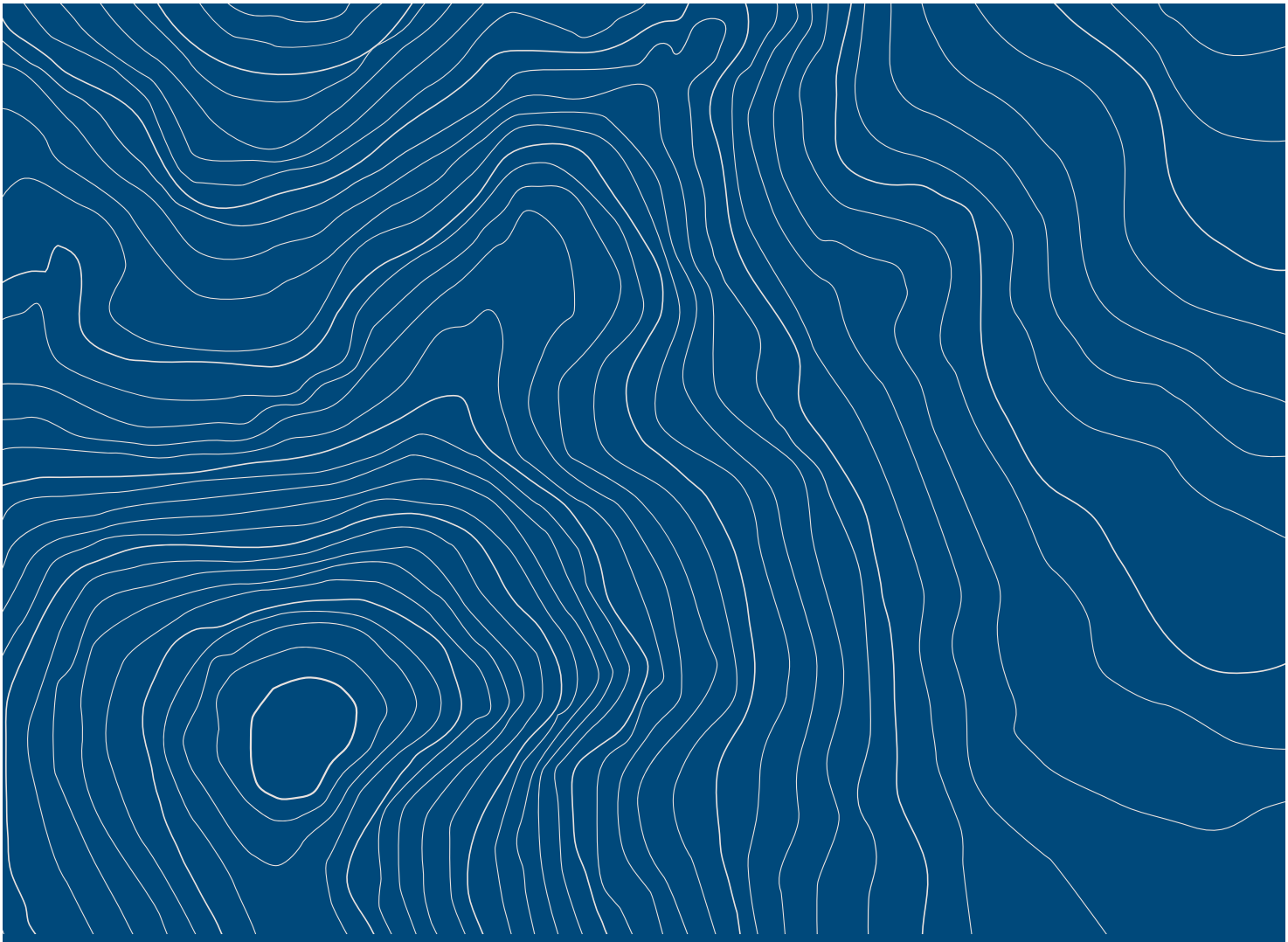

Dublin Array
Generation for generations

EIAR Volume 2: Introductory Chapters
Chapter 2: Consents, Legislation, Policy and Guidance

Kish Offshore Wind Ltd.

RWE SLR GoBe
APEM Group

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Dublin Array Offshore Wind Farm

Environmental Impact Assessment Report

Volume 2, Chapter 2: Consents, Legislation, Policy and Guidance

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Acronyms

Term	Definition
AA	Appropriate Assessment
BAT	Best Available Technologies
CAP	Climate Action Plan
CDP	County Development Plan
COP	Conference of the Parties
CO_2	Carbon Dioxide
CRU	Commission for Regulation of Utilities
DAFM	Department of Agriculture, Food, and the Marine
DCCAE	Department of Communications, Climate Action and Environment
DCHG	Department of Culture, Heritage and the Gaeltacht
DECC	Department of the Environment, Climate and Communications
DHLGH	Department of Housing, Local Government and Heritage
DMAP	Designated Maritime Area Plan
DLRCCAP	Dún Laoghaire-Rathdown County Council Climate Action Plan
DLRCDP	Dún Laoghaire-Rathdown County Development Plan
ECC	Export Cable Corridor
EEZ	Exclusive Economic Zone
EIA	Environmental Impact Assessment
EIAR	Environmental Impact Assessment Report
EIHA	Environmental Impact of Human Activities
EMRA	Eastern and Midland Regional Assembly
EPA	Environmental Protection Agency
ESB	Electricity Supply Board
EU	European Union
GCA	Grid Connection Assessment
GES	Good Environmental Status
GHG	Greenhouse Gas
GIP	Grid Implementation Plan
GW	Gigawatt
ICES	International Council for the Exploration of the Sea
ICZM	Integrated Coastal Zone Management
IMP	Integrated Maritime Policy
IPCC	Intergovernmental Panel on Climate Change

Term	Definition
ISLES	Irish-Scottish Links on Energy Study
IWEA	Irish Wind Energy Association (now known as Wind Energy Ireland)
LULUCF	Land Use, Land-Use Change, and Forestry
MAC	Maritime Area Consent
MARA	Maritime Area Regulatory Authority
MARPOL	International Convention for the Prevention of Pollution from Ships
MHPLG	Minister for Housing, Planning and Local Government
MPA	Maritime Protected Areas
MSFD	Marine Strategy Framework Directive
MSPD	Marine Spatial Planning Directive
MWh	Megawatts per hour
NBAP	National Biodiversity Action Plan
NDC	Nationally Determined Contributions
NDP	National Development Plan
NECP	National Energy and Climate Plan
NIS	Natura Impact Statement
NMPF	National Marine Planning Framework
NPF	National Planning Framework
NPO	National Planning Objective
NSO	National Strategic Outcome
NZIA	Net Zero Industrial Act
O&M	Operations and Maintenance
OILPOL	Convention for the Prevention of Pollution of the Sea by Oil
OMPPs	Overarching Marine Planning Policies
ORE	Offshore Renewable Energy
OREDP	Offshore Renewable Energy Development Plan
ORESS	Offshore Renewable Energy Support Scheme
RED	Renewable Energy Directive
RESS	Renewable Energy Support Scheme
RSES	Regional Spatial and Economic Strategy
SACs	Special Areas of Conservation
SEAI	Sustainable Energy Authority of Ireland
SMPPs	Sectoral Marine Planning Policies
SOLAS	Safety of Life at Sea
SPA	Special Protected Areas
SISAA	Supporting Information for Screening for Appropriate Assessment

Term	Definition
SuDS	Sustainable Urban Drainage System
TDP	Transmission Development Plan
UK	United Kingdom
UN	United Nations
UNCBD	UN Convention on Biological Diversity
UNCCD	UN Convention to Combat Desertification
UNCLOS	UN Convention on the Law of the Sea
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNFCCC	United Nations Framework Convention on Climate Change
WAM	With Additional Measures
WEM	With Existing Measures
WFD	Water Framework Directive
WGOWDF	Working Group on Offshore Wind Development and Fisheries

