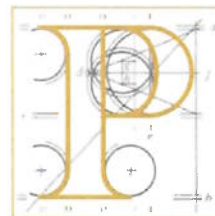


Our Case Number: ABP-319866-24



An
Bord
Pleanála

Maritime Area Regulatory Authority
2nd Floor
Menapia House
Drinagh Business Park
Drinagh
Co. Wexford
Y35RF29

Date: 15 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 submission in relation to the above-mentioned proposed development and will take it into consideration in its determination of the matter.

The Board will revert to you in due course in respect of this 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 the costal planning authority 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

OA15

Teil	Tel	(01) 858 8100
Glaio Áitiúil	LoCall	1800 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902

Ellen Moss

From: MARA INFO <info@mara.gov.ie>
Sent: 02 August 2024 13:26
To: Marine Observations
Subject: MARA Submission on OA29N.319866_North Irish Sea Array Windfarm Ltd_NISA
Attachments: MARA_Submission_NISA_OA29N.319866 Signed.pdf

Caution: This is an **External Email** and may have malicious content. Please take care when clicking links or opening attachments. When in doubt, contact the ICT Helpdesk.

Dear Sir/Madam,

Please find attached the submission from the Maritime Area Regulatory Authority (MARA), relating to an application for planning permission under Section 291 of the Planning and Development Act (2000, as amended) from **North Irish Sea Array Windfarm Ltd for the North Irish Sea Array (NISA) Offshore Wind Farm, An Bord Pleanála Case Reference: OA29N.319866**. MARA is a prescribed body for the purposes of Chapter III of Part XXI as set out in Schedule 1 of the Planning and Development (Maritime Development) Regulations, 2023.

If you have any queries or require further information in relation to this submission, please contact Niamh Lennon in the Assessment, Research and Data Unit in MARA directly.

I would be grateful if receipt of this submission could be formally acknowledged by email to the following info@mara.gov.ie.

Kind Regards

Niamh Lennon
Senior Marine Advisor Planner

An tÚdarás Rialála Limistéir Mhuirí (MARA)
Maritime Area Regulatory Authority

**An Dara hUrlár, Teach Menapia, Páirc Gnó Dhraighní,
Draighneach, Loch Garman, Y35RF29.**
2nd Floor, Menapia House, Drinagh Business Park,
Drinagh, Wexford, Y35RF29.

Tel: 053 910 5748 Mobile: 086 203 7022
Email: Niamh.Lenon@mara.gov.ie
www.maritimeregulator.ie

MARA

An tÚdarás Rialála Limistéir Mhuirí
Maritime Area Regulatory Authority

Marine/Climate Section
An Bord Pleanála
64 Marlborough Street
Dublin 1
D01 V902
marineobs@pleanala.ie

AN BORD PLEANÁLA	
LDG- _____	
ABP- _____	
07 AUG 2024	
Fee: € _____	Type: _____
Time: <u>900</u>	By: <u>post</u>

Date: 2nd August 2024

An Bord Pleanála Case Reference: OA29N.319866

Re: Application for Planning Permission under Section 291 of the Planning and Development Act (2000, as amended) by North Irish Sea Array Windfarm Ltd for the North Irish Sea Array (NISA) Offshore Wind Farm.

Dear Sir/Madam,

We acknowledge receipt of the notice from Ove Arup & Partners Ireland Ltd, on behalf of the applicant North Irish Sea Array Windfarm Limited, dated 6th June 2024, in relation to an Application for Development Permission to An Bord Pleanála, under Section 291 of the Planning and Development Act (2000, as amended) for the North Irish Sea Array (NISA) Offshore Wind Farm.

The Maritime Area Regulatory Authority (MARA) welcomes the opportunity to submit our views on the planning application at this stage of the process. MARA is a prescribed body for the purposes of Chapter III of Part XXI as set out in Schedule 1 of the Planning and Development (Maritime Development) Regulations, 2023. In accordance with Section 291 of the Planning and Development Act (2000, as amended) our comments will focus on:

- i. the implications of the proposed development for maritime spatial planning,
- ii. the implications of the proposed development for proper planning and sustainable development, and,
- iii. the likely effects on the environment or any European site of the proposed development.

