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14<sup>th</sup> June 2024

## **Re: Public Consultation on the Draft South Coast Designated Maritime Area Plan for Offshore Renewable Energy**

A Chara,

An Taisce welcomes the opportunity to contribute to the consultation on the Draft South Coast Designated Maritime Area Plan (SC-DMAP) for Offshore Renewable Energy (ORE) and wishes to make the following submission.

It is important to state at the outset that An Taisce is very supportive of ORE development that is done sustainably, is fully compliant with our national, European and international legal obligations, and that recognises the intertwined nature of the climate and biodiversity crises.

### **1. Ongoing Issues of Non-Compliance with EU Marine Directives**

European marine policy is set out in a framework called the Integrated Maritime Policy (IMP). Recital 2 of the Maritime Spatial Planning Directive 2014/89/EU (MSPD) explains:

*"The objective of the IMP is to support the sustainable development of seas and oceans and to develop coordinated, coherent and transparent decision-making in relation to the Union's sectoral policies affecting the oceans, seas, islands, coastal and outermost regions and maritime sectors, including through sea-basin strategies or macro-regional strategies, whilst achieving good environmental status as set out in Directive 2008/56/EC."*

The Marine Strategy Framework Directive (MSFD, 2008/56/EC as referenced above) is considered to be the environmental pillar of the IMP and requires the achievement of "Good Environmental Status" in the marine area based on a set of 11 descriptors. The MSPD on the other hand sets out the framework requirements for the spatial planning of human activities in the marine area. Neither Directive stands alone, however, as they sit within the IMP.

The SC-DMAP is made within a legislative and policy framework that remains non-compliant with these crucial EU Marine Directives. Critically, the SC-DMAP is required under the Maritime Area Planning (MAP) Act to be consistent with the National Marine Planning Framework (NMPF). The NMPF was intended to be made as a

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Maritime Spatial Plan under the EU Maritime Spatial Planning Directive 2014/89/EU (MSPD). Yet the NMPF does not constitute what can be meaningfully described as a plan for the purposes of the Directive – it does not actually provide a spatial plan for where marine activities will take place, what those activities will be, and what the level of intensity of those activities will be across their distribution.

The MSPD also requires an ecosystems-based approach to be taken in Maritime Spatial Plans, but the NMPF also does not provide any spatial assessment of ecological sensitivities and potential sensitivities in relation to human activities, therefore it is virtually impossible to meaningfully assess the potential impacts of human activity in the sea. It is therefore not compliant with the requirements of the MSPD regarding Maritime Spatial Plans and the ecosystems-based approach.

DMAPs need to be developed in the same way and to the same standard as a Maritime Spatial Plan under the requirements of the MSPD. We do not consider that the SC-DMAP meets the requirements of the MSPD or the MAP Act, and we would highlight in particular the lack of detailed spatial assessment and policies regarding ecological sensitivities in the DMAP area (see section 2 below).

However, even if DMAPs were done in full compliance with the MSPD, they cannot fix the issues with the NMPF's non-compliance - the problems with the NMPF cannot be incrementally fixed with individual DMAPs. This leaves the EU-required ecosystems-based approach still compromised.

## **2. Biodiversity Protection and Enhancement**

Though environmental concerns often play second fiddle to economic ones, we cannot overemphasise that a healthy ocean ecosystem is absolutely fundamental to the realisation of any economic or social benefits. Without a healthy ecosystem we cannot have a thriving economy or tangible social benefits. Furthermore, the ocean ecosystem also plays a fundamental role in climate change mitigation. Therefore, we must ensure that by developing ORE in the interest of emissions mitigation we don't also worsen the climate crisis by damaging crucial marine ecosystems.

### **2.1 Marine Protected Areas**

There is an ongoing failure to provide for Marine Protected Areas (MPAs) as required by Article 13(4) of the Marine Strategy Framework Directive. Designating MPAs at the start of marine spatial planning processes is key to a truly ecosystems-based approach. Very regrettably, the long-awaited MPA legislation still has not been published at the time of writing. Despite the target of 30% of the marine area to be protected by 2030, less than 10% of our waters have been designated as protected areas while this DMAP process moves forward.

