



Our Ref: **SS00005/2024**

*(Please quote in all related correspondence)*

14 June 2024

International and Offshore Energy Division,  
Department of the Environment, Climate and Communications,  
29-31 Adelaide Road,  
Dublin 2,  
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Via email: [southcoastdmap@DECC.gov.ie](mailto:southcoastdmap@DECC.gov.ie)

**Re: Draft SC-DMAP and Natura Impact Statement together with the AA Screening Report, AA Screening determination and "South Coast Designated Maritime Area Plan: Maritime area identification – A for report Department of the Environment, Climate and Communications" referred to in the NIS**

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I refer to correspondence received in connection with the above. Outlined below are heritage related observations/recommendations of the Department co-ordinated by the Development Applications Unit under the stated heading(s).

### **Archaeology**

The submission documents have been reviewed by the National Monuments Service (NMS) of the Department of Housing, Local Government and Heritage. It is noted that there have been a series of prior engagements between NMS and the DMAP project team and further comprehensive engagement as the project is progressed would be welcomed.

The Department notes and broadly concurs with the Policy Objectives for Marine Archaeological Heritage (AH) (AH 1) as set out in the *Draft South Coast Designated Maritime Area Plan for Offshore Renewable Energy (SC-DMAP)*. The Department notes that the Draft South Coast Designated Maritime Area Plan (DMAP) Proposal Boundary for Offshore Renewable Energy contains an exceptionally rich underwater cultural heritage that includes wrecks, archaeological objects, recorded monuments, submerged palaeolandscapes and marine heritage. It is essential that due consideration is given to underwater cultural heritage in maritime spatial planning for offshore renewable energy and to this end the Department is happy to assist in realising this outcome.

Wrecks more than 100 years old and all archaeological objects underwater protected under Section 3 of the 1987 National Monuments (Amendment) Act. The Wreck Inventory of Ireland Database (WIID) is the official register of historic shipwrecks protected under the National Monuments Acts. Over 18,000 wrecks have been recorded to date in the WIID,



ranging from small fishing boats, dugout canoes and coastal traders to steamships and ocean going ships. Though earlier sources have been included where obtainable, the Inventory is largely based on documentary sources available from after 1700AD. As such, it is important to stress that previously unrecorded wreck sites, including those dating to earlier periods, may await discovery in the DMAP area under consideration here.

All wrecks over 100-years old are protected under the 1987 and 1994 (Amendment) Acts of the National Monuments Acts. The National Monuments Acts extend as a minimum to the whole area of the State, including inland and internal waters and the Territorial Sea (the "12 mile limit"). In addition, activities within what is known as the Contiguous Zone (the "24 mile limit") require compliance with the provisions of the legislation relating to legal protection for wrecks over 100 years old and underwater archaeological objects. Recorded Monuments are subject to statutory protection in the Record of Monuments and Places established under Section 12 of the National Monuments (Amendment) Act 1930-2014. In September 2023, the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023 was signed into law by the President. It is envisaged that the legislation will be commenced in stages in the coming period but in the interim the National Monuments Acts 1930 to 2004 apply. National policy, as set out in *Frameworks and Principles for the Protection of the Archaeological Heritage* states 'there should always be a presumption in favour of avoiding developmental impacts on the archaeological heritage' and, given the archaeological sensitivity of the application area, this core principle should be proactively enshrined within the DMAP process.

In light of the above legal protections on underwater cultural heritage, the geophysical surveys should be licenced under the National Monuments Acts 1930-2014. A Dive Survey Licence (Section 3 1987 National Monuments Act) and Detection Device consent (Section 2 1987 National Monuments Act) will be required. Licence applications, accompanied by Method Statements, shall be sent for vetting and approval to the National Monuments Service of the Department of Housing, Local Government and Heritage. No surveys should be undertaken in advance of receipt and approval of licences.

Should any geotechnical investigations that impact on the sea bed/foreshore be proposed as part of the DMAP, they will require prior Underwater Archaeological Impact Assessment by a suitably qualified and experienced maritime archaeologist. A UAIA report should be forwarded to the National Monuments Service for review and approval at least four weeks prior to the geotechnical works taking place and following review of all geophysical surveys. No invasive geotechnical works shall be undertaken until a response concurring with the mitigation proposals in the report has been received.

Should you require any further information or clarification on any of the above submission please do not hesitate to contact this office.



## **Nature Conservation**

These observations are intended to assist the Minister for the Environment, Climate and Communications (MECC), in meeting their obligations in relation to National and EU legislation and policies for nature conservation and biodiversity, in the context of the proposed SC-DMAP

It is noted that the draft SC-DMAP identifies four Maritime Areas within the wider geographical area, which is the subject of the draft Plan, and within which proposed future deployments of ORE may proceed for further project level assessment, in accordance with the plan-led approach envisaged by the EU Maritime Spatial Planning (MSP) Directive and required by the draft Plan. It is therefore important that the competent authority, in making its determination as to whether there will be adverse effects on the integrity of any European sites, is able to do so using clear, precise and definitive conclusions and using the best scientific knowledge. It is recommended that clarity is provided in the AA determination in this respect as the current draft DMAP would suggest that additional scientific knowledge is required to support the promotion of ORE development in areas B-D.

