Submission HLG 00420-22: Appropriate Assessment Determination on Foreshore Application FS007383 by Oriel Offshore Windfarm Ltd., Site Investigation for the proposed offshore Oriel Wind Farm

TO:	Minister of State Burke	AUTHOR:	Graham Cadogan (Housing)
STATUS:	Completed	OWNER:	Graham Cadogan (Housing)
PURPOSE:	For Decision and Signature	REVIEWERS:	Graham Cadogan (Housing) John Fayne (Housing) Mary O'Sullivan (Housing) Nina Murray (Housing)
DIVISION:	Foreshore		
DECISION BY:			

Final comment

Approved and signed by minister

Action required

Ministerial Determination and signature on Appropriate Assessment Determination

Executive summary

Oriel Windfarm Ltd. applied for a Foreshore Licence to do Site Investigations off Co. Louth to establish the routes for inter-array cables and export cable(s), and the design of foundations, for the proposed Oriel wind farm.

As part of the assessment of this application the Minister was required to make a Screening for Appropriate Assessment determination in accordance with Article 6(3) of the EU Habitats Directive (Directive 92/43/EEC) and Regulation 42(1) of the European Communities (Birds and Natural Habitats) Regulations 2011 as amended ('The Regulations').

The Screening for Appropriate Assessment determined that an Appropriate Assessment was required as the project, individually or in combination with other plans or projects, is likely to have a significant effect on European sites and that the risk of likely significant effects on European sites cannot be excluded on the basis of objective evidence. See: Submission HLG 00254-22 Screening for Appropriate Assessment Determination on Foreshore Application FS007383 Oriel Windfarm Ltd., Site Investigations

Having considered all relevant material a recommendation has been made that the Minister accepts and adopts the Appropriate Assessment Report and determines that the proposed project, either alone or in-combination with other projects, will not adversely affect the integrity of European sites, in view of the said sites' conservation objectives.

Further proposed findings under relevant environmental legislation are below.

Detailed information

Overview

Oriel Windfarm Limited (Oriel) is an Irish renewable energy company developing the proposed Oriel offshore wind farm located in the North-West Irish Sea, 22 km off the coast of Dundalk, County Louth. The proposed Oriel offshore wind farm will include wind turbines mounted onto a foundation installed into the seabed, an offshore substation and interlinking cabling between the turbines and the substation and an export cable between the substation and the shore.

The output of Oriel Windfarm will be circa 375MW.

In May 2019 Oriel obtained a Foreshore Licence (reference FS006840) for initial surveys in the offshore wind farm area and offshore cable corridor. Oriel undertook both onshore and offshore surveys and commenced the engineering design of the wind park. Oriel now intends to undertake further site investigations of the offshore wind farm area and the offshore cable corridor to investigate

the stability of the soil (seabed sediments) for the design of foundations and the detailed routeing of the inter array and export cables.

Oriel has applied for a Foreshore Licence to undertake detailed geotechnical and geophysical investigations, ecological surveys and metocean surveys. The purpose of the geotechnical investigation is to investigate the stability of the soil for the design of foundations and the detailed routing of the inter array and export cables. The purpose of the geophysical survey is to characterise the layers of sediment/rock underneath the seafloor and to achieve a detailed seabed morphology and seafloor mapping. Further ecological surveys and measurements of the wind, wave and currents (metocean) will also be undertaken.

This Foreshore Licence application is for permission to undertake these survey works on the proposed development site.

Surveys will take place off the coastline of County Louth.

To enable proper planning and management of the surveys, and to allow for weather conditions, an overall foreshore licence duration of 36 months is therefore sought.

Under the 2020 Transitional Protocol this application qualified as a "Relevant Project".

Further details of the proposed activity are outlined in the application form and associated documents (attached) and at the link: https://www.gov.ie/en/foreshore-notice/b8eb7-oriel-windfarm-limited-site-investigations-for-the-proposed-offshore-oriel-wind-farm/

A foreshore licence if granted will permit those site investigations that will result in physical interaction with or disturbance of the Foreshore. The proposed site investigation activities which are the subject of this application are fully assessed under the relevant environmental legislation.