Glossary

Term	Definition
Appropriate Assessment (AA)	The statutory process which is set out in Article 6 of the Habitats Directive.
Birds Directive	EU legislation aimed at the protection of all wild bird species naturally occurring in the Union.
Climate Action Plan (CAP)	A strategic plan outlining measures to reduce greenhouse gas emissions and transition to a low-carbon economy.
Environmental Impact Assessment (EIA)	Assessment of the likely significant effects of a proposed project on the environment. The EIA will be carried out by An Bord Pleanála in this instance.
Environmental Impact Assessment Report (EIAR)	As defined in the Planning and Development Act 2000, as amended: "environmental impact assessment report" means a report of the effects, if any, which proposed development, if carried out, would have on the environment and shall include the information specified in Annex IV of the Environmental Impact Assessment Directive.
Environmental Protection Agency (EPA)	An independent public body responsible for protecting and improving the environment in Ireland.
Exclusive Economic Zone (EEZ)	A sea zone over which a state has special rights regarding the exploration and use of marine resources, extending 200 nautical miles from the coast.
Foreshore	The bed and shore, below the line of high water of ordinary or medium tides, of the sea and of every tidal river and tidal estuary and of every channel, creek, and bay of the sea or of any such river or estuary.
Grid Connection Assessment (GCA)	An evaluation of the feasibility and requirements for connecting a renewable energy project to the electricity grid.
Habitats Directive	EU legislation aimed at the conservation of natural habitats and wild fauna and flora.
Integrated Maritime Policy (IMP)	An EU policy framework aimed at promoting the sustainable use of the seas and oceans and the growth of maritime economies.
Maritime Area Consent (MAC)	State consent which grants the holder a right to occupy a specific part of the maritime area for the purposes of proposed maritime usage as set out in the MAC and subject to such conditions (if any) as may be attached.
Marine Strategy Framework Directive (MSFD)	EU legislation aimed at achieving Good Environmental Status (GES) of the EU's marine waters by 2020.
Natura Impact Statement (NIS)	A report that assesses the potential impacts of a plan or project on Natura 2000 sites, required as part of the AA process.

Term	Definition
National Biodiversity Action Plan (NBAP)	A strategic plan outlining actions to conserve and enhance biodiversity in Ireland.
National Marine Planning Framework (NMPF)	A comprehensive plan for managing Ireland's marine resources, integrating economic, social, and environmental objectives.
National Planning Framework (NPF)	Ireland's long-term strategic planning framework for sustainable development and growth.
Offshore Renewable Energy Development Plan (OREDP)	A plan outlining the strategic framework for the development of offshore renewable energy resources in Ireland.
Renewable Energy Directive (RED)	EU legislation setting targets for the use of renewable energy sources within the Union.
Special Areas of Conservation (SACs)	Protected areas designated under the Habitats Directive to conserve natural habitats and species of wild fauna and flora.
Special Protection Areas (SPAs)	Protected areas designated under the Birds Directive to protect wild bird species and their habitats.
Strategic Environmental Assessment (SEA)	A process to evaluate the environmental effects of certain plans and programmes before they are adopted.
Transmission Development Plan (TDP)	A strategic plan outlining the development and reinforcement of the electricity transmission network.
Water Framework Directive (WFD)	EU legislation aimed at protecting and enhancing the quality of water resources across Europe.

2 Consents, legislation, policy and guidance

2.1 Introduction

2.1.1 This chapter of the Environmental Impact Assessment Report (EIAR) presents a comprehensive summary of the development consent framework, legislation, policies and plans that are relevant to Dublin Array Offshore Wind Farm (Dublin Array) at various levels: international, European, national, regional, and local. It is intended to inform the Environmental Impact Assessment (EIA) and development consent process, and to provide an overview of the particular legal and policy context within which Dublin Array is proposed to meet Ireland's immediate need for a significant increase in scale of new renewable electricity generation capacity.

2.1.2 Section 2.2 of this chapter sets out the current legislative framework for the application for development permission which is being made to An Bord Pleanála[1] under the Planning and Development Act 2000, as amended (Planning Act[2]) and related legislation. This section summarises such decision-making procedures and considerations as appear to be relevant to the application process, including the EIA and Appropriate Assessment (AA)[3].

2.1.3 Section 2.3 considers the main international legal instruments which influence the regulatory and policy framework for developments in the marine environment, including offshore renewable energy projects such as Dublin Array. This section highlights the inextricable linkage between the triple challenges of climate change, biodiversity loss and environmental pollution, and the need for integrated solutions to tackle these challenges in accordance with the United Nations Sustainable Development Goals, with particular emphasis on the need to protect the interests of children and young people today, and future generations, from the impacts of delays and failures to achieve the requisite deep and sustained reductions in greenhouse gas (GHG) emissions that projects like Dublin Array can deliver.

1 In accordance with section 495 (3) of the Planning and Development Act 2024, references in this application made under section 291 of the Planning and Development Act, 2000, to An Bord Pleanála shall, on and after the commencement of that section, be construed as references to An Coimisiún Pleanála (or the Commission), where the context so requires.
2 Section 186 of the Planning and Development Act, 2024, provides that, where an application for planning approval is made under section 291 of the Planning Act but not decided under section 293 before the repeal of those sections, those sections together with sections 285, 292, 294 and 295 of the Planning Act shall continue to apply and have effect for the purpose of the application.
3 Although, the AA process is described more fully in the Appropriate Assessment Screening Report and Natura Impact Statement submitted with this application.

2.1.4 Section 2.4 summarises the main European Climate Action and Renewable Energy Legislative Measures, Policies and Plans of relevance to Dublin Array. This section emphasises the efforts made by the European Institutions to try to ensure that European laws and policies, including investment frameworks, are consistent with International legal obligations requiring action on climate change and biodiversity loss, whilst providing opportunities for social and economic benefits in accordance with principles of justice and sustainable development.

2.1.5 Section 2.5 considers corresponding Irish legislation and policies on climate action, renewable energy and offshore wind, designed to ensure compliance with binding International and European Union (EU) law obligations.

2.1.6 Section 2.6 identifies the main legal instruments and policies at an EU level relating to biodiversity and environmental protection, with a particular focus on the marine environment. This section aims to put Dublin Array in the context of existing and emerging legislative and policy measures which are expected to strengthen governance over and protection of marine habitats and biodiversity.

2.1.7 Section 2.7 considers the corresponding Irish legislation and policies and plans which seek to transpose and implement biodiversity protection and environmental measures, with a particular focus on the marine environment. These issues are considered in greater detail within the individual chapters of the EIAR, and the Natura Impact Statement (NIS) submitted with the application. Section 2.7 also addresses the derogation licence application that has been submitted to National Parks and Wildlife Service in respect of marine mammals under the European Communities (Birds and Natural Habitats) Regulations 2011, as amended.

2.1.8 Section 2.8 focuses on the legislation and spatial plans which address maritime jurisdiction, marine spatial planning, integrated maritime policy, spatial planning on land, and the general spatial planning policy framework that is relevant to Dublin Array.

2.1.9 Section 2.9 briefly outlines the applicable legal framework for the grid connection for Dublin Array which forms part of the application under section 291 of the Planning Act, and which is being developed by the Applicant as a grid transmission asset to be owned and operated by EirGrid in the future. This section considers the status of the Applicant as an electricity undertaking in this context, having regard to the powers and obligations which may be conferred by the Commissioner for the Regulation of Utilities if permission is granted.

2.1.10 Section 2.10 considers relevant terrestrial spatial plans to which An Bord Pleanála may have regard in considering the proper planning and sustainable development for the land-based aspects of Dublin Array and the land-sea interactions with the National Marine Planning Framework and the marine-based aspects of the project.

2.1.11 Finally, section 2.11 identifies a selection of the main guidance notes which have been referred to in the preparation of the EIAR and the design of the project, in addition to the EIAR methodology guidance referred to in Volume 2, Chapter 3 (EIA Methodology) and in individual chapters of Volumes 3 and 4 of the EIAR on a topic-by-topic basis.

2.1.12 In summary, this chapter is intended to inform and frame the environmental impact assessment of Dublin Array within the applicable international, EU and Irish legal and policy context, to demonstrate the need for the project and that the grant of consent for Dublin Array would be consistent with proper planning and sustainable development, with principles and objectives of marine spatial planning, and with the objectives of the EIA Directive, the Marine Strategy Framework Directive, the Habitats and Birds Directives, and the EU Climate Law, the EU Governance Regulation, and the EU Renewable Energy Directives.