MARA's functions extend to the entire maritime area, from high water of ordinary tides to the outer limit of the continental shelf, encompassing the State's territorial seas and Exclusive Economic Zone. Our comments relate only to development within the maritime area. Furthermore, our comments should not be interpreted as inferring any aspect of assessment of the planning application.

address:

An tÚdarás Rialála Limistéir Mhuiri / Maritime Area Regulatory Authority
An Dara Ullár, Teach Menapia, Páirc Ghnó Dhraighn, Drinahach, Loch Garman, Y35RF29.
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email:

info@mara.gov.ie

website:

www.maritimeregulator.ie

The onshore infrastructure (terrestrial) area of the project above the high water mark (HWM) is not within MARA's functions and therefore MARA's comments included herein should not be interpreted to refer to any element of the project above the HWM.

MARA recognises that the development of the Offshore Renewable Energy (ORE) sector will play a key role in how Ireland transitions to a carbon neutral society. MARA is a key enabler in respect of Ireland's ambitions for the ORE sector. MARA also supports delivery of other projects of strategic importance (including cabling and telecoms projects, ports development, drainage projects, sewerage schemes etc.), facilitating Ireland to harness significant benefits from realising a low-carbon economy, ensuring energy security, and presenting new opportunities for economic growth in accordance with the principles of proper planning and sustainable development of the maritime area.

This submission comprises of this cover letter outlining the key messages from MARA and an appendix of detailed comments on relevant aspects of the development application.

Key Messages of this Submission

1) Maritime Area Consent (MAC)

The Minister for the Environment, Climate and Communications granted North Irish Sea Array Windfarm Limited a Marine Area Consent (MAC) (MAC no. 2022-MAC-005) for the purposes of occupying the seabed at the proposed development location. The terms of the development permission should be consistent and aligned with the requirements of the MAC.

2) Compliance and Enforcement

MARA has statutory responsibility for ensuring compliance with a development permission granted in respect of the maritime usage the subject of the relevant maritime area consent. It is important to make the distinction that MARA is not a development consent authority, and therefore, does not have remit for the assessment and evaluation of matters in relation to the development consent application. Any conditions included in the development consent for future agreement, that may require planning and environmental assessment, should be referred back to An Bord Pleanála, as the relevant consent authority, for agreement.

3) An Bord Pleanála – MARA handover

MARA is happy to engage with An Bord Pleanála to develop a standardised approach to provide for a complete transfer of information and enable MARA to fulfil its compliance and enforcement function. This approach should consider for example; documents that should transfer, a method for transfer of documents, date/time permissions given and published online, and method of communication to MARA when a new planning permission issues.

address:

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website:

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An tÚdarás Rialála Limistéir Mhuiri
Maritime Area Regulatory Authority

4) Monitoring and Operation

Where development consent requires monitoring to be undertaken, at both the construction and operational phases of the development, it is important that such monitoring is adaptive in nature to allow for mitigation of issues identified during the course of the monitoring.

5) Decommissioning and Rehabilitation

In accordance with Section 96 of the Maritime Area Planning Act 2021, the holder of a MAC shall, before expiration (if any) of the MAC, rehabilitate that part of the maritime area subject of the MAC, and any other part of the maritime area, adversely affected by the maritime usage the subject of the MAC. An Bord Pleanála should be cognisant, in their assessment of any future decommissioning plan, of the long term implications to the State of leaving structures or materials in situ. The management of the States maritime area is the responsibility for MARA.

If you have any queries or require further information in relation to this submission, please contact Niamh Lennon in the Assessment, Research and Data Unit in MARA directly.

I would be grateful if receipt of this submission, could be formally acknowledged by email to the following info@mara.gov.ie.