Leaving MPA designation until after the development of DMAPs poses the risk that planning applications may be granted in some of the most diverse and ecologically important areas in Ireland's marine waters, which would likely be designated as MPAs in the future, or presently, had the provisions for MPA designation been finalised sooner. It could also lead to the designation of MPAs occurring in the remnant areas after all of the other marine sectors have been allocated their geographical area. This runs completely counter to the ecosystems-based approach required by the MSPD and MSFD.

In the absence of MPA designations, consulting working groups associated with the MPA designation process is crucial to reduce risks causing adverse impacts for sensitive marine zones, particularly with regard to biodiversity and seafloor integrity (two key Good Environmental Status (GES) parameters which Ireland has failed to reach under the MSFD<sup>1</sup>). We therefore welcome DECC's stated engagement with the MPA Advisory Group and recommend that this engagement continue going forward.

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<sup>1</sup> Report on the Pre-Legislative Scrutiny of the General Scheme of the Marine Protected Areas Bill 2023.  
[https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint\\_committee\\_on\\_housing\\_local\\_government\\_and\\_herit](https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_housing_local_government_and_herit)

## 2.2 Specificity in Biodiversity and Environmental Objectives

There is a strong need for much more specificity around biodiversity and nature protection in the SC-DMAP, particularly in light of the ongoing lack of MPA designations. The policy objectives in Section 6 are very general and do not address constraints, potential impacts or mitigation measures specific to the SC-DMAP area. We would highlight s.22(2) of the MAP Act, and in particular (g), (h) and (i) which require the Draft DMAP to specify the following:

*g) any proposed measures to avoid or mitigate any adverse impact of the maritime usages referred to in paragraph (c) on protected sites, species or habitats,*

*(h) any proposals to—*

*(i) avoid or mitigate any potentially adverse effect on the environment of the undertaking of one or more than one of the maritime usages referred to in paragraph (c), or*

*(ii) benefit the environment or protected sites taking into account the potential effect on the environment of the undertaking of one or more than one of the maritime usages referred to in paragraph (c),*

*and*

*(i) any proposals to avoid or mitigate any potentially adverse impact on other lawful users of the maritime area of the undertaking of one or more than one of the maritime usages referred to in paragraph (c).*

We consider that the SC-DMAP as drafted has not adequately complied with these requirements.

In line with Habitats Directive requirements, we consider that further specificity is also needed in the NIS with regard to potential impacts on protected areas that may be impacted by activities in the DMAP zones. Consideration of potential impacts to and requirements for protection of Annex IV species in the DMAP is also seriously lacking.

## 2.3 eNGO Representation on Working Group

We echo the consensus among the eNGO community that marine specialists from the eNGO sector be included as part of the Marine Ecosystems and Ornithology Working Group which will make important recommendations on the Regional Level Surveys on mobile and migratory species. The eNGO sector, particularly those with dedicated marine expertise such as the groups involved with the Fair Seas coalition, are well placed to contribute evidence-based and robust assessments and data for the improvement of the process as a whole.

## 3. Transmission and Grid Infrastructure & End Uses of ORE-Generated Power

We note the general absence of detail regarding transmission system infrastructure routes, landfall points, onshore connection infrastructure, etc. for the energy generated by the ORE developments in the SC-DMAP area. The SC-DMAP states that the existing capacity of onshore electricity grid infrastructure can only facilitate connection to one out of the four proposed Maritime Areas (Maritime Area A).