2.2 Development consent framework

Planning application procedure

2.2.1 The application for permission for Dublin Array is being made under section 291 of the Planning and Development Act, 2000, as amended ('Planning Act'). The application requirements are prescribed by S.I. No. 100/2023 – Planning and Development (Maritime Development) Regulations 2023. The application relates to development to which Chapter III of Part XXI of the Planning Act applies. Section 317 of the Planning Act makes the application subject to Part X of the Planning Act (Environmental Impact Assessment) and section 318 of the Planning Act makes the application subject to Part XAB (Appropriate Assessment).

2.2.2 Dublin Array project involves development partly in the maritime area and partly on land. The Applicant holds three maritime area consents (MACs) for three parts of the maritime area. The Applicant holds each MAC jointly with the other specified MAC holders.

- MAC Reference No. 2022-MAC-003 and 004;
- MAC Reference No. 20230012; and
- MAC Reference No. 240020.

2.2.3 Having regard to section 286(3) of the Planning Act, the Applicant is therefore eligible to apply for permission under section 291 of the Planning Act. Copies of the MACs are included in Part 1 A Planning Particulars Schedule 3 of the planning application.

Pre-application consultation

2.2.4 An Bord Pleanála undertook a pre-application consultation with the Applicant under section 287 of the Planning Act. Following the conclusion of the pre-application consultation, An Bord Pleanála issued correspondence dated the 3rd December 2024 confirming the conclusion of the consultation and providing a copy of the Board Direction which included the list of prescribed bodies to be notified of the application for the proposed development. Correspondence was also received from An Bord Pleanála advising of the Transboundary States to whom notification of the application of the proposed development should be made.

2.2.5 In accordance with S.I. No. 100/2023, the application complies with the requirements prescribed by An Bord Pleanála in the pre-application consultation opinion.

Design flexibility opinion

2.2.6 The Applicant requested a meeting with An Bord Pleanála under section 287A of the Planning Act, in relation to details which are not confirmed in the application for development permission. Following the meeting, An Bord Pleanála provided an opinion dated 28th November 2024 under section 287B of the Planning Act (Flexibility Opinion).

2.2.7 The Flexibility Opinion confirms that the application under section 291 of the Planning Act may be made and decided before the Applicant has confirmed certain details of the proposed development, as specified in the opinion. The application under section 291 of the Planning Act is accompanied by a copy of the Flexibility Opinion, together with a completed Form No. 22 of Schedule 3 of the Planning and Development Regulations, 2001, as amended (Planning Regulations), as required by Article 15J(9) of the Planning Regulations. A copy of the Opinion and Form 22 are included in Part 1A Planning Particulars, Schedule 10 of the planning application.

Rehabilitation schedule

2.2.8 The application under section 291 of the Planning Act includes a Decommissioning and Restoration Plan, which can be found in Volume 7of the EIAR. The Decommissioning and Restoration Plan complies with the requirements of section 75(5) of the Maritime Area Planning Act, 2021, as amended ('MAP Act'), which requires that the application for development permission shall *'have attached to it the rehabilitation schedule (within the meaning of section 95) that would otherwise have been required to be attached to the MAC referred to in that subsection but for the operation of section 96(5).'*

2.2.9 A rehabilitation schedule *'within the meaning of section 95'* is described in section 96(4) of the MAP Act. The Decommissioning and Restoration Plan includes three rehabilitation schedules that have been prepared in accordance with section 96(4) of the MAP Act. According to that section, a rehabilitation schedule is required to set out particulars of how the 'Holder' of the MAC intends to rehabilitate that part of the maritime area the subject of the MAC, and any other part of the maritime area that may be adversely affected by the maritime usage the subject of the MAC, and thereby discharge any obligations of the Holder under section 96(1) of the MAP Act before the expiration of the MAC.

2.2.10 The term 'rehabilitate' is defined in the MAP Act as meaning to either:

(a) restore that part of the maritime area to a satisfactory state, with particular regard to the seabed, water quality, wildlife, natural habitats, landscape and seascape; or

(b) restore the part of the maritime area to a satisfactory state to enable it to be reused for the purpose for which it was previously used (and whether or not pursuant to a MAC) or for another purpose and, consistent with such purpose, with particular regard to the seabed, water quality, wildlife, natural habitats, landscape and seascape.

2.2.11 A rehabilitation obligation may also involve maintaining the part of the maritime area in a satisfactory state for a specified period.

2.2.12 The MAP Act provides that a rehabilitation schedule shall set out particulars of the following:

(a) the proposed programme of rehabilitation;

(b) the proposed date, or the occurrence of the event, on which the programme will start to be implemented and (if no ongoing maintenance is required by the programme) the proposed date on which the programme will have been fully implemented;

(c) the estimated costs of the programme; and

(d) the expected timelines for applying for and obtaining any authorisations required to discharge the obligation.

Planning rehabilitation schedule

2.2.13 If permission is granted by An Bord Pleanála for the proposed Dublin Array under section 293 of the Planning Act, the MAP Act envisages that the rehabilitation schedule attached to the planning application shall become a 'planning rehabilitation schedule', under the MAP Act, and shall be attached by the Maritime Area Regulatory Authority (MARA) to the relevant MAC as a schedule thereto. Following the grant of permission, the Applicant intends to provide MARA with the three planning rehabilitation schedules included in the Decommissioning and Restoration Plan to be attached as a schedule to the corresponding MACs for that part of the maritime area.

2.2.14 As noted in section 2.2.69, MARA may at any time after the grant of development permission require the Applicant to vary a planning rehabilitation schedule, and such variation may require an alteration to the terms of the permission.

Environmental Impact Assessment

2.2.15 The Dublin Array project is subject to the EIA Directive 2011/92/EU, as amended by Directive 2014/52/EU, and falls within Class 3(i) in Annex II. Under the Planning Regulations, Dublin Array exceed the prescribed threshold for mandatory EIA as outlined in Part 2 of Schedule 5: *'3(i) Installations for the harnessing of wind power for energy production (wind farms) with more than 5 turbines or having a total output greater than 5 megawatts.'*

2.2.16 Section 317 of the Planning Act provides that, subject to certain modifications, Part X of the Planning Act (EIA) shall apply to development to which Chapter III of Part XXI applies, which includes Dublin Array. Consequently, under section 172(1)(a)(ii) of the Planning Act, An Bord Pleanála is required to carry out an EIA of the proposed Dublin Array, which is the subject of the application for permission under section 291 of the Planning Act.

2.2.17 Under section 172(1B) of the Planning Act, the Applicant is required to provide an EIAR with the planning application, prepared by experts with the competence to ensure its completeness and quality (see Volume 2, Chapter 1: Introduction, Tables 1 and 2).

2.2.18 Section 291(1)(b) of the Planning Act provides that, if required by An Bord Pleanála, the application shall be accompanied by an EIAR and NIS.

EIA Process

2.2.19 As defined by the EIA Directive and section 171 of the Planning Act, EIA is a process consisting of:

(a) the preparation of an EIAR by the Applicant in accordance with the Planning Act and the Planning Regulations made thereunder;

(b) the carrying out of consultations in accordance with the Planning Act and Planning Regulations;

(c) the examination by An Bord Pleanála, as the competent authority, of the information contained in the EIAR, any supplementary or further information provided, and any relevant information received by An Bord Pleanála through consultations;

(d) the reasoned conclusion by An Bord Pleanála on the significant effects on the environment of the proposed Dublin Array, taking into account the results of the examination of the EIAR; and

(e) the integration of the reasoned conclusion into the decision on the proposed development.

2.2.20 The EIA includes an examination, analysis and evaluation that identifies, describes and assesses, in an appropriate manner, in the light of each individual case, the direct and indirect significant effects of the proposed development on:

(a) population and human health;

(b) biodiversity, with particular attention to species and habitats protected under the Habitats Directive and the Birds Directive;

(c) land, soil, water, air and climate;

(d) material assets, cultural heritage and the landscape;

(e) the interaction between these factors; and

(f) such further examination, analysis and evaluation of the expected direct and indirect significant effects on the environment derived from the vulnerability of the proposed development to risks of major accidents or disasters, or both major accidents and disasters, that are relevant to that development.

