and interest parties is welcome. BirdWatch Ireland holds that strong, meaningful, and inclusive stakeholder engagement should continue to be a part of the future DMAP processes, as it is vital to hear the views on development from local people who use and depend on the sea every day. However, with tight timeframes as well as internal capacity issues, community groups and NGOs struggle to engage in statutory consultation, and this needs to be addressed. There are also no specific timelines or actions outlined related to stakeholder engagement. Indeed BirdWatch Ireland's ambitions to develop further knowledge about how seabirds use Irish waters through satellite tracking is also hampered by lack of funds. This evidence would be powerful to assist government in better planning for offshore renewables.

Marine data

The Draft Statement makes clear that access to high-quality information and data on our seas will help form a rounded picture of how Ireland can protect marine biodiversity as we deploy ORE. Action 14 in the AA Screening Report ("Procure, consolidate and publish all relevant data to support and contribute towards the establishment of data pertaining to the marine environment and to making this information available to the public") also speaks to how robust data collection and management can improve the decision making process. However, there has been no compelling push or funding from the Government to gather data from research communities and scientists within the NGO sector. The role of industry in the context of data collection is also important to note; bearing in mind vested interests, those commissioning the collection of data, be it the state or wind energy companies, must meet the correct scientific methodologies. Relevant methodologies should be reviewed by the National Parks and Wildlife Service and updated. All data collected should be made publicly available and accessible through a single portal. There is an absolute dearth of seabird tracking data to give us an understanding about seabird ecology and how seabirds use Irish waters. This is absolutely

fundamental. Birdwatch Ireland has done work in this area including of Shags in the Irish Sea which is available online¹.

BirdWatch Ireland is currently mapping Ireland's marine Important Bird and Biodiversity Areas, according to international and standardised BirdLife International criteria. Identifying the most important sites for seabirds will allow BirdWatch Ireland to advance the designation of marine sites that qualify as SPAs as part of the EU Natura 2000 network, and to drive forward the designation and effective management of an MPA network. The significance of the IBA network is recognised by the European Commission which uses it as one of its tools for assessing the adequacy of a country's SPA network, and Ireland is a laggard in Europe in terms of the extent to which its IBAs are mapped. Ireland's poor performance has been highlighted by the owner of the 'Important Bird Areas (IBA)' dataset, BirdLife International, in a 2022 report: "The marine IBA network [in Ireland] has not been developed beyond coastal areas, but even so, only 42% of the marine area of the IBA network identified by BirdLife's Irish Partner, BirdWatch Ireland is protected by SPAs... demonstrating the urgent need for further research to identify marine areas that fulfill the IBA criteria"[¹]. The data collected by BirdWatch Ireland could certainly help to meet actions outlined in the AA Screening Report, including Action 16: "Conduct additional studies and data modelling to inform future ORE DMAP delineation given increasing frequency of weather extremes and future conditions". How to better incorporate data across the environmental sector, including citizen science, should be taken into account and considered in the overarching data policy statement for ORE, which will be coordinated later this year.

As the Government moves forward with its plan-led approach for ORE, it is necessary to demonstrate how they are engaging with and integrating high-quality evidence and data from conservation organisations, like BirdWatch Ireland, into these processes. Using the best available seabird data, BirdWatch Ireland can help the Government to better understand the impact of policies on the environment and on seabirds, thereby supporting and informing the ecosystem-based approach. It is good to see that an ecosystem-based approach is mentioned in the document, however, further emphasis needs to be placed on taking an ecosystems based approach with full consideration for the protection of marine environment and biodiversity, as required in the DMAP process under the regulations set forth by the MAP Act. There should be more opportunities to explore and maximise synergies between government and research communities in the environmental sector to ensure that negative environmental impacts of ORE and different maritime activities are minimised.

There should also be further mention of what happens in the absence of marine data, and in these instances, BirdWatch Ireland would advise following the Precautionary Principle.

General Comments

The overall approach outlined in the Draft ORE Future Framework Policy Statement feels very much market-led. Instead, it should be led by the Precautionary Principle, a core element of EU environmental policy, and the backbone to ensure that ORE development appropriately quantifies

¹ <https://www.seabirdtracking.org/>

the extent of environmental risks. BirdWatch Ireland promotes a precautionary approach to the use of marine space and resources. The Precautionary Principle is not mentioned in the document. The suggestion of enabling co-existence of ORE project footprints with other maritime activities, in particular, heightens our environmental concerns. Understanding how offshore renewables and other activities can and cannot share marine space (namely, colocation) is vital, but optimising sea space for nature recovery and climate must be at the forefront of colocation, as well as the efforts to mitigate adverse impacts to marine species and environments.