Screening for Appropriate Assessment (Environmental Assessment)
As part of the assessment of the foreshore licence application, a Marine Advisor (Environment) with The Department of Housing, Local Government and Heritage was commissioned to conduct a Screening for Appropriate Assessment (stage 1 screening) and, if required, an Appropriate Assessment (stage 2), of the likelihood of significant impact on European sites from the the application for a Foreshore Site Investigation Licence. The reports prepared by the Marine Advisor (Environment) are to inform the Minister's decision in relation to AA Screening and Appropriate Assessment.

A number of application documents submitted by Oriel informed the Screening for Appropriate Assessment.
These are:
-Investigative Foreshore Licence Application Form (ORE) **(Tab 02)**
-Foreshore Licence Site Investigation Area Map (**Tab 03)**
-Foreshore Licence Site Boundary Details Map **(Tab 04)**
-Site Boundary with Protected Sites & Designated Areas Map **(Tab 05)**
-Site Investigation Foreshore Map (**Tab 06)**
-Foreshore Licence Application for Marine Survey: Supporting Information **(Tab 07)**
-Foreshore Licence Application: Non-Statutory Environmental Report **(Tab 08)**
-Foreshore Licence Application: Non-Statutory Environmental Report. Appx A-Vessel & Equipment Data Sheet **(Tab 09)**
-Foreshore Licence Application: Supporting information for the Stage 1 Screening for Appropriate Assessment **(Tab 10)**
-Foreshore Licence Application: Supporting information for the Stage 2 Appropriate Assessment (**Tab 11)**

The Marine Advisor (Environment) also reviewed the two submissions received during the *initial* Public Consultation (Public Consultation under S. 19 of Foreshore Act 1933) held from 15 December 2021 to 27 January 2022.
See:
-Consolidated Public Submissions from s.19 consultation **(Tab 12)**

The Marine Advisor (Environment) also reviewed the eight submissions received during the concurrent Prescribed Bodies Consultation, as well as reviewing Oriel's response to all submissions.
See:
-Consolidated Prescribed Body Submissions from s.19 consultation **(Tab 13)**
-Oriel's Response to Public Submissions and Prescribed Bodied Submissions **(Tab 14)**

The Department's Foreshore Notice website, containing the documents is:
https://www.gov.ie/en/foreshore-notice/b8eb7-oriel-windfarm-limited-site-investigations-for-the-proposed-offshore-oriel-wind-farm/

The Marine Advisor (Environment) completed the 'Screening for Appropriate Assessment' **(Tab 15**) report in May 2022. The Screening for an Appropriate Assessment was undertaken to determine if the proposed project, alone or in-combination with other plans or projects, was likely to have significant effects on any European sites. This process was carried out in accordance with the Habitats Directive and to the European Communities (Birds and Natural Habitats) Regulations 2011 and is consistent with national (OPR 2021) and EU (DEHLG 2010) guidance.

The likely significant effects from the proposed works were identified as being:
-Physical disturbance to the seafloor
-Disturbance due to the physical presence of the survey vessels
-Underwater noise
-Accidental oil spillages

A total of 33 European sites together with their site specific conservation objectives were considered. Likely significant effects from oil spillage could not be excluded for intertidal and coastal habitats and qualifying interests for the four European sites closest to the works site. Using the precautionary principle, significant effects of underwater noise on marine mammals from the geophysical surveys could not be excluded. Similar works in this area by the Offshore Renewable Sector means in-combination effects from man-made underwater noise cannot be excluded. Therefore a Stage 2 Appropriate Assessment was required.

The Department's Marine Advisor (Environment) drafted the Screening Determination for Appropriate Assessment which was approved and signed by the Minister on 6 June 2022 **(Tab 16)**

Public Consultation for Appropriate Assessment
(Consultation under Section 42 of EC Birds and Natural Habitats Regulations, as amended)
A further Public Consultation was held and a Public Notice invited public submissions, between 14 June 2022 and 14 July 2022, for the purpose of conducting the Appropriate Assessment in accordance with Section 42 (1) of S.I. No. 477 of 2011, the European Communities (Birds and Natural Habitats) Regulations 2011, as amended.