Adequacy of the EIAR

2.2.21 With respect to the planning application, section 291 of the Planning Act provides that the application shall be accompanied by such information, plans and drawings as may be prescribed by regulations. S.I. No. 100/2023 – Planning and Development (Maritime Development) Regulations 2023 prescribes the requirements for a valid application to An Bord Pleanála as follows:

(a) The application under section 291 shall include -

a. the information, plans, drawings and any other documents on the proposed development as indicated by An Bord Pleanála in pre-application consultation under section 287 of the Planning Act, in such number of copies as required.

b. a copy of the notice published in accordance with section 291(3)(a);

c. a list of the persons notified of the application under section 291(3)(b), (3)(c) and (3)(d);

d. a list of any other public notice given or other public consultations conducted by the Applicant and an indication of the date or dates of such additional notice or consultations; and

e. where the application is being made prior to confirmation by the applicant of certain details of the application, an opinion provided by An Bord Pleanála under section 287B(2) (Flexibility Opinion). The application shall be invalid if it is not in accordance with the details or groups of details specified in the Flexibility Opinion.

(b) The application shall be submitted in the number of hard copies prescribed, and where An Bord Pleanála agrees, it may be made partly in electronic form.

(c) The plans, drawings and maps accompanying an application shall be in metric scale.

(d) Any map or plan which is based on an Ordnance Survey map shall indicate the relevant Ordnance Survey Ireland sheet number.

(e) For developments or works entirely offshore and outside the extent of Ordnance Survey Ireland mapping, a navigation chart projected to the Irish Transverse Mercator should be used as the background mapping.

(f) Where an EIAR is required, it shall be submitted in electronic form.

(g) Where An Bord Pleanála so consents or specifies, any or all of the copies or the required information, plans and drawings shall be submitted in electronic form.

2.2.23 S.I. No. 655/2023 - Planning and Development (Amendment) (No. 3) Regulations 2023 introduces a new 'Part 3A' to the Planning Regulations, outlining specific requirements for a planning application submitted with a Flexibility Opinion. Under Regulation 15J, if an application includes a Flexibility Opinion, the usual requirement to provide 'plans or particulars', or both, can be met my submitting:

(a) plans or particulars, or both, of each option proposed in respect of each unconfirmed detail or group of details, or

(b) such information in respect of the parameters within which each detail will fall as is necessary to enable An Bord Pleanála to make a decision on the planning application.

2.2.24 Under section 292(1)(a) of the Planning Act, An Bord Pleanála may request that the Applicant submits additional information (such as a revised EIAR or NIS), before deciding on the application. Section 292(1)(b) allows An Bord Pleanála to inform the Applicant if it is considering granting permission, subject to the Applicant submitting revised particulars, plans or drawings as specified by An Bord Pleanála.

2.2.25 Regarding the EIAR, section 291(2) of the Planning Act permits An Bord Pleanála to refuse to consider an application if it finds the EIAR or NIS (or both) to be inadequate or incomplete, having regard in particular to the Planning Regulations.

2.2.26 An Bord Pleanála is required under section 172(1D) of the Planning Act to consider whether the EIAR submitted with the application identifies and describes the significant environmental effects, both direct and indirect, of the proposed development. If the EIAR is found to be lacking in this regard, An Bord Pleanála will require the Applicant to provide further information to ensure the completeness and quality of the EIAR. This additional information must be directly relevant to reaching the requisite 'reasoned conclusion' on the significant environmental effects of the proposed development, addressing any gaps in the original EIAR. Section 172(1E) also empowers An Bord Pleanála to request any additional information necessary to complete the EIA.

2.2.27 Section 172(1H) of the Planning Act mandates that An Bord Pleanála must have, or have access to, sufficient expertise to examine the EIAR to ensure its completeness and quality. This may involve consulting reports prepared by its officials, or by external consultants, experts or advisors as needed.

2.2.28 Notably, section 166 of the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023 states that the Minister may issue guidelines under that section with respect to archaeological assessment under the EIA Directive and dealing with historic heritage. If the Minister does issue such guidelines:

(a) A person who is preparing material that is intended to be used for the purpose of assisting the preparation of the EIAR, or carrying out of an EIA, shall have regard to these guidelines to the extent that the guidelines are relevant to that material or EIA, or both.

(b) The person to whom any material referred to in paragraph (a) is submitted shall also have regard to guidelines referred to in that paragraph in the person's consideration of that material for the purpose referred to in that paragraph.

2.2.29 The requirements for an adequate and complete EIAR are set out in Annex IV of the EIA Directive, and Article 94 and Schedule 6 of the Planning Regulations. Under Article 94 of the Planning Regulations, an EIAR shall include the information specified in Part 1 of Schedule 6.

2.2.30 An EIAR shall also include any relevant information from Part 2 of Schedule 6 that applies specifically to the characteristics of Dublin Array and to developments of that type. This includes details on environmental features likely to be affected and the assessment methods used, to further explain or expand upon the information in Part 1.

2.2.31 Under Article 94 of the Planning Regulations, an EIAR must consider the available results of other relevant assessments under EU and Irish law, with a view to avoiding duplication of assessments. Under Article 94(c), (d) and (e) of the Planning Regulations, an EIAR shall include:

(a) a non-technical summary of the information specified in Schedule 6;

(b) a 'reference list' detailing the sources used for the descriptions and assessments included in the EIAR; and

(c) a list of the experts who contributed to the preparation of the report, identifying for each such expert: (i) the part or parts of the EIAR for which the expert is responsible or to which the expert contributed; (ii) the expert's competence and relevant experience, including relevant qualifications; and (iii) such additional information in relation to the expert's expertise that the expert considers best demonstrates their competence in preparing the EIAR and ensuring its completeness and quality.

2.2.32 The detailed requirements for an adequate and complete EIAR are set out in full, including cross-references to where they are addressed in the EIAR, in Volume 2, Chapter 3: EIA Methodology.

EIA Portal

2.2.33 The Minister for Housing, Planning and Local Government (MHPLG) manages an EIA Portal website, which provides summary information on applications and notifications for projects requiring an EIA. The EIA Portal serves as a central public access point for applications, information and assessments. In accordance with section 172B of the Planning Act, the Applicant has submitted the requisite information to the EIA Portal under section 291 of the Planning Act[4].

2.2.34 Furthermore, if the application for development permission includes a Flexibility Opinion, Regulation 15J(6) of the Planning Regulations requires that all public notices (including those in the weekly list) indicate that certain details in the application are unconfirmed and that a Flexibility Opinion is included with the application.

Report of the coastal planning authority

2.2.35 Each coastal planning authority whose functional area includes or is adjacent to Dublin Array (including nearshore, where applicable) may, under section 291(4) of the Planning Act, prepare and submit a report to An Bord Pleanála outlining the authority's view on Dublin Array, particularly regarding specified in sections 34(2) and section 282(2) of the Planning Act. Any such report shall be submitted to An Bord Pleanála within 10 weeks of the application being made under section 291 of the Planning Act, unless a longer period is specified by An Bord Pleanála.

2.2.36 In addition to any report submitted by the coastal planning authority under section 291(4), An Bord Pleanála may, under section 291(5) of the Planning Act, request that a coastal planning authority or any planning authority provide specific information on the following:

(a) the implications of the proposed Dublin Array for maritime spatial planning;

(b) the implications of the proposed Dublin Array for proper planning and sustainable development in the functional area concerned; and

(c) the likely effects of the proposed Dublin Array on the environment or any European site.

4 The information required for the EIA Portal under section 172B of the Planning Act is prescribed by Article 97A of the Planning Regulations.

2.2.37 Before submitting their report under section 291(4) to An Bord Pleanála, the chief executive of the coastal planning authority must seek the views of its elected members on the Dublin Array proposal. Under section 291(7) of the Planning Act, these elected members may pass a resolution to include specific recommendations in the report. If they choose to do so, the recommendations, along with a record of members' views prepared by the meetings administrator, will be attached to the report submitted to An Bord Pleanála.

Consultation with public and prescribed bodies, including MARA

2.2.38 Under section 291(3)(c) of the Planning Act, An Bord Pleanála can request that the Applicant send the application, including the EIAR and the NIS, to certain prescribed bodies and persons, inviting them to make submissions or observations on the Dublin Array proposal.

2.2.39 Under section 291(3)(d) of the Planning Act, if the proposed development is likely to impact the environment of a neighbouring state, An Bord Pleanála may direct the Applicant to send the application, EIAR and any relevant notices, to that transboundary State, inviting submissions or observations.

2.2.40 An Bord Pleanála also has the power under section 292(1)(c) of the Planning Act to invite further submissions or observations from the Applicant, any person who made submissions or observations in relation to the application, or anyone who may have, in the opinion of An Bord Pleanála, any information that might have a bearing on its consideration of the application.