The SC-DMAP states: *EirGrid will continue to proactively **plan for accelerated developments to the onshore transmission system which may be necessary** in facilitate implementation of the SC-DMAP,*

*in line with Ireland's legally binding decarbonisation objectives, and objectives in relation to enhanced energy security of supply.* [An Taisce emphasis]. It also states:

*"Further technical analysis will be required regarding potential routes and landfall points for future transmission and cable infrastructure connecting proposed ORE developments in the SC-DMAP area to shore, both in respect of proposed developments directly connected to the onshore transmission system and non-grid connected developments. In its role as offshore transmission system owner and operator, this analysis will be carried out by EirGrid upon establishment of the SC-DMAP."*

The electricity grid requires upgrades and extension to accommodate the rapid electrification, including from ORE, needed to secure decarbonisation obligations. We consider planning for the transmission infrastructure, landfall points, grid connection points, etc. to be a key part of a plan-led approach to ORE and a key part of any Maritime Spatial Plan made under the MSPD. While we acknowledge that project-level detail cannot be provided at DMAP stage, we do submit that much more detail on potential routes, excluded areas, etc. is needed now at plan stage, rather than after DMAP adoption.

Additionally, in the absence of such planning at the DMAP stage, the end-uses of energy produced in Maritime Areas B, C and D remain shrouded in uncertainty. Section 8.3 of the SC-DMAP states:

*"Beyond this initial ORE development to be located in Maritime Area A, there is no current pathway for connecting additional ORE projects developments within the SC-DMAP area to the onshore electricity transmission system. The draft SC-DMAP therefore provides for future developments of both grid connected and non-grid connected projects, including but not limited to developments fully or partially connected to large energy users via private wire(s), power-to-X developments, and hybrid projects connected to Ireland and other neighbouring countries. This approach will provide the best prospect of accelerated achievement of Ireland's offshore renewable energy and decarbonisation objectives, and enhancing energy security."*

This lack of current connection capacity beyond Maritime Area A has the potential to incentivise the utilisation of Areas B, C and D for new Large Energy User (LEU) industry use. Indeed, the SC-DMAP also states that *"the South Coast will have ample opportunity to align the development of offshore wind energy with large energy users in the pharmaceutical, technology and data industries."* The Department of Enterprise, Trade and Employment's strategy document, 'Powering Prosperity: Ireland's Offshore Wind Industrial Strategy' is also referenced in the SC-DMAP in this context (to our knowledge this Strategy did not undergo Strategic Environmental Assessment).

We have concerns regarding the potential for a significant proportion of the energy generated by developments in the SC-DMAP areas B, C and D to be directed to facilitate the development of new LEUs, a sector which is projected to account for 27% of national electricity demand by 2030. This is above the projected annual demand for the residential, commercial, and other industrial sectors which do not constitute LEUs (see graph below).<sup>1</sup>

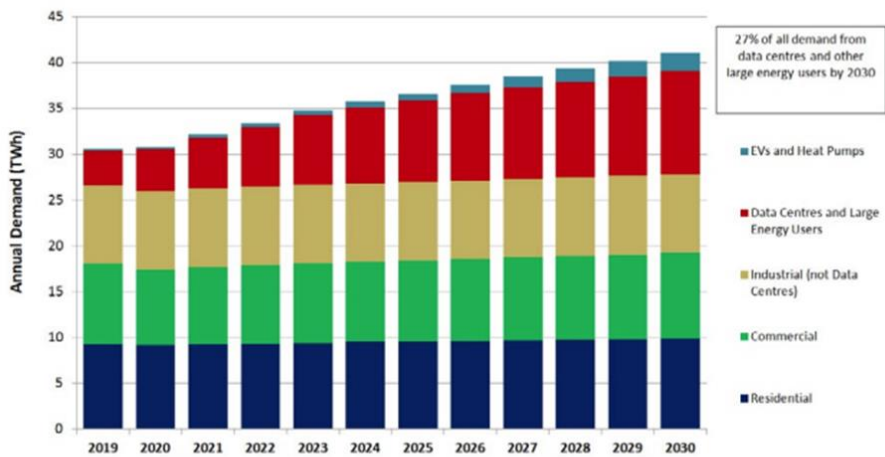


Figure 10 - For the Ireland Median Demand scenario, this illustrates the approximate split into different sectors. EirGrid estimate that 27% of total demand will come from data centres and large energy users by 2030