Notices were published in The Irish Independent and The Dundalk Democrat newspapers. Documents were made available for inspection throughout the consultation period in Planning Office of Louth County Council and in Dundalk Garda Station.
The documents were also available on the Department's website at:
https://www.gov.ie/en/foreshore-notice/b8eb7-oriel-windfarm-limited-site-investigations-for-the-proposed-offshore-oriel-wind-farm/

In addition to the application documents submitted by NISA, the following documents were also on public display at the above locations and published on the Department's website:
- Screening for Appropriate Assessment Report (prepared by MA)
- Marine Advisor Environment Screening Stage Report (prepared by MA)
- Screening for EIA Determination (prepared by MA)
- Submission on Screening for Appropriate Assessment Determination
-Screening Determination for Appropriate Assessment, signed by the Minister and the Marine Advisor.

The Department received 1 public submissions, from Cooley Residents Group, during the second public consultation (**Tab 17**). The applicant's response to the public submission is at **(Tab 18)**

Prescribed Bodies Consultation for Appropriate Assessment
Foreshore Regulations 2011 (S.I. No. 353 of 2011) provides under regulation 3 that when considering a foreshore application, as set out under section 18A (1) of the Act of 1933, the Minister may seek observations from a number of prescribed bodies. For this application, observations were sought from:

-Marine Advisor (Engineering) of Department Housing, Local Government, Heritage
-Marine Advisor (Environment) of Department Housing, Local Government, Heritage
-Department of Housing, Local Government and Heritage (NPWS)

-Department of Housing, Local Government and Heritage (Underwater Archaeology)
-Department of Agriculture Food and the Marine
-Marine Institute
-Inland Fisheries Ireland (IFI)
-Marine Survey Office
-Sea Fisheries Protection Authority
-Louth County Council
-Commissioners of Irish Lights

For this consultation, there were 5 responses, from:
-Marine Institute
-IFI
-Marine Advisor (Engineering) of Department Housing, Local Government, Heritage
-Marine Advisor (Environment) of Department Housing, Local Government, Heritage
-Commissioners of Irish Lights *(CIL is newly added to the PB list).*

These were forwarded to the applicant. (**Tab 19**)

There were no objections in principle to the proposed works.

The applicant's response to these Prescribed Body observations are at (**Tab 20**)

The submitted observations and the applicant's response are considered under this Appropriate Assessment. Recommended conditions will also be considered as part of this submission.

Appropriate Assessment
The Appropriate Assessment Screening process determined that likely significant impacts as a result of underwater noise from geophysical surveys on Annex II species of marine mammals from twelve SACs could not be rule out without mitigation. The possibility of significant impacts from accidental hydrocarbon spillage to two Annex I marine habitats at one SAC and a single coastal habitat at another was also recognised. Therefore a stage 2 Appropriate Assessment was required.

The Department's Marine Advisor (Environment) completed an Appropriate Assessment Report, **(Tab 21)** and identified the mitigation measures required to ensure that the proposed site investigation works, individually or in combination with other plans or projects will not adversely affect the integrity of any Europeans Site.

The Marine Advisor's Environmental Assessment and Determinations Report of 2nd September 2022, considered all the information submitted in support of this application and accepts the the conclusion and recommendations. **(Tab 22)**

Environmental Impact Assessment (EIA) Regulations
The proposed project is for site surveying including boreholes to test the suitability of the sub sea bed conditions. Having considered the application, the Department's Marine Advisor (Environment) determined that the project does not requires a mandatory EIA. As the Consent Authority, the Department must complete an Examination for EIA as part of their obligations under the EIA Directive.

The EIA Screening Examination was provided by the Department's Marine Advisor (Environment) **(Tab 23).**

It is recommended that the Minister adopts the finding that the proposed site investigation activities which are the subject of this application are not of a class that require Environmental Impact Assessment and that the activities come outside the scope of the EIA Directive.