2.2.41 In accordance with section 291(1)(d) of the Planning Act, An Bord Pleanála will make all application-related information available for public inspection at its offices during normal office hours, notifying any person or the public that this information available, and inviting further submissions or observations within a specified period.

2.2.42 If new information or revised plans, section 292(2) of the Planning Act allows An Bord Pleanála to make this material available for public inspection and publish a notice informing the public. Submissions and observations may be invited on this new information within a specified period. Section 292(3) also allows An Bord Pleanála to specifically invite submissions from MARA, a relevant coastal planning authority, the Environmental Protection Agency (EPA), the MHPLG, the Minister for Agriculture, Food and the Marine, and the Minister for the Environment, Climate and Communications.

2.2.43 Under section 292(4), An Bord Pleanála will consider all submissions or observations made by any person or body as part of this process. Additionally, section 321 allows An Bord Pleanála to consult with MARA with respect to any of its functions under Part XXI of the Planning Act. MARA is required to provide any information requested by An Bord Pleanála, including information relating to the Applicant.

Relevant considerations under the Planning Act

2.2.44 When deciding on an application for permission under Section 291 of the Planning Act, An Bord Pleanála is statutorily required to consider certain matters. A key consideration is whether the Dublin Array proposal is materially consistent with the marine planning objectives of the National Marine Planning Framework (NMPF).

2.2.45 Under section 293(2)(a) of the Planning Act, and subject to paragraph (b), An Bord Pleanála shall not grant permission for development that would materially contravene the NMPF, or any other defined maritime spatial plan. However, under certain conditions outlined in paragraph (b), permission may be granted if a material contravention is deemed necessary in light of specific circumstances. The Applicant considers that Dublin Array is materially consistent with the relevant objectives of the NMPF, and that the material contravention procedure is not required (further discussion can be found in the Planning Report accompanying this application).

2.2.46 Under section 293(1) of the Planning Act, An Bord Pleanála may consider any information it deems relevant to the application, along with any other matters to which it is entitled to have regard under the Planning Act[5]. An Bord Pleanála is required to take into account any valid submissions or observations made by any individuals or organisations.

2.2.47 Under section 172(1G) of the Planning Act, An Bord Pleanála shall consider:

(a) The EIAR;

(b) Any further information received under subsections (1D) or (1E) of section 172 of the Planning Act;

(c) Any submissions or observations validly made in relation to the environmental effects of the proposed Dublin Array development; and

(d) The views (if any) provided by any other Member State (or transboundary State) with respect to potential significant transboundary environmental effects.

5 In this context, section 143 of the Planning Act sets out certain matters to which An Bord Pleanála shall have regard in the performance of its functions. Section 143 of the Planning Act expressly excludes any functions that An Bord Pleanála has in determining an application for permission under section 291 of the Planning Act (or any functions under Chapter III of Part XXI of the Planning Act).

2.2.48 Under section 173(1) of the Planning Act, An Bord Pleanála is required to consider the EIAR, any supplementary information provided in relation to the EIAR, and any submissions or observations regarding the environmental effects of Dublin Array.

2.2.49 In addition, before deciding on an application under section 291, section 293(3) of the Planning Act requires An Bord Pleanála to have regard to the following considerations:

(a) any marine planning policy statement (see Marine Planning Policy Statement);

(b) any relevant guidelines issued under section 7 of the Maritime Area Planning Act 2021 (Maritime Area Planning Act, 2021 (MAP Act));

(c) any relevant planning guidelines issued under section 28 of the Planning Acts (see Wind Energy Development Guidelines (WEDG, 2006), the proposed draft revised WEDG (2019), relevant planning guidance notes such as the Flood Risk Management Guidelines (2009), and any other sector-specific planning guidance that may be relevant to the project];

(d) any regional, spatial and economic strategy of a regional assembly within whose functional area it is proposed to carry out development, or whose functional area adjoins the maritime site to which the application relates (see 2.10.34);

(e) the development plan of each relevant coastal planning authority[6] (see Local policy context);

(f) any relevant local area plan (see Local policy context);

(g) any submissions or observations made in relation to the application for permission concerned;

(h) the EIAR and NIS and associated screening assessment submitted with the application;

(i) the likely effects of the proposed development on the environment or any European site;

(j) any submissions or observations from (i) Maritime Area Regulatory Authority (MARA), (ii) the EPA, (iii) Department of Housing, Local Government and Heritage (DHLGH), (iv) Department of Agriculture, Food, and the Marine (DAFM), (v) Department of the Environment, Climate, and Communications (DECC), or any (vi) relevant coastal planning authority;

6 Section 308(2) of the Planning Act provides that, subject to subsection (3) of section 293, a requirement under the Planning Act to (a) comply (howsoever expressed) with a development plan, local area plan or regional spatial and economic strategy, or (b) act in accordance with, consider, have regard to or otherwise take account of (howsoever expressed) any such plan or strategy in the performance of any function under this Act, shall not apply in relation to the maritime area, where under section 307 the 'maritime area' means, in the context of development situated partly in the maritime area and partly on land, the part of the development that is situated in the maritime area.

(k) any report and recommendations of an Inspector or any other person appointed by An Bord Pleanála to prepare a report and recommendations;

(m) the Marine Strategy Framework Directive 2008/56/EC and domestic implementing regulations (see The Marine Strategy Framework Directive (2008/56/EC) and European Communities (Marine Strategy Framework) Regulations 2011 (S.I. No. 249 of 2011));

(n) land-sea interactions within the meaning of the Marine Spatial Planning Directive 2014/89/EU (see EU Integrated Maritime Policy (IMP) and National Marine Planning Framework);

(o) objectives of maritime spatial planning, defined in the Planning Act as:

- those matters to which Ireland is required under Article 5(1) of the Marine Spatial Planning Directive 2014/89/EU to give consideration when establishing and implementing maritime spatial planning;
- those matters to which Ireland is required under Article 5(2) of the Marine Spatial Planning Directive to aim to contribute through maritime spatial plans; and
- those objectives that Ireland is, for the time being, seeking to pursue in accordance with Article 5(2) of the Marine Spatial Planning Directive, and

(p) principles of proper planning and sustainable development, which are described in section 34 of the Planning Act as including:

- the provisions of the development plan;
- section 28 planning guidelines issued by the Minister for Housing, Planning and Local Government, including any specific planning policy requirements of such guidelines;
- any special amenity area order relating to the area;
- any European site, or other area prescribed for the purposes of the protection of biodiversity and heritage;
- any relevant Government or Ministerial policies;
- the observations or submissions of any other planning authority, prescribed body, or the public; and
- any other relevant provision of the Planning Act or Planning Regulations.

Part XAB – Appropriate Assessment

2.2.50 An Bord Pleanála is the competent authority responsible for carrying out an AA of Dublin Array, as required under Part XAB and section 318 of the Planning Act. The AA procedures, as set out in Part XAB of the Planning Act and corresponding regulations, are described in the AA Screening Report and NIS submitted with this application. The AA is therefore a key consideration for An Bord Pleanála when determining the application for development permission.

2.2.51 As noted, Article 94 of the Planning Regulations provides that an EIA shall take account of the available results of other relevant assessments under EU and Irish law with a view to avoiding duplication of assessments. Under section 172(1GA) of the Planning Act, An Bord Pleanála shall coordinate the EIA and the AA procedures.

2.2.52 Whilst the EIA and AA procedures are legally separate, to ensure the coherence of the documentation including supporting evidence submitted with this application, the AA documents cross-reference supporting evidence in the EIA documentation, while the EIAR refers to the findings of the AA Screening and NIS. For further detail, please refer to Part 4 Habitats Directive Assessments (of the planning application documentation) for the Supporting Information for Screening for Appropriate Assessment (SISAA) and the NIS accompanying this planning application.

Flexibility condition

2.2.53 If An Bord Pleanála decides to grant permission for Dublin Array, a planning condition must be attached to the permission in accordance with section 293 (4A) of the Planning Act in respect of the unconfirmed details specified in the Flexibility Opinion. The Flexibility Opinion, and whether the application for permission is consistent with it, are relevant considerations when determining the application for development permission.

