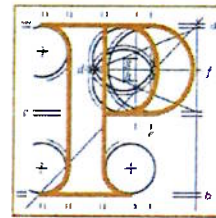


Our Case Number: ABP-319866-24

Planning Authority Reference Number:



**An
Bord
Pleanála**

Irish Wildlife Trust
8 Cabra Road
Dublin 7
D07 T1W2

Date: 16 August 2024

Re: Proposed development known as North Irish Sea Array ("NISA") Offshore Wind Farm
Located off the coast of Counties Dublin, Meath and Louth (www.northirishsearraysid.ie)

Dear Sir / Madam,

An Bord Pleanála has received your recent submission and fee in relation to the above-mentioned proposed development and will take it into consideration in its determination of the matter. Please accept this letter as a receipt for the fee of €50 that you have paid.

The Board will revert to you in due course with regard to the matter.

Please be advised that copies of all submissions/observations received in relation to the application will be made available for public inspection at the offices of Dublin City, Fingal, Meath and Louth County Councils and at the offices of An Bord Pleanála when they have been processed by the Board.

More detailed information in relation to marine infrastructure development can be viewed on the Board's website: www.pleanala.ie.

If you have any queries in the meantime, please contact the undersigned officer of the Board or email marine@pleanala.ie quoting the above mentioned An Bord Pleanála reference number in any correspondence with the Board.

Yours faithfully,


Ellen Moss
Executive Officer
Direct Line: 01-8737285

OA03

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Irish Wildlife Trust

8 Cabra Road

Dublin 7

D07T1W2

Registered Charity (CRA) Number: 20010966

August 9th 2024

Re: Public Consultation for the North Irish Sea Array Wind Farm Development

We appreciate the opportunity to submit observations to the North Irish Sea Array (NISA) development. Due to limited resources, we cannot provide a full overview of all the ecological pressures this development would add to the area. We have focussed on current EU legislation such as the Birds Directive and stated how allowing a development to occur in this area goes against Ireland's current legal obligations.

We are still waiting on the Marine Protected Area (MPA) Bill to be progressed through Government and to truly commit to an ecosystems based approach to marine spatial planning, MPAs should be designated before any new Offshore Renewable Energy developments. Ireland currently has only 9.3% of its waters protected and the majority of these protected areas do not have appropriate management plans and monitoring in place to effectively hit the conservation objectives of the area. Regardless of the new national MPA legislation, the North Irish Sea Array development is still occurring within a Special Protection Area (SPA) which has been designated through the EU Birds Directive. Last year the EU Commission released a report (1) looking at ten Member States and how they designated and managed their SPAs. The report analysed planning, implementation, site management, monitoring and conservation outcomes of 10 representative SPAs from each Member State and Ireland scored the lowest across all categories. It found that, 'In no case were specific, targeted, measurable and time bound formal conservation measures found to be in place to deliver the favourable status of species'. The EU Bird's Directives objectives aim to protect all occurring bird species and halt their decline or disappearance. Member States are required to take all necessary measures to maintain or restore bird populations over the long term. Allowing a development such as an ORE wind farm within a designated protected area goes against the legal obligations of the Birds Directive.

Allowing this development to occur within a designated SPA sets a precedent for future developments and shows the intentions of Government policy in regards to renewable energy and biodiversity. These MACs were consented prematurely, before Irish Sea sensitivity analysis and before the Irish MPA legislation had progressed. This has now put developers,

Government, NGO's and environmentalists in a vulnerable and negative position. The Designated Maritime Area Plan (DMAP) process, which has been progressing since MAC consents, while it has its limitations, has taken into account environmental constraints and follows a less developer led approach. Areas identified as ecologically important were disregarded even if they were an economically efficient choice for developments. This process shows forward thinking and factors in National and European environmental legislation and conservation objectives. While DMAPs have been progressed on the South coast of Ireland, none have been initiated for the East coast even though there are several developer led ORE plans going through proceedings.