Where the Draft Statement suggests that ORE development should not present additional and significant detrimental effects to biodiversity, it would be useful to refer to the mitigation hierarchy. The mitigation hierarchy establishes clear principles for addressing impacts from development, with a focus on avoiding harm in the first instance. Should avoiding adverse effects altogether (especially those on the integrity of protected sites) not be possible, then measures to mitigate or compensate for those impacts must be applied. It is vital to consider how co-location contributes to nature protection, and how it fits within the context of the mitigation hierarchy when considering harms to seabirds and ecological features.

It is welcome that cumulative impacts will be considered as part of DMAP planning and process, and that this is mentioned in the document. Plan level consideration of cumulative impacts is vital to understand the implications of ORE development throughout the full lifecycle and at an ecosystem level. Establishing a priority process to incorporate cumulative impact studies into the DMAP process as required by the MAP Act is welcome as an Action Item 15, and this will allow for standardisation of impact assessments. However, cumulative impacts should also be considered not only at a plan level but also once a MAC has been granted to better understand cumulative impacts from maritime activities, including future development and activities as well as year-round impacts. Cumulative impacts of one project should also consider those of another plan or project. BirdWatch Ireland staff have reviewed hundreds of planning applications and sectoral policy plans as well as the Natura Impact Statements that support them on land and in the coastal zone. All of these planning applications conclude that there will be no significant adverse impacts on the integrity of the Natura sites or their conservation interests yet 26% of Ireland's 212 regularly occurring bird species are Red Listed Birds of Conservation Concern² with negative trends for many species. Habitat loss, fragmentation and degradation are the core issues facing most of these bird species. The quality of the survey work, the ecological assessments, the mitigation measures and the strength of the conclusions are all key areas in need of scrutiny to minimise negative effects and meet the objectives of the Natura 2000 network.

Natura 2000 Impact Statement

Consideration of the possible nature conservation implications of any plan or project on the Natura 2000 site network is extremely broad in both the SEA Screening Report and AA Screening Report. The AA Screening report lays out that “the ORE Future Framework Policy

² Gilbert, G, Stanbury, A., Lewis, L., (2021) Birds of Conservation Concern in Ireland 4: 2020–2026 Irish Birds 43: 1–22, available here <https://birdwatchireland.ie/birds-of-conservation-concern-in-ireland/>

Statement does not set the framework for development decisions, does not determine or set the management framework for Natura 2000 sites, does not establish the location or proposed location of ORE projects and does not programme the undertaking, timing or phasing of ORE Development.” However, given the very high-level nature of the Statement, it is impossible to argue that any future plan or project can be implemented WITHOUT adversely affecting the integrity of a Natura 2000 site. The draft plan should be subject to Article 6(3) before the plan is concluded.

In the Actions Summary in the SEA Screening Report, all actions related to ORE delivery, Route to Market, Data Policy and Alignment highlight the practical, economic and feasibility factors related to ORE process, but make no mention of environmental considerations. The SEA Screening Report also writes that the AA screening ruled out potential for significant effects on Natura 2000 sites as well as in-combination effects. Again, it is unclear how all potential for significant effects on Natura 2000 sites has been ruled out given that this Statement does not look at specific sites in turn. In-combination effects have also been ruled out and it has been concluded, based on the pre-screening check, that a Strategic Environmental Assessment is not required. There is no evidence that a plan or project, alone or in combination with other plans and projects, is NOT likely to have significant effects on any Natura 2000 site, especially as the sites are to be selected.

BirdWatch Ireland recommends that an Appropriate Assessment is carried out to further understand any significant effects on any Natura 2000 site in view of its conservation objectives. In the AA Screening Report, site-specific conservation objectives simply reiterate the general objectives from the Birds and Habitats Directives. It is highly likely that some of the following effects from activities could occur at a designated site: reduction of habitat area, disturbance to key species, habitat or species fragmentation and reduction in species density. Action 6, the streamlining of the consenting process for ORE projects, including the competitive MAC process and indicative timelines for implementation, should not come at the expense of environmental concerns and adequate consultation opportunities.

BirdWatch Ireland particularly welcomes Action 13 (“align resourcing needs across Government Departments and agencies to ensure all Government bodies in relevant marine and ORE disciplines are properly resourced”) as lack of funding and capacity is a recurring theme leading to the failure of effective marine protection and spatial planning. In particular the National parks and Wildlife Service needs to be resourced with the requisite number of staff to be able to effectively engage in the offshore renewables planning processes as well as in marine conservation. To take this one step further, BirdWatch Ireland would also welcome further provisions and action to ensure that adequate resourcing is provided to the Irish NGO network to ensure that all our activities are properly resourced, including the ability to respond to consultations such as this one. BirdWatch Ireland welcomes provisions provided in the Community Benefit Fund, including plans to ensure that community benefits persist throughout the lifetime of ORE projects. BirdWatch Ireland would like some of that money to be used not only to support coastal communities directly, but also indirectly through MPAs and marine protection.

^[1] <https://www.birdlife.org/wp-content/uploads/2022/05/IBA-SPA-report-FINAL-min.pdf>