Climate action plans

2.2.54 The following matters under section 15(1) of the Climate Action and Low Carbon Development Act 2015 (as amended) are considerations that An Bord Pleanála is required to have regard when determining the application for development permission. Under this Act An Bord Pleanála must, as far as practicable, perform its functions in a manner consistent with:

(a) the most recent approved climate action plan (see Climate Action Plan (2024));

(b) the most recent approved national long term climate action strategy (see Ireland's Long-Term Strategy for Greenhouse Gas Emissions Reduction 2024);

(c) the most recent approved national adaptation framework and approved sectoral adaptation plans (Government of Ireland, 2024);

(d) the furtherance of the national climate objective, of transitioning to a low carbon, climate resilient and environmentally sustainable economy by 2050 (see Climate Action and Low Carbon Development Act 2015, as amended); and

(e) the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State (see National Energy and Climate Plan 2021-2030).

National Biodiversity Action Plan and strategies

2.2.55 Similarly, under section 59B of the Wildlife (Amendment) Act 2000 (as amended) An Bord Pleanála is required to consider, where relevant to its functions:

(a) a biodiversity plan, programme or strategy (other than the National Biodiversity Action Plan) concerning the promotion of the conservation of biodiversity that may be prepared by the Minister for Heritage and approved by Government;

(b) the objectives and targets in a National Biodiversity Action Plan (NBAP) (see National Biodiversity Action Plan); and

(c) guidelines made by the Minister under the Wildlife Amendment Acts.

EIA determination and planning decision

2.2.56 Under section 293 of the Planning Act, An Bord Pleanála may make the following decisions:

(a) Grant permission for Dublin Array;

(b) Grant permission subject to such modifications to the project as it may specify;

(c) Grant permission for part of the project;

(d) Grant permission for part subject to such modifications as it may specify; or

(e) Refuse to grant permission for Dublin Array.

2.2.57 An Bord Pleanála may attach planning conditions to a grant of permission. The types of conditions which may be attached are set out below.

2.2.58 Under section 172(1J) of the Planning Act, An Bord Pleanála shall give notice of the decision under section 293 and make the following information available to the Applicant and to the public:

(a) the content of the decision and any conditions attached to it;

(b) an evaluation of the direct and indirect significant effects of the proposed Dublin Array development;

(c) having examined any submission or observation validly made;

(i) the main reasons and considerations on which the decision is based; and

(ii) the main reasons and considerations for the attachment of any conditions, including reasons and considerations arising from or related to submissions or observations made by a member of the public.

(e) any reports prepared by officials or by consultants, experts or other advisors, per section 172(1H) of the Planning Act;

(f) information for the public on the procedures available to judicially review the decision;

(g) any views or submissions of any transboundary State.

2.2.59 Under section 294(1) of the Planning Act, An Bord Pleanála shall send a copy of the decision to the Applicant, to MARA, and to any relevant (including coastal) planning authority, to any person or body that made a submission or observation, and to any transboundary State that made submissions or observations on the application. Under section 294(4) of the Planning Act, the copy decision specified in paragraph (1) shall contain (a) a summary of (i) the outcome of the public consultation process, and (ii) the manner in which issues raised during such consultation were taken account of in the decision or otherwise addressed, (b) a summary of the information collected during the carrying out of the EIA, and (c) a summary of any submissions or observations of a transboundary State.

2.2.60 Under section 294(2) of the Planning Act, An Bord Pleanála is required to publish a notice of the decision made under section 293 on its website and in at least one national newspaper. This notice will provide information on how the decision may be judicially reviewed, in accordance with the Planning Acts and the Rules of the Superior Courts and will also indicate where the application information and decision can be accessed.

2.2.61 Notice of a decision to grant permission under section 293 of the Planning Act shall be accompanied by a statement setting out the following matters, in accordance with section 294(3) of the Planning Act:

(a) the main reasons and considerations on which the decision is based;

(b) the reasons for the imposition of conditions;

(c) the reasons for not following the recommendations of an Inspector or other person appointed to prepare a report on the application (where applicable);

(d) the reasons for attaching an environmental condition that conflicts with a recommendation in a report of an Inspector or other person appointed to prepare a report on the application (where applicable) and for not following the recommendation of the Inspector in that regard;

(e) confirmation that An Bord Pleanála is satisfied that the reasoned conclusion regarding the effects on the environment of the development concerned was up to date at the time of the decision; and

(f) recoverable costs of the application.

Planning conditions and control of development

2.2.62 Under section 172(1I)(a) of the Planning Act, where An Bord Pleanála decides to grant permission under section 293 for the proposed Dublin Array, it shall:

(i) attach such conditions, if any, to the grant as it considers necessary, to avoid, prevent or reduce and, if possible, offset the significant adverse effects on the environment of the proposed development;

(ii) in the decision, specify the features, if any, of the proposed development and the measures, if any, envisaged to avoid, prevent or reduce and, if possible, offset the significant adverse effects on the environment of the proposed development; and

(iii) subject to paragraph (b) of section 172(1I), where appropriate, specify in the decision measures to monitor the significant adverse effects on the environment of the proposed development, being measures which, as regards the types of parameters to be monitored and the duration of the monitoring, are proportionate to the nature, location and size of the proposed development and the significance of the effects on the environment of the proposed development.

2.2.63 Under section 172(1I)(b) of the Planning Act, An Bord Pleanála may, if appropriate to avoid duplication of monitoring, and without prejudice to existing monitoring arrangements pursuant to national or European Union legislation (other than the EIA Directive), identify those arrangements (or such of those arrangements as it thinks appropriate in the particular case) to be used for the purpose of ensuring monitoring in accordance with paragraph (a)(iii) of section 172(1I) of the Planning Act.

2.2.64 Under section 293(4) of the Planning Act, An Bord Pleanála may attach such conditions to the permission as it considers appropriate.

2.2.65 When an application is accompanied by a Flexibility Opinion, as in this case, section 293(4A) of the Planning Act requires An Bord Pleanála to attach one or more conditions relating to the Flexibility Opinion. These conditions must ensure that the final development is carried out is within the parameters specified in the application in line with the Flexibility Opinion. They also require that An Bord Pleanála is notified of the actual details prior to the commencement of the development, or the relevant part of it[7].

2.2.66 Section 293(7) of the Planning Act lists further conditions that An Bord Pleanála may choose to attach to a permission granted under section 293. Under section 293(7)(p), An Bord Pleanála may attach any condition it would typically apply to a standard development permission under section 34(4), including any conditions of a type listed in Schedule 5 of the Planning Act.

2.2.67 Under section 293(9) of the Planning Act, An Bord Pleanála can make a grant of permission conditional on the requirement that the developer and the planning authority, or An Bord Pleanála itself, agree on certain details after the permission has been granted. This principle is based on the Supreme Court decision in *Boland v An Bord Pleanála* [1996] 3 IR 435, where the Court allowed planning conditions that permit details to be finalised in agreement with the planning authority. The Court identified the applicable principles as follows:

'In imposing conditions of this nature, the Board is obliged to set forth the purpose of such details, the overall objective to be achieved by the matters which have been left for such agreement, to state clearly the reasons therefor and to lay down criteria by which the developer and the planning authority can reach agreement.'

'In imposing a condition that a matter be left to be agreed between the developer and the planning authority, the Board is entitled to have regard to:

(a) the desirability of leaving to a developer who is hoping to engage in a complex enterprise a certain limited degree of flexibility having regard to the nature of the enterprise;

(b) the desirability of leaving technical matters or matters of detail to be agreed between the developer and the planning authority, particularly when such matters or such details are within the responsibility of the planning authority and may require re-design in the light of the practical experience;

(c) the impracticability of imposing detailed conditions having regard to the nature of the development;

7 This requirement is echoed by Article 15J(8) of the Planning Regulations, which requires such notice to be given not later than two weeks prior to the commencement of the part of the development to which the condition under section 294(4A) relates.

(d) the functions and responsibilities of the planning authority;

(e) whether the matters essentially are concerned with off-site problems and do not affect the subject lands;

(f) whether the enforcement of such conditions requires monitoring or supervision.'

2.2.68 The power of An Bord Pleanála to grant permission subject to conditions under section 293(9) of the Planning Act is additional to its power to attach conditions relating to the Flexibility Opinion, under section 293(4A) of the Planning Act.