Yours sincerely,

John Evans

Director

Assessment, Research and Data Unit

address:

An tÚdarás Rialála Limistéir Mhuiri / Maritime Area Regulatory Authority
An Dara Urdá, Teach Menapia, Páirc Ghnó Dhrághnui, Draigheach, Loch
Garman, Y35RF29
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Y35RF29.

email:

info@mara.gov.ie

website:

www.maritimeregulator.ie

APPENDIX A
Detailed comments on An Bord Pleanála Case Ref: OA29N.319866

1) The Maritime Area Consent (MAC)

The Minister for the Environment, Climate and Communications granted North Irish Sea Array Windfarm Limited a Marine Area Consent (MAC) (MAC no. 2022-MAC-005) with a commencement date of 23 December 2022, and a permitted Term of 45 years. The expiry of the Maritime Area Consent for the Project, is therefore the 22 December 2067.

It is noted by MARA the subject application is seeking a ten-year permission and 35 year operational life from the date of final commissioning of the Proposed Development, which would extend beyond the permitted term of the MAC.

The MAC specifies the permitted maritime usage as “The construction and operation of an offshore wind farm and associated infrastructure (including decommissioning and other works required on foot of any development permission for such offshore wind farm”. Accordingly, the planning application and approval should only consider this usage.

The MAC specifies the spatial representation (map) of the consent area. Accordingly, the planning application should only consider and consent maritime development within that spatial extent. Any change to the spatial extent can only be done by a material amendment to the MAC by MARA in advance of any planning application.

Relevant Maritime consents:

To assist in the cumulative assessment of the proposed development, the following links to Maritime Area Consents, Maritime Usage Licences and Foreshore Act Consents may be of relevance for consideration by An Bord Pleanála.

MAC Applications:

[Applications Received - MARA - The Maritime Regulator](#)

[Applications Determined - MARA - The Maritime Regulator](#)

Maritime Usage Licences:

[Applications - MARA - The Maritime Regulator](#)

[Applications Determined - MARA - The Maritime Regulator](#)

Foreshore:

[Foreshore Applications - MARA - The Maritime Regulator](#)

Foreshore:

[gov - Foreshore Notices \(www.gov.ie\)](http://gov.ie)

address:

An tÚdarás Rialála Limistéir Mhuiri / Maritime Area Regulatory Authority
An Dara Udar, Teach Menapia, Páirc Ghnó Dhrinagh, Draigheach, Loch Garman, Y35RF29
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info@mara.gov.ie

website:

www.maritimeregulator.ie

2) Compliance and Enforcement

MARA notes Section 293(7)(m) of the Planning and Development Act (2000, as amended) here with regards to conditions requiring the applicant to submit such information as may be specified by An Bord Pleanála, to;

- (i) The Maritime Area Regulatory Authority
- (ii) such coastal planning authority as may be specified by An Bord Pleanála, or
- (iii) any such other public body as may be specified by An Bord Pleanála, prior to commencement of the development concerned.

As MARA is not a development consent authority, the inclusion of conditions requiring MARA's agreement need to be carefully considered in this context. For the purposes of such Section 291 planning applications in the maritime area, the planning consent function and responsibility for carrying out Environmental Impact Assessment (EIA) and Appropriate Assessment (AA) of applications rests with An Bord Pleanála.

Design Flexibility:

Where design flexibility is being sought in relation to the proposal, and in accordance with Circular MPP 01/2023 [gov - Circular MPP 01/2023 - An Opinion on Design Flexibility for Maritime Development \(www.gov.ie\)](http://gov.ie), MARA would welcome An Bord Pleanála including a condition requiring the specific 'Design Flexibility' details to be agreed with An Bord Pleanála prior to construction. The agreed particulars should be forwarded to MARA for enforcement and compliance purposes.

Enforcement:

The enforcement function of MARA lies within the maritime area only and does not extend to above the HWM. The Coastal Planning Authority has the enforcement function of any particulars relating to Section 291 permitted development above the HWM.

It is important that all conditions are clearly worded in such fashion to ensure they are reasonable, relevant, enforceable and not onerous. The wording of conditions should be clear and precise so that any potential breach of that condition may be easily identified and appropriate enforcement action may be taken by MARA.

