



14th June 2024.

Dear Department of the Environment, Climate and Communications,

I write this letter in good faith and based on concerns regarding the environmental and ecological protection of our seas. I am a member of Wicklow Wildlife Welfare and Coastal Concern Alliance and Blue Ireland, and as such my submission aligns with and augments their individual observations and I fully support any other Coastal Concern, Blue Ireland or Wicklow Wildlife Welfare submissions. The Irish government declared Biodiversity and Climate emergencies in 2019. I acknowledge the critical need for our country to move to more sustainable energy generation to address both the climate crisis and security of supply, and I acknowledge that offshore wind will play a critical role in this transition, however, this **cannot come at the cost of our coastal biodiversity, which will never recover**. The protection of biodiversity must be at the core of offshore renewable energy and **an ecosystem-based approach to Marine Spatial Planning need to be undertaken for all Irish waters**, as is required under the Directive 2014/89/EU ('Marine Spatial Planning Directive'). **The location of developments (site selection) is recognised internationally as the key to avoiding environmental harm with marine developments.**

The '2020 Guidance document on wind energy developments and EU nature legislation' indicates that the "best way to minimise negative effects on EU-protected habitats and species is to locate projects away from vulnerable habitats and species. This can best be achieved through strategic planning at administrative, regional, national or even international level, in particular through the maritime spatial plans drawn up under the Maritime Spatial Planning Directive. The appropriate siting of offshore wind energy developments is the most effective way for avoiding potential conflicts with Natura 2000 sites and EU protected species and habitats." In respect of this, we acknowledge the states moves away from a developer led approach to siting of offshore wind developments. However, the current SC-DMAP process and the OREDP II, which allocated the sites on which this SC-DMAP is being developed, is far from environmentally sound ecosystem based Maritime Spatial Planning and appears to be an elaborate process to re-allocate Site A, which is almost identical to that provided to Energia in 2021, resultant of a court settlement. While the process of ecosystem based Maritime Spatial Planning is intended to avoid conflicts at the consenting stage by considering all aspects of the ecosystem (environmental, social and economic), this SC-DMAP process appears to be creating a situation likely to cause conflict.

I would urge you to consider the recently published Fair Seas '[Revitalising Our Seas](#)' report, which, taking an independent scientific approach, outlines that this area is of **exceptionally high biodiversity value** and should be considered as a Marine Protected Area (MPA).

These sites cannot be on the one hand considered of exceptionally high biodiversity and presented as areas suitable for MPAs and on the other had being considered for wind farm developments.

The Plan:

Page 22 of the 'South Coast Designated Maritime Area Plan - SEA Environmental Report' states that:

'The Offshore Renewable Energy Development Plan (OREDPA) sets out key principles, policy actions and enablers for delivery of Ireland's significant potential in Offshore Renewable Energy. The OREDPA provides a framework for the sustainable development of Ireland's offshore renewable energy resources and is currently guiding the State's policy approach to achieving 5 GW of ORE by 2030, mostly through fixed-bottom wind turbines in relatively shallow waters of up to 70 metres off the east and southeast coasts. This aligns with the draft SC-DMAP.

This would indicate that the OREDPA (2014) is the plan that this SC-DMAP falls under, however, it was the OREDPA II (that remains unpublished) that defined the broad areas under which this SC-DMAP is considered, therefore it appears to be the OREDPA II that is the plan under which this SC-DMAP is being progressed. It is unacceptable that the plan remain unpublished as the enactment of that plan is progressed in this SC-DMAP. The final OREDPA II and associated assessments and public consultation should be published prior to progressing this SC-DMAP.

Page 93 of the 'South Coast Designated Maritime Area Plan - SEA Environmental Report' states that:

'The 2014 Offshore Renewable Energy Development Plan (OREDPA)⁶⁸ sets out the Government's policy for the sustainable development of the country's abundant offshore renewable energy resources. It found that 4.5 GW of offshore wind and 1.5 GW of wave and tidal energy could be sustainably developed in Irish waters. The OREDPA identifies policy actions and enablers that are key to the development of this sector. Progress is monitored by the Offshore Renewable Energy Steering Group (ORESOG) which is responsible for the implementation of the OREDPA across three workstreams: Job Creation; Infrastructure; and Environment. The OREDPA I is currently guiding the State's policy approach to achieving 5 GW of ORE by 2030, mostly through fixed-bottom wind turbines in relatively shallow waters of up to 70 metres depths.