Future alteration to the planning rehabilitation schedule

2.2.69 Where development permission has already been granted by An Bord Pleanála under section 293 of the Planning Act and the application includes a rehabilitation schedule in compliance with section 75(5) of the MAP Act (the 'planning rehabilitation schedule'), section 97(1) of the MAP Act allows MARA to decide that the planning rehabilitation schedule is no longer appropriate and should be altered if any of the following circumstances arise:

(a) technological developments relating to the rehabilitation of marine environment;

(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)*.

2.2.70 This aspect of the MAP Act recognises that the appropriate course for decommissioning the project and rehabilitating the maritime area may be best determined closer to the time when such activity will occur towards the end of the life of the project.

2.2.71 Where the required alteration to the planning rehabilitation schedule would require EIA, which would be the case if such alteration is likely to have a significant effect on the environment, section 97(3C) of the MAP Act specifies that the alteration would be subject to an application for development permission under the Planning Act. Section 97(3E) of the MAP Act confirms that An Bord Pleanála is not restricted by this section in determining such an application under the Planning Act.

2.2.72 An alteration to the rehabilitation schedule may be initiated at the direction of MARA or by the person carrying out or intending to carry out the development. Such person may apply, currently under section 297(1) of the Planning Act, or in the future under a similar provision of equivalent effect[8], to alter the terms of the permission granted under section 293 of the Planning Act.

2.2.73 An application under section 297 of the Planning Act includes all statutory powers and obligations, such as public notices, public and prescribed body participation, EIA and AA requirements, and judicial review. Under section 299, An Bord Pleanála may grant permission for a material alteration to the terms of an existing permission in accordance with the procedures set out in that section[9]. This alteration permission may also include planning conditions.

2.3 International conventions

2.3.1 The legislative and policy context for the proposed Dublin Array project includes the International Conventions and Agreements to which Ireland is a party, both individually and as a member of the EU. This section sets out a brief description of some of the key agreements which have informed and influenced European and Irish legislation and policy in relation to the maritime area, renewable energy, climate action and action to halt biodiversity loss.

Convention for the Prevention of Pollution from Ships (MARPOL), 1973, and MARPOL Protocol of 1978

2.3.2 The International Convention for the Prevention of Pollution from Ships (MARPOL) is the main international convention covering prevention of pollution of the marine environment arising from the operation of vessels at sea, or from accidental causes.

8 Such as, for example, the procedure to alter the terms of a permission under Chapter 5 of Part 4 of the Planning and Development Act 2024, which was enacted on 17th October 2024. Under section 188 of that Act, which is not yet commenced, a permission granted under section 293 of the Planning Act shall, from the date on which section 293 of the Planning Act is repealed, be deemed to be a permission granted by An Coimisiún Pleanála (the Commission). From the repeal date, any application to alter the terms of the permission shall be made to the Commission. Section 138 of that Act clarifies that an alteration to the 'terms' of a permission includes an alteration to a condition attached to the permission. Under a similar provision in section 146B of the Planning Act, 'term' is defined as including a condition attached to the planning permission.
9 Such procedures include EIA and AA (where required), in accordance with sections 301 and 302 of the Planning Act, and the consideration of the relevant matters specified in specified in section 299 of the Planning Act relating to the NMPF, marine spatial planning objectives and proper planning and sustainable development objectives.

2.3.3 MARPOL incorporated and improved on an earlier Convention for the Prevention of Pollution of the Sea by Oil, 1954 (OILPOL 1954). MARPOL is focused on ensuring that oils, chemicals and other substances either used in the vessel or stored on board do not end up in marine waters. This includes, for example, the discharge of contaminated ballast water or oily water that was used to clean tanks and decks. It includes requirements for ports to provide facilities including storage for waste waters and substances. It includes express prohibition on the discharge of substances while at sea and within prescribed distances from States.

2.3.4 It introduced requirements to prepare and have on board emergency response plans, detailing the necessary steps in the event of an incident or accident that could give rise to pollution. Powers to carry out inspections and monitor compliance were also introduced under MARPOL. Further rules apply relating to the safe storage and carriage of chemicals and dangerous substances on vessels. MARPOL is primarily implemented in Ireland through the Sea Pollution Acts and various Statutory Instruments made under those Acts (see Sea Pollution Act, 1991, as amended).

International Convention for the Safety of Life at Sea (SOLAS), 1960 (updated 1974)

2.3.5 The SOLAS Convention addresses issues in relation to the safety of vessels, their crew and passengers at sea, focused on the design, construction, technology deployment, maintenance and operation of the vessels at sea. It is primarily implemented in Ireland through Statutory Instruments made under the Merchant Shipping Acts. This relates, for example, to the type of safety and navigational equipment which must, in accordance with binding legislative rules of general application, be installed and deployed on board certain vessels to ensure the integrity of the vessel and the safety of those on board.

Convention on the International Regulations for Preventing Collision Risk at Sea, 1972 (COLREGs)

2.3.6 Whereas the SOLAS Convention is focused on the technical specifications for vessels and ship safety generally, the COLREGs address navigation and minimising the risk of collision involving vessels at sea. The COLREGs set out operational rules and procedures which are applicable to all types of vessels at sea, not just commercial vessels. The COLREGs set out rules regarding safe passage of vessels and the use of positioning data, communications and navigation systems to minimise collision risks. The COLREGs are implemented in Ireland primarily through the Maritime Safety Act 2005, as amended[10], and regulations made under the Merchant Shipping Acts.

Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972 and 1996 Protocol thereto

2.3.7 The International Maritime Organisation, as a specialist United Nations (UN) body, was originally mandated to deal with maritime safety but its role has evolved to include protection of the maritime environment from pollution of the sea by oil, and from other substances that may be discharged into the sea from damage and accidents. For example, the "Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972", the "London Convention" for short, is one of the first global conventions to protect the marine environment from human activities and has been in force since 1975. Its objective is to promote the effective control of all sources of marine pollution and to take all practicable steps to prevent pollution of the sea by dumping of wastes and other matter. In Ireland, this Convention is largely implemented through the Foreshore and Dumping at Sea Acts and the Sea Pollution Acts.

10 For example, S.I. No. 149/2021 - Merchant Shipping (Carriage of Nautical Charts and Publications) Regulations 2021, require certain Irish vessels, including fishing vessels, to carry charts containing sufficient detail to show navigational marks, known dangers and other specified information which is appropriate for each part of the intended voyage. The requirements do not apply to Irish registered ships less than 12 m in length and to Irish registered fishing vessels less than 24 m in length.

UN Convention on the Law of the Sea, 1982 (UNCLOS)

2.3.8 The UN Convention on the Law of the Sea (UNCLOS) came into force in 1994 (United Nations, 1982). Ireland is a party to UNCLOS both individually and as an EU Member State[11]. UNCLOS defines different zones and parts of the maritime area and allocates rights and responsibilities as between the Parties to the Convention. These are discussed in the context of marine spatial planning in section 2.8. Within the territorial sea and exclusive economic zone (EEZ), the State has sovereign rights and control over resources, including fishing and energy production, and seabed resources. The State exercises control and has obligations in relation to marine scientific research and protection of the marine environment. In particular, the right of a coastal state to explore and exploit marine resources is subject to the responsibility of that state to prevent and control marine pollution insofar as is possible, from land-based sources, and pollution from vessels operating in the marine environment.

2.3.9 Under UNCLOS, Ireland has exclusive rights to explore, exploit, conserve, and manage, the natural resources of the waters of the territorial sea, and of the seabed and its subsoil. The State has jurisdiction over living and non-living resources. The State also has exclusive rights over the production of energy from the water, currents and winds within the EEZ. The maritime aspects of Dublin Array are located entirely within the territorial sea jurisdiction of the State. The Birds Directive, Habitats Directive, Marine Strategy Framework Directive, Marine Spatial Planning Directive, and the EIA Directive are all applicable within the territorial sea, as are the Irish legislative provisions which transpose those Directives into Irish law. It is expected that proposed marine protected areas legislation will apply to the territorial sea and the entire EEZ.

Espoo (Transboundary Convention), 1992

2.3.10 The United Nations Economic Commission for Europe Convention on Environmental Impact Assessment in a Transboundary Context, done at Espoo (Finland), is fully incorporated within the EIA process under the EIA Directive, and within the planning process under the Planning Act, insofar as it relates to projects to which the EIA Directive applies (such as Dublin Array).