We would highlight that progress toward the national 80% renewables target has to date been significantly diluted by the ongoing proliferation of LEUs, in particular data centres. The higher the total electricity demand, the more renewable capacity is needed to reach the 80% target. Therefore, the more energy intensive developments, like data centres, that come onstream, the more difficult it will be to reach that target. Should the energy produced in areas B, C, and D be used to facilitate new LEUs, it would reduce the proportion of offshore wind energy available for the grid and for dealing with our existing energy demand and emissions mitigation needs, for example, residential and commercial applications such as heating homes and businesses. This point forms the core of our concern regarding the uncertainty of the end use of the ORE generated from Maritime Areas B, C and D, putting emissions reduction obligations for other sectors at risk, and the reduced availability of renewable energy for community benefit.

Such an increase in demand for renewable energy could place strain on the ability of the offshore renewable sector to provide adequate output which equitably satisfies the needs of both community and industry. Consequently, this could create a paradoxical reversion to fossil fuel reliance by the energy-intensive data sector for example, which is already creating a trend of increased fossil gas backup generators, strategic gas reserve facilities and back-up power plants to meet this added energy intensity.

There is undoubtedly a need to provide renewable electricity to industrial and LEUs as part of our decarbonisation efforts, and ORE certainly has a role to play in this. A proper plan-led approach to ORE development needs to plan for and balance the end uses of the energy produced. This should not be entirely left to the project consenting stages. The SC-DMAP should include more detailed planning regarding the development of further grid transmission infrastructure in proximity to potential landfall points for the ORE which can be used to supply existing electricity demand across sectors. Any potential for developments such as energy parks, as mentioned in the SC-DMAP, also should be further taken into account at plan level.

Issues of a just transition and energy justice also require consideration in the context of ORE end uses. Overall electricity demand reduction is also crucial, and ORE should not be used to permit further unabated expansion of demand in the LEU sector.

#### 4. Coordination and Alignment with Terrestrial Planning

Careful alignment of the terrestrial land use planning hierarchy with the maritime spatial planning regime is essential for sustainable ORE development. The issues discussed above with transmission infrastructure highlight this. This requires alignment of DMAPs with the different terrestrial planning policy tiers, namely

Local Area Plans, County Development Plans, Regional Spatial and Economic Strategies and the National Planning Framework and National Development Plan.

An outline of the necessary alignment among marine plans is helpfully outlined in the SEA, and these in turn should be carefully aligned with the aforementioned land use planning:

*"Maritime Spatial Planning Consistency and Alignment: It is an objective to support the integration of different uses in the marine environment and ensure consistency and alignment between high level plans such as the National Maritime Spatial Plan, regional based approaches to maritime spatial planning and localised coastal management plans and local integrated coastal zone management plans. It is important to be cognisant of the need to promote cross-boundary management of coastal areas within the region. Development of any plans in coastal zones should be informed by the relevant Strategic Flood Risk Assessment."*

The issue of port infrastructure is a relevant example here. The ability of existing port infrastructure to facilitate development planned under the SC-DMAP should be fully assessed to ensure feasibility and any deficiencies should be addressed at DMAP level in accordance with the plan-led approach. This will also require alignment and coordination with terrestrial planning. If adequate port capacity is not available, it risks driving up the costs of ORE-generated electricity for the end consumer, which could hinder the perceived benefits of renewable energy.<sup>2</sup>

#### **4.1 Compliance with Water Framework Directive**

The SC-DMAP area covers coastal and estuarine areas, and therefore requirements of the Water Framework Directive and the need to achieve at least good status in these waters must be taken into account. This is difficult to assess as part of the SC-DMAP, particularly given the uncertainty about transmission infrastructure and Maritime Areas B, C and D. The SC-DMAP's Strategic Environmental Assessment acknowledges that the rollout of offshore wind *"arising from the draft SC-DMAP can result in deterioration of water quality without proper management"*.