The European Commission issued useful guidelines in May 2024 which can help to reduce the impact of ORE on marine ecosystems (2). While these guidelines are not legally binding yet, it is up to member States to ensure that they have nature inclusive designs and ensure environmental sustainability is at the forefront of developments. Within these guidelines there is a section dedicated to ORE acceleration areas (3). This section states that Member States should, '*exclude Natura 2000 sites and nature parks and reserves, the identified bird migratory routes as well as other areas identified based on sensitivity maps.*' The Irish Sea ecological sensitivity analysis (4) which was undertaken between 2022 and 2023 by the Marine Protected Area Advisory Group, has shown that there are several features occurring in ORE development areas that are highly sensitive to the impacts of these developments. The area of the NISA development overlaps with an area which has been identified as high on the ecological priority scale and there are zonations which should be prioritised for spatial conservation which the ORE development does not take into account. Even more worrying is that the report acknowledges that the impacts of ORE developments are still widely unknown and there is a lack of evidence on how they will impact endangered or critically endangered species such as the angel shark and tope, both of which are found in the North Irish Sea. We believe that the NISA development has not taken into account the findings of this report and appropriately addressed the ecological impacts.

In the EIA chapter 15 it states 'A recent review of the top global threats to seabirds identified mammalian invasive non-native species (MINNS), fisheries bycatch, and climate change as the greatest threats (Dias *et al.*, 2019). This is also true of Irish waters in particular, with these threats impacting seabirds within the Irish Sea and further across the UK and Western Europe (Furness, 2016; JNCC, 2021; Tasker *et al.*, 2000; Sydeman *et al.*, 2017).' The threats mentioned above are threats which have been established for a greater length of time compared to ORE developments. Similarly examples such as mammalian invasive non-native species, in the past have had a greater overlap with bird species. This does not then signify that ORE developments would not also become a highly significant threat to seabirds and the European Court of Auditors has found that the impact of offshore renewable energy developments has not been adequately assessed (5). It was also noted in this chapter that several birds presented in low numbers during the visual surveys and this was then used as justification that no significant detrimental effects would occur to these species due to ORE. Numbers of seabirds have greatly diminished over the years due to anthropogenic pressures and this reduced number could show that the risk posed by ORE developments is far greater as they are already vulnerable to disturbance. The North West Irish Sea SPA hosts the roseate tern (*Sterna dougallii*) manx shearwater (*Puffinus puffinus*) and shag (*Phalacrocorax aristotelis*) which are on the list of the 60 most threatened bird species under

Annex I of the Birds Directive. These species have specific plans which are designed to help Member States fulfill obligations to restore and maintain these populations to good conservation status.

The new EU Nature Restoration Law has binding regulations for the restoration of habitats and species in the EU. Article 5 of the law focuses on restoration of marine habitats and the habitats of species within the EU Birds and Habitats Directives are included (as well as several additional lists of species not covered by the Birds and Habitats Directives including the angel shark). Natura 2000 sites are to be prioritised for restoration measures and in Article 5(13) it states,

'Within Natura 2000 sites, the non-fulfilment of the obligations set out in paragraphs 9 and 10 is justified if it is caused by:

- (a) force majeure, including natural disasters;*
- (b) unavoidable habitat transformations which are directly caused by climate change; or*
- (c) a plan or project authorised in accordance with Article 6(4) of Directive 92/43/EEC.'*

Article 6(4) of Directive 92/43/EEC (the Habitats Directive) States,

'If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.

Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest.'

Bird species under the protection of this SPA and which are considered priority for funding under the LIFE Regulation (2021) include roseate tern (*Sterna dougalii*), kittiwake (*Rissa tridactyla*), razorbill (*Alca torda*) and puffin (*Fratercula arctica*). We do not believe that this ORE development falls under the scope of Article 6(4) of the Habitats Directive as it is possible for the development to be situated elsewhere in the Irish Sea and there are many alternative solutions to the situation. While ORE developments are vitally needed in order for Ireland and the EU to reach net zero, they should not be placed in protected areas where they are priority species and habitats. Allowing this shows a preference to economic values rather than ecological.

Yours sincerely,

Grace Carr
Marine Advocacy Officer
Irish Wildlife Trust

- (1) European Commission, Directorate-General for Environment, *Assessment of the measures established in special protection areas and their effectiveness – Final report*, Publications Office of the European Union, 2023, <https://data.europa.eu/doi/10.2779/488430>
- (2) https://ec.europa.eu/commission/presscorner/detail/en/IP_24_2489
- (3) https://joint-research-centre.ec.europa.eu/scientific-tools-databases/energy-and-industry-geography-lab-eigl/acceleration-areas-renewables_en
- (4) <https://www.gov.ie/en/publication/4bc80-ecological-sensitivity-analysis-of-irish-sea-main-report/>
- (5) <https://www.eca.europa.eu/en/publications?ref=SR-2023-22>