2.3.11 The Transboundary Convention informs the requirements for transboundary consultation and participation on projects which are likely to have significant transboundary effects where the relevant transboundary Party is not an EU Member State. It is, therefore, a relevant legislative provision for the perspective of consultation and assessment procedures involving the United Kingdom (UK). It is considered in this EIAR in that context.

11 The EU approved UNCLOS by Council Decision 98/392/EC [6].

OSPAR Convention, 1992

2.3.12 The OSPAR Convention is an international cooperative agreement between fifteen countries in the North Atlantic. The EU is also a Party to it. It is called the OSPAR Convention because it emerged out of the Oslo and Paris Conventions. Under the OSPAR Convention, various protocols and guidance have been prepared and agreed, extending the remit from the prevention of marine pollution to protection of the marine environment from a wide variety of potential risks to biodiversity and marine ecosystems. The range of activities to which the OSPAR Convention applies has expanded over time to include non-pollution human activities that have the potential to adversely affect the sea.

2.3.13 OSPAR Parties have agreed to take all possible steps to prevent and eliminate sources of pollution, including measures to protect the maritime area against the adverse effects of human activities so as to safeguard human health and to conserve marine ecosystems and, when practicable, to restore marine areas which have been adversely affected. As noted, the MAP Act requires an application for permission to carry out development in the maritime area to have attached to it a rehabilitation schedule, in accordance with the requirements set out in the MAP Act, which are broadly in line with the OSPAR requirements.

2.3.14 OSPAR requires the Parties to apply the precautionary principle, and to take preventative measures when there are reasonable grounds for concern that substances or energy introduced directly or indirectly into the marine environment may bring about hazards to human health, harm living resources and marine ecosystems, damage amenities, or interfere with other legitimate users of the sea, even where there is no conclusive evidence of a causal relationship between the inputs and the effects. The Habitats Directive, Birds Directive, EIA Directive, Water Framework and Marine Strategy Framework Directives, are all based on the precautionary principle.

2.3.15 OSPAR further requires Parties to apply the polluter pays principle, by virtue of which the costs of pollution prevention, control and reduction measures are to be borne by the polluter. This principle is found in the enforcement provisions of the MAP Act, the requirement for a rehabilitation bond under the MAP Act, and the provisions of the Environmental Liability Directive.

2.3.16 OSPAR provides that the Parties shall adopt programmes and measures which take account of the use of best available technologies (BAT) and best environmental practices and methodologies to prevent and eliminate pollution.

Council of Europe Valetta Convention on the Protection of the Archaeological Heritage, 1992

2.3.17 The aim of the Valetta Convention is to protect archaeological heritage as a source of the European collective memory and as an instrument for historical and scientific study. Archaeological heritage shall include structures, constructions, groups of buildings, developed sites, moveable objects, monuments of other kinds as well as their context, whether situated on land or under water. The Convention requires Parties to incorporate archaeological study and assessment in planning policies and at various stages in the development process, and to ensure that planners and archaeologists engage and liaise in relation to the potential effects of plans on archaeological heritage, including in the EIA process. In Ireland, such obligations arise by virtue of the National Monuments Acts 1930-2004, the Planning Act and most recently, the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023 (which will repeal and replace the National Monuments Acts when fully commenced).

2.3.18 Archaeological and cultural heritage are key components of the EIA process under the EIA Directive. The likely significant effects arising from the proposed development on archaeology and cultural heritage are assessed within Volume 5, Chapter 8, of this EIAR.

UN Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention), 1998

2.3.19 The Aarhus Convention UN Convention on Access to Information, Public Participation in decision-making and access to justice in environmental matters (the Aarhus Convention), 1998, is incorporated within the Irish planning system through the Planning Act and Planning Regulations, the Access to Information on the Environment Regulations, and the EIA process.

2.3.20 Issues may arise from time to time as to how a particular statutory consent regime should be interpreted, in which case an interpretation which conforms to the objectives of the Convention and the obligations of Parties to the Aarhus Convention should be adopted.

Council of Europe Landscape Convention, 2000, as amended by the 2016 Protocol

2.3.21 The aims of the Landscape Convention (Council of Europe, 2000) are to promote landscape protection, management and planning, and to organise co-operation between the Parties to the Convention. Each Party undertakes to recognise landscapes in law as an essential component of people's surroundings, an expression of the diversity of their shared cultural and natural heritage, and a foundation of their identity; and to establish and implement landscape policies aimed at landscape protection, management and planning through the adoption of the specific measures set out in Article 6 of the Convention. Landscape and visual impact assessment is a key component of the EIA process, and landscape and the protection of views is integrated in spatial and development planning, both terrestrial and marine planning systems. This EIAR contains detailed seascape, landscape and visual impact assessment in line with these requirements (see Volume 3, Chapter 15: Seascape, Landscape and Visual Impact Assessment, and Volume 5, Chapter 7: Landscape and Visual).

UNESCO Convention on the Protection of Underwater Cultural Heritage, 2001

2.3.22 The United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Protection of the Underwater Cultural Heritage (UNESCO 2001 Convention) entered into force on the 2nd January 2009. It is being implemented in Ireland through the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023, which will repeal and replace the National Monuments Acts when fully commenced. The main aim of these provisions is to preserve underwater cultural heritage for the benefit of people.

2.3.23 The Convention encourages scientific research and public access to underwater archaeology and promotes in situ preservation of cultural heritage where possible. The Convention notes that underwater archaeology is a recent science, and there is a need for training and capacity building in this specialist area. The EIAR (see Volume 3, Chapter 13: Marine Archaeology) identifies the results of marine surveys undertaken to date, the identification of wrecks and potential archaeological or underwater features which may constitute cultural heritage, and the measures proposed to protect and preserve such features throughout the life cycle of the proposed Dublin Array project.

Rio 'Earth Summit' conventions and declaration

2.3.24 At the United Nations Conference on Environment and Development held in Rio de Janeiro in 1992, the triple interlinked threats of climate change, desertification and biodiversity loss were tackled through the establishment of a trio of Conventions (the Rio Conventions):

(a) The United Nations Framework Convention on Climate Change (UNFCCC);

(b) The Convention on Biological Diversity (UN Biodiversity Convention); and

(c) The UN Convention to Combat Desertification (UNCCD).

2.3.25 At the UN General Assembly on the Conference on Environment and Development, the 'Rio Declaration' was also adopted (United Nations, 1992). This set out that human beings are at the centre of concerns for sustainable development, and that they are entitled to a healthy and productive life in harmony with nature. Whilst, in accordance with the UNCLOS, States have the sovereign right to exploit their own resources, the right to develop must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations. Environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.

UNFCCC and the Paris Agreement

2.3.26 The UNFCCC was adopted in 1992 (United Nations, 1992) and formed the framework for international co-operation and agreement on stabilising GHG emissions and concentrations.

2.3.27 Under the UNFCCC, each Party agreed to protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities.

2.3.28 Under the Kyoto Protocol in 1997, each Party agreed to a set of binding emission reduction targets for developed countries. The Kyoto Protocol was the catalyst for Ireland's emerging climate policies and legislation.

2.3.29 At the twenty-first Conference of the Parties (COP21) to the UNFCCC in Paris, in 2015, the Paris Agreement was created and came into force in 2016. Key components of the Paris Agreement of relevance to offshore wind include:

(a) A commitment to limit global temperature increases to well below 1.5°C above pre-industrial levels.

(b) Agreement to pursue efforts to limit the increase to 1.5°C.

(c) Aim to reach global peak GHG emissions as soon as possible.

(d) Achieve net-zero GHG emissions by 2050.

(e) Each Party to submit a National Climate Plan, to demonstrate increased ambition over time.

(f) Plans should detail the Party's Nationally Determined Contributions (NDCs) towards the emissions reduction targets, and NDCs are to be updated every five years.

(g) Parties to continue to report regularly on GHG emissions and national implementation efforts.

(h) UNFCCC to undertake a global stocktake of GHG emissions reductions every five years.

2.3.30 The Paris Agreement operates on a five-year ratcheting cycle of increasingly ambitious climate action. Parties submit their national climate action plans, known as NDCs. Each successive NDC is meant to reflect an increasingly higher degree of ambition and action.

2.3.31 In their NDCs, Parties set out the steps they will take to reach the goals of the Paris Agreement. Parties are also invited