Risk Assessment for Annex IV Species
Article 12 of the Habitats Directive (92/43/EEC) affords strict protection to those species listed in Annex IV, wherever they occur.

The applicant provided an Annex IV Risk Assessment report (**Tab 24).**
It concluded that, with the implementation of mitigation measures:
- the risk of injury to Annex IV species is considered to be negligible, and significant effects are not considered to be likely

- the risk of behavioral disturbance to Annex IV species is considered to be extremely low, and significant effects are not considered to be likely.
Therefore, it is concluded that the proposed survey activities will not give rise to significant impacts to species listed under Annex IV of the Habitats Directive.

The Department's Marine Environment Advisor considered the application and the applicant's Annex IV Risk Assessment report, agreeing with and accepting this report and its conclusions in the Marine Advisor's Environment Screening Stage Report. **(Tab 25)**

This assessment is separate to that undertaken under Article 6.3.

Marine Licence Vetting Committee (MLVC)
The MLVC examined the application and supporting documents, the submissions and applicant responses received during the 1st and 2nd Public Consultations, the submissions and responses received during the Prescribed Body Consultations, the assessment reports and conclusions regarding Appropriate Assessment Screening, Appropriate Assessment and Annex IV species, along with the Marine Advisor (Environment) Screening for Appropriate Assessment and Determination and Marine Advisor (Environment) Environmental Assessment Report with Appropriate Assessment Determination.

The MLVC concluded in its report, with conditions, **(Tab 26)** taking account of the totality of the documentation on file and subject to compliance with the specific conditions set out below, the proposed works would will not adversely affect Fishing, Navigation or the Environment and is in the Public Interest.

Please note that the MLVC report is being attached at AA Determination stage for information purposes only in matters related to the environmental assessment process.

MLVC Conclusion and proposed findings
This application is for the carrying out further more detailed site survey work to inform future development of off shore wind array. It is considered that this site surveying activity is required to inform an application for an off shore wind array, in the general area outlined on the submitted maps. It is further noted that this proposed array is a project that satisfies the definition of relevant maritime usage under the Maritime Area Planning Act and its progression through the various consenting process has been accorded a high priority.

Submissions by the public and the prescribed bodies have been considered and responded to by way of proposed conditions in Section 10. In particular the issues raised through submissions have been considered both as part of this report but also as part of the environmental assessment reports, all of which form the overall assessment of this proposed application.

In response to the public submissions issues relating to wildlife have been considered as a part of the appropriate assessment and mitigation measures proposed which will form conditions attached. In relation to matters raised relating to visual amenity and interaction with the local community. These are legitimate concerns but are considered to relate to a development proposal for an off shore wind development. This is not what is proposed as part of this application. Instead the matter at hand relates to surveying work which will inform the appropriateness or not of proceeding with a proposed future development. The work is both temporally and physically temporary. A future proposed development if it comes to pass will be the subject of a separate assessment process which will include public participation and would include as part of its assessment consider the matters raised.

Significant appropriate consideration has been given to environmental matters by the Departments Marine Advisor Environmental which is reflected in this report. The supporting environmental reports formed part of this assessment. It is considered that subject to the appropriate conditions that there will not be adverse environmental consequences arising from this application.

In the interests of coordinating the appropriate, efficient and timely site surveying work being carried out by a number of parties, in the general area, it is considered both prudent and reasonable that that the timing of these proposed activities be coordinated to avoid the carrying out of similar activities at the same time in the same area. It is recommended that this should form part of the conditions attached.

The development of off shore wind developments is an important element of Government energy policy which has been further enunciated in the recently published energy security framework. It is both necessary and appropriate that surveying work be undertaken so as to site future proposed wind arrays in locations that is geotechnical safe. This application is such an activity and is considered to be necessary and appropriate.

It is concluded that taking account of the totality of the documentation on file and subject to compliance with the specific conditions set out below, the proposed works will not adversely affect Fishing, Navigation or the Environment and is in the Public Interest.

Tab 01 contains the AA Determination Conclusion Statement, for signing by Minister, if approved.

Submitted for decision and Signature.

Related submissions

There are no related submissions.

User details

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