3) An Bord Pleanála – MARA handover

As previously mentioned MARA has a statutory responsibility for ensuring compliance with relevant planning permissions. In the event of a grant of development permission by An Bord Pleanála, MARA would envisage a standardised approach to enable the official transfer of all relevant decision documents in a timely manner. It is also preferable for all planning particulars to be published and maintained on An Bord Pleanála's website indefinitely to ensure open access to the information.

4) Monitoring and operation

Mitigation & Monitoring Schedule:

In the interests of clarity and in the event of a grant of permission, there is merit in requiring the preparation of a 'Mitigation Schedule' and 'Monitoring Programme', which

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info@mara.gov.ie

website:

www.maritimeregulator.ie

could be agreed with An Bord Pleanála. Copies of this agreed 'Mitigation Schedule' and 'Monitoring Programme', should be copied to MARA, as part of the aforementioned file handover. It would be useful for, all monitoring data collected to be made publicly available by the developer, to support and inform future plans and projects. The monitoring schedule should be mindful of the need for the monitoring to be reactive and adaptive given the nature of the development and the likely advances in ORE knowledge over its lifetime. The monitoring schedule should also clearly distinguish between monitoring required at the construction phase of the project and the operation phase of the project.

Operation and maintenance phase:

The assessment of the development, should include for the monitoring of the operational and maintenance activities also, over the full design life of the project.

5) Decommissioning and Rehabilitation

It is noted the application provides options for decommissioning, which is a critical phase of the end of the life of the proposed development. All options should be comprehensively assessed with regards to impacts on the maritime area. It is important that the decommissioning methods, timing, duration, process and procedures have sufficient scope to include for best practice, scientific knowledge and advancements in technology, which may change or evolve over the life of the permission.

The consideration of any future decommissioning plan should have regard to the long term implications for the State, of any infrastructure left in situ in the maritime area and its potential for deterioration over time. Consideration could also be given to the reuse of materials removed as a result of decommissioning and should be considered with regards to the circular economy.

In accordance with Section 96 of the Maritime Area Planning Act 2021, the holder of a MAC shall before expiration (if any) of the MAC, rehabilitate that part of the maritime area subject of the MAC, and any other part of the maritime area, adversely affected by the maritime usage the subject of the MAC.

In the assessment of the application An Bord Pleanála should consider rehabilitation of the maritime area which must result in a 'Rehabilitation Schedule', which will then be appended to the MAC. The decision to allow any offshore installation, structure, or parts thereof, to remain on the sea-bed should, consider the following matters;

- Any potential effect on the safety of surface or subsurface navigation, or of other uses of the maritime area;
- The rate of deterioration of the material and its present and possible future effect on the marine environment;
- The potential effect on the marine environment, including living resources;
- The risk that the material will shift from its position at some future time;
- The costs, technical feasibility, and risks of injury to personnel associated with removal of the installation or structure; and

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- The determination of a new use or other reasonable justification for allowing the installation of structure or parts thereof to remain on the sea-bed.

In consideration of the 'Rehabilitation Schedule', and to ensure a full and comprehensive assessment, An Bord Pleanála are minded to consider the options outlined in Section 96(2) of the Maritime Area Planning Act 2021;

- the decommissioning of infrastructure;
- the full removal of all infrastructure;
- the partial removal of infrastructure;
- the re-use of infrastructure for the same or another purpose;
- the burying or encasing of infrastructure;
- the removal of any deposited or waste material.

Of note also is Section 97 of the Maritime Area Planning Act 2021, which provides for MARA to require the holder of a MAC to make an application under Section 86, where the rehabilitation schedule or planning rehabilitation schedule, as the case may be, is no longer appropriate;

due to—

- (a) technological developments relating to the rehabilitation of marine environments,*
 - (b) changes in what is accepted as best practice relating to the rehabilitation of marine environments,*
 - (c) submissions or recommendations made to the MARA by interested parties, organisations and other bodies concerned with the rehabilitation of marine environments,*
 - or*
 - (d) any combination of matters falling within any of paragraphs (a) to (c),*
- the rehabilitation schedule or planning rehabilitation schedule, as the case may be, is no longer appropriate.*

End

address:

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