This is a clear indication that the State's policy is to knowingly exceed what is considered sustainable in Irish waters. Further to this, the Climate Action Plan 2023 (CAP23) committed to '*at least 5 GW of offshore wind energy by 2030 and an additional 2 GW offshore wind for green hydrogen production*' (Target 9). This was affirmed in the Climate Action Plan 2024, so the State's policy actually aim for

7GW of wind energy in Irish waters by 2030, which even further exceeds the limit of what is considered to be the capacity of the receiving environment.

In addition to this, the OREDP, published ten years ago, committed to a full review of the plan and associated SEA and AA prior to 2021 and that no such review has thus taken place. As the plan is entirely out of date and no longer represents planned developments, designated SACs and SPAs or other activities currently effecting the marine environment, it cannot be said to be valid. As such, the seeming reliance of this SC-DMAP on that plan should also not be seen as valid. In addition, no valid Appropriate Assessment can be said to have taken place with respect to the SC-DMAP as it could not have adequately considered in-combination effects with the plan (OREDP), other plans (e.g., OREPD II) or planned developments which lack a plan. This is also true for any SEA or other in-combination or cumulative assessments which should have been carried out with respect to the SC-DMAP. To be clear, the OREDP and associated AA and SEA are out of date and the OREDP II has yet to be published and so no valid plan or associated environmental assessments exist with respect to the proposed SC-DMAP. In addition to this, potential developments other than the 'phase 1 relevant projects', may be progressed or site investigations may be progressed, as they have in the recent past, without any associated plan. Therefore, without a plan it is not possible to carry out in-combination or cumulative impact assessments, which are required with respect to the Habitat's Directive and the SEA Directive, among others.

Public Consultation

The public consultation website (<https://www.gov.ie/en/consultation/72a5c-south-coast-designated-maritime-area-plan-for-offshore-renewable-energy/>) indicates that 'new supporting documents were added on the 7th June 2024, 7 days before the public consultation ends. This has significantly reduced the time for the public to engage with these documents and undermines the public consultation process.

Documents supplied with this public consultation regularly refer to the OREDP II, however, this plan has yet to be completed and published. Proceeding with the current analysis, based on the OREDP II, fails to provide effective public consultation.

As with the OREDP II, the broad areas on which this DMAP analysis is based were decided as part of the OREDP II and no effective public consultation has been carried out as there was **no point at which the public were consulted when all options were open**. This contravenes a number of Irish regulations, EU Directives and international conventions (namely the Aarhus convention).

Strategic Environmental Assessment

The SEA associated with the SC-DMAP does not appear to comply with the Government of Ireland's 'Strategic Environmental Assessment - Guidelines for Regional Assemblies and Planning Authorities (2022).

Data Decision Logs

From the Data Decision Log the analysis performed as part of this DMAP process appears to have excluded the majority of environmental data and where inclusion of environmental data are made, weights are low. This should be viewed on top of the exclusion of >95% of environmental datasets as part of the OREDP II (see OREDP II submission appended to this observation), which was the plan which decided the Broad Areas of Interest, which currently define the boundaries of the DMAP analysis currently under consultation. This accumulation of exclusions results in an almost complete exclusion of environmental considerations in defining these areas and cannot be said to be an ecosystem-based approach and as such contravenes the MSP Directive. An ecosystem based approach to MSP should include cognisance to connectivity between ecosystem components, which has been entirely excluded in this analysis, for example, inadequate consideration has been provided to the effects of Sandbanks which are slightly covered by sea water all the time [1110] and Important Bird Areas (IBAs) to the Kittiwake populations in the area, the latter having been provided a weighting of 2 and the former having been entirely excluded from consideration according to the Environmental Data Log. Similarly, highly important areas such as Reefs [1170] have been excluded from consideration, citing inclusion in 'SAC and SPA layers' however, it is not clear if all the known reefs are included within the SAC and SPA layers' layers. Salicornia mud and Perennial Vegetation of Stony Banks are excluded from consideration in the dataset, which seems to go against the policies of the NMPF.

A4.12: Sponge communities on deep circalittoral rock (offshore circalittoral rock and biogenic reef) are included and rated highly but the specific locations of these habitats are not outlined for the public in relation to the proposed development areas.

Marine Mammal datasets are almost completely excluded from the analysis while reasons for the high weightings are provided no reasoning is provided for the exclusion of the dataset from the analysis is provided. The exclusion of such environmental data appears to be an opposite approach to a precautionary approach that required under numerous EU Directives, as well as the United Nations Convention on the Law of the Sea (UNCLOS).

Given the paucity of data, we contend that this DMAP process should not be carried out until the inclusion of data from the ObSERVE II study can be included, which should provide a much more holistic view of areas important for bird and marine mammal foraging. Any attempt to proceed in the absence of this data, which is near completion should be considered as failing to comply with the policies of the NMPF and ecosystem based maritime spatial planning.

The reasons for the exclusion of 'Special Area of Conservation Offshore (SAC)' from the heat maps is unclear. The reasons for the exclusion of 'Hake Nursery' from the heat maps is unclear. The reasons for the exclusion of 'Horse Mackerel' from the heat maps is unclear. The reasons for the exclusion of 'Mackerel Nursery' from the heat maps is unclear. The reasons for the exclusion of 'White Belly Angler Monk Nursery' from the heat maps is unclear.

There is a very limited range of ecosystem services considered in this analysis, particularly when it comes to environmental or ecological data. Furthermore, the majority of the data that is considered (e.g., Basking Shark Distribution, Key Shellfish beds, Scallop beds, value of wrecks) have been excluded from the heatmaps.

The huge exclusion of environmental/ecological datasets from both the OREDP II and the current DMAP analysis highlights the complete disregard for the ecosystem in which these developments are planned. The current approach of excluding environmental data and failing to take a precautionary approach will result in Ireland failing to meet its MSFD GES Descriptor requirements and will not result in achieving its legally binding goal of “by no later than the end of the year 2050, the transition to a climate resilient, **biodiversity rich**, environmentally sustainable and climate neutral economy” as required by the Climate Action and Low Carbon Development Act 2015 to 2021. **The current approach to MSP is not a sustainable approach and is thus not in the public interest.**

SC-DMAP Appropriate Assessment Process

Regarding the Appropriate Assessment process, including Natura Impact Statement, the level of scrutiny, both individually and in-combination does not do justice to the ecologically sensitive areas in which they are located.

- Public access to Environmental Information on the Proposed Site:

Article 11 of Directive 92/43/EEC (the ‘Habitats Directive’) requires Member States to undertake surveillance of the conservation status of the natural habitats and species referred to in Article 2, with particular regard to priority natural habitat types and priority species. In addition to this, Article 18 requires Member States to exchange information for the purpose of proper coordination of research carried out at member state and *at community level*.

It is clear from data available in the public domain (e.g., Data Decision Log) that a number of habitat types within and in close proximity to the SC-DMAP application area. The extent of these habitats is currently unknown by the public or not in the public domain.

The state and the license applicant have a legal requirement (92/43/EEC, Aarhus Convention, OSPAR Convention) to make the location and extent of these habitats known to the public and until such time as that knowledge is available meaningful public consultation cannot proceed.

- Lacking Strategic Environmental Assessment:

The Irish State has failed to adequately implement Directive 2001/42/EC (‘Strategic Environmental Assessment Directive’) and Directive 2014/89/EU (‘Marine Spatial Planning Directive’) and as a result the marine and coastal habitats have been put at

risk. Continuing with the proposed SC-DMAP would further risk the ecology of the area in the vicinity of the proposed license, which is being carried out in an insufficiently regulated environment.

- Remaining Risks/Lack of Robust Scientific Data:

Continuing with this SC-DMAP would contravene article 6(3) of Directive 92/43/EEC ('the Habitats Directive') and the domestic implementing measures in applying the wrong test; and in **failing to contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt** as to the effects of the proposed works.
- Insufficient Evidence or Mitigation Measures:

Continuing with this SC-DMAP would contravene article 6(3) of Directive 92/43/EEC ('the Habitats Directive') as there is insufficient evidence that the proposed works, individually, or in combination with other plans or projects, is **unlikely to have a significant effect on any European Site/s subject to specific mitigation measures**.
- Unregulated Development Environment:

Continuing with this SC-DMAP would contravene article 6(3) of the Habitats Directive by granting a consent to a project which leaves the developer free to determine subsequently certain parameters without first having made certain that the development consent granted establishes conditions that are strict enough to guarantee that those parameters will not adversely affect the integrity of the site.
- Requisite Measures:

Continuing with this SC-DMAP would contravene Articles 12 & 13 of the Habitats Directive, as Ireland as a member state, would not have taken the requisite measures to protect the species listed in Annex IV throughout its natural range within Europe. Specifically, not taking the requisite measures to protect the species listed in Annex IV particularly during breeding, rearing, hibernation and migration, as well as not taking the requisite measures to inhibit the deterioration or destruction of breeding sites or resting places.
- Favourable Conservation Status:

Continuing with this SC-DMAP would contravene Article 1 of the Habitats Directive, as the member state (Ireland) would fail to take adequate steps to maintain favourable conservation status of natural habitats and species of Community interest.