Specifically, Section 3.4 states *"In addition, development permission applications for ORE in Maritime Areas B, C and D should only be considered following the completion and subsequent analysis of Regional Level Surveys in respect of mobile/migratory species including birds, marine mammals and bats protected under the Habitats and Birds Directives (hereafter referred to as the Regional Level Surveys). This is a requirement in order to support the monitoring and implementation of the Plan and to inform the assessment of potential in-combination and cumulative impacts associated with offshore wind developments within these Areas at the project level. The scope of the required Regional Level Survey works will be determined by the SC-DMAP Programme Implementation Board further to a recommendation by the Marine Ecosystems and Ornithology Working Group to be established as part of the governance structure for the SC-DMAP, and may be implemented by the State and / or by MAC holders in respect of Maritime Areas B, C and D. Further detail is out set out in Section 4 of the draft Plan."*(p18)

It is recommended that the DMAP should include a clarification that the outcome of the Regional Level Surveys will be analysed in the context of whether the overarching statement that future ORE development in these areas will not have adverse effects on the integrity of European sites, is still valid. The DMAP must address the scenario whereby it can no longer support development in these areas as the Regional Level Surveys may suggest that that adverse effects cannot be avoided or mitigated.

Comments on specific Policy Objectives in the draft SC-DMAP and the Natura Impact Statement are provided below:



- MI 1: the mechanism and resources available to guarantee the delivery of the Regional Level Surveys should be clearly set out in the DMAP as this proposal is crucial to allow development beyond Area A.
- MI 2: Makes reference to "Article 12 (Habitats Directive) Assessment on Annex IV species." Article 12 does not require an "assessment" as such. It is recommended that this is replaced by "Evidence to demonstrate compliance with Article 12 (Habitats Directive) relating to Annex IV species". It also refers to "Article 5 (Birds Directive) Assessment on wild or migratory bird species" – this is terminology not used in this Article. Reference to Article 4.4 of the Birds Directive is recommended, to specifically highlight the obligation to strive to avoid pollution or deterioration of habitats outside of protection areas (SPAs).
- Appendix B Table 4: Typical Offshore Pre-consent Surveys Required to Inform Project Level Assessment. It should be noted that these are examples of the types of data that should be collected and should not be regarded as a definitive list. The National Parks and Wildlife Service (NPWS) reserve the right to determine whether any survey is adequate or when additional information is required.
- Section 5: Implementation, Governance and Monitoring. With reference to the proposed establishment of the Marine Ecosystems and Ornithology Working Group, it is essential that this Group is involved in reviewing available data, and identifying most important gaps to fill in priority order so that assessments can be conducted at the appropriate level. The Minister is requested to clarify if the Group will address marine mammals and any other relevant species to Habitats Directive and the Wildlife Act (for example, Basking shark).
- Section 6 Marine, Environment and Biodiversity. This Section requires revision to include reference to use by marine and coastal birds, migratory birds, the areas designated under the Birds Directive and other areas important for birds outside of these SPAs.
- OEP3: This Policy Objective makes reference to "provide for ecological enhancement and recovery of the marine environment that goes beyond measures required for project mitigation". It is recommended that this is re-phrased to articulate a commitment to no net loss of biodiversity, as set out in Policy 3C1 of the National Biodiversity Action Plan.
- Natura Impact Statement
  - MA3: Mitigation of potential adverse effects on integrity of any European site as a result of promoting ORE development in Maritime Area A, appear to rely on the separation distances between the European site and the proposed Maritime Area. Whilst all the proposed development areas avoid European sites, separation distances are generally only relevant in terrestrial scenarios whereby the European



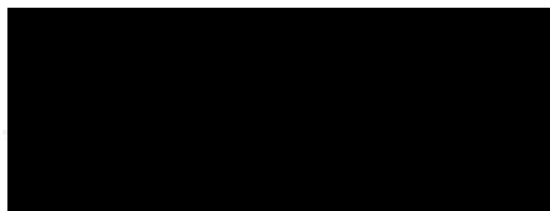
site boundaries are related to an assumed restricted distribution of the species. In offshore marine environments, distances from such boundaries cannot be relied upon with as high a level of confidence as species are able to move freely through these areas and beyond. It is noted that avoidance of overlap with European sites and separation from these sites is not wholly relied upon in the mitigation strategy and that is assumed that mitigation applied at the project-specific level will address any residual risk of impacts. The Department recommends that the Minister considers adding an additional clause that states that development will only be assumed to be supported by the DMAP in Maritime Area A where it has been demonstrated that there will be no adverse effects on the integrity of any European site.

- MA4: Similar to MA3, it is recommended that an additional clause is added to state that development will only be assumed to be supported by the DMAP in Maritime Areas B-D where it has been demonstrated that there will be no adverse effects on the integrity of any European site.
- OEP2: This Policy Objective makes reference to the potential scenario whereby individual projects promoted under the DMAP may (following project-specific AA) still have adverse effects on European sites and hence only be given permission under the conditions described in Article 6(4) of the Habitats Directive. It is recommended that this scenario is not promoted or supported by the DMAP as this calls into question whether the DMAP itself can be implemented in full, without resulting in adverse effects on a European site. Reference to the changes brought about by the revised Renewable Energy Directive and the Emergency Permitting Regulations in this context may be useful.

You are requested to send any further communications to this Department's Development Applications Unit (DAU) at [manager.dau@npws.gov.ie](mailto:manager.dau@npws.gov.ie), or to the following address:

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