### **5. Community and Shared Ownership**

The potential for community and shared ownership models should be explored further in respect of ORE projects, and how this might factor into current and future DMAPs. This could facilitate greater coastal community buy-in for ORE projects and generate more community benefits, which is important in the context of public opposition which frequently arises due to coastal communities being in proximity to onshore grid infrastructure such as substations, export cables and transmission network cables. Furthermore, visual amenity disturbances are a commonly cited grievance with regard to wind energy infrastructure. Consequently, providing a clear financial mechanism for ensuring that the community receives an equitable share of revenues and the redistributive benefits that this entails facilitates greater local buy-in.<sup>3</sup>

### **6. Strategic Environmental Assessment and Article 10 Monitoring**

The Strategic Environmental Assessment (SEA) Directive 2001/42/EC requires that an environmental assessment is carried out on certain plans and programmes which are likely to have significant effects on the environment, including the SC-DMAP. Importantly, Article 10 of the Directive sets out provisions for the

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<sup>2</sup> <https://www.irishexaminer.com/news/arid-41403770.html#:~:text=They%20estimate%20if%20Ireland%20does,capable%20of%20delivering%20the%20rollout>

<sup>3</sup> BVG Associates. Offshore renewable energy export potential for Ireland. Workstream 5: Optimised financial and economic return to state and local communities. A report for the Department of Environment, Climate and Communications. January 2024.

monitoring of a plan or programme subject to SEA and the obligation for remedial action where unforeseen adverse effects arise:

1. *Member States shall monitor the significant environmental effects of the implementation of plans and programmes in order, inter alia, to identify at an early stage unforeseen adverse effects, and to be able to undertake appropriate remedial action.*
2. *In order to comply with paragraph 1, existing monitoring arrangements may be used if appropriate, with a view to avoiding duplication of monitoring.*

The provisions of Article 10 are not just for monitoring but, notably, for the remediation of unforeseen adverse effects. Section 8.12 of the 2001 European Commission guidance states that "*Unforeseen adverse effects is better interpreted as referring to shortcomings of the prognostic statements in the environmental report (e.g. regarding the predicted intensity of the environmental effect) or unforeseen effects resulting from change of circumstances.*"

An Taisce considers that a proper interpretation of Article 10 of the SEA Directive requires that the SEA monitoring process be based on quantitative, audited data and that qualitative data be provided on an ongoing basis during the lifetime of the plan or programme. This is needed to ensure that, following the required baseline assessment in the SEA, ongoing monitoring or auditing can identify unanticipated changes, allowing remediation to be carried out. Producing monitoring for its own sake would not be an adequate transposition of Article 10 of the Directive. It is only by auditing this ongoing monitoring data and clearly measuring any effects that the identification of any "unforeseen adverse effects", as defined by Article 10, can be achieved and remediation can begin.

There are serious systemic failures in Ireland to comply with Article 10 of the Directive, and An Taisce has previously made a formal legal complaint to the European Commission in this regard. A pertinent example here is the ongoing review of the National Planning Framework (NPF) – SEA monitoring reports and data did not appear to be available during the review, thereby, in our opinion, hampering the efficacy of the review's ability to inform the draft revised plan. In such situations, any adverse impacts could easily go unidentified and unremedied. Marine spatial planning, including DMAPs, will suffer the same problems if effective, rigorous monitoring is not carried out in accordance with Article 10.

It is also worth noting that if ongoing monitoring was being carried in accordance with the provisions of Article 10, it would contribute very significantly to the general availability of environmental and ecological data in Ireland. Having such an extensive and dynamic database of ecological information would contribute greatly to environmental protection efforts and to ensuring effective spatial and strategic planning within environmental constraints. There would also be significant co-benefits for the Environmental Impact Assessment, Appropriate Assessment and other environmental assessment processes. We note the DMAP's commitments around the GIS data repository and the inclusion of the Regional Level Survey data in that. Increasing the availability and accessibility of data is very welcome, and the SEA monitoring process has the potential to contribute significantly to that.

Please acknowledge our submission and inform us of any decision made.

Is muidne le meas,

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