- Marine Conservation:

- Continuing with this SC-DMAP would contravene the *Convention for the Protection of the Marine Environment of the North-East Atlantic* (OSPAR), for which Ireland is a voluntary signature, under Article 2(2) by failing to ensure preventive measures are to be taken when there are reasonable grounds for concern that substances or energy introduced, directly or indirectly, into the marine environment may bring about hazards to human health, harm living resources and marine ecosystems.
- Continuing with this SC-DMAP would contravene the *Convention for the Protection of the Marine Environment of the North-East Atlantic* (OSPAR) under Article 2(3) by failing to adopt measures to use the latest technological developments and practices designed to prevent and eliminate pollution fully.
- Continuing with this SC-DMAP would contravene the *Convention for the Protection of the Marine Environment of the North-East Atlantic* (OSPAR) under Article 2(3) by failing to apply best available techniques and best environmental practice.
- Continuing with this SC-DMAP would contravene the *Convention for the Protection of the Marine Environment of the North-East Atlantic* (OSPAR) under Article 5 by failing to take, individually and jointly, all possible steps to prevent and eliminate pollution from offshore sources in accordance with the provisions of the Convention.
- Continuing with this SC-DMAP would contravene the *Convention for the Protection of the Marine Environment of the North-East Atlantic* (OSPAR) under Article 6 by failing to undertake and publish at regular intervals joint assessments of the quality status of the marine environment and of its development, for the maritime area or for regions or sub-regions thereof and include in such assessments both an evaluation of the effectiveness of the measures taken and planned for the protection of the marine environment and the identification of priorities for action.
- Continuing with this SC-DMAP would contravene the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR) by failing to ensure adequate protection of species and habitats in decline, as outlined in the [OSPAR List of Threatened and/or Declining Species and Habitats](#), many of which are present in the proposed license area but for which adequate assessment has not taken place.
- The relevant parties, are in contravention of Article 9 of the *Convention for the Protection of the Marine Environment of the North-East Atlantic* (OSPAR) regarding the requirement of release of information on the state of the maritime area, on activities or measures adversely affecting or likely to affect it.
- Continuing with this SC-DMAP would contravene the Convention on Biological Diversity, for which Ireland is a voluntary signatory, by failing to introduce appropriate procedures requiring environmental impact assessment of its proposed projects that are likely to have significant adverse effects on biological diversity with a view to avoiding or minimizing such effects and, where appropriate.

- Continuing with this SC-DMAP would contravene the Convention on Biological Diversity by failing to introduce appropriate arrangements to ensure that the environmental consequences of its programmes and policies that are likely to have significant adverse impacts on biological diversity are duly taken into account.
- Continuing with this SC-DMAP would contravene the Convention on Biological Diversity by failing to take the necessary measures to protect and conserve the ecosystems and the biological diversity of the maritime area, and to restore, where practicable, marine areas which have been adversely affected and cooperate in adopting programmes and measures for those purposes for the control of the human activities.
- This SC-DMAP fails to take adequate consideration of the protection of the Basking Shark protected (as of October 2022) under Section 23 of the Wildlife Act, 1976, as amended.

Non-statutory Observations:

- The *Department of the Environment, Climate and Communications* is a member of the International Union for Conservation of Nature (IUCN), as such, I expect that department, which is assessing this license application to expect consideration of [IUCN Red List of Threatened Species](#).
- The *Department of the Environment, Climate and Communications* has a moral obligation to accurately assess the individual and cumulative impact of this license application on red and amber listed bird species, outlined in [Birds of Conservation Concern in Ireland 2020-2026](#), many of which are present in the application area.

Regarding all the points referred to above, I would urge the Department of the Environment, Climate and Communications to wait until further data is available on the environment (e.g., ObSERVE II) and carry out a correct ecosystem based MSP with due consideration of such environmental data.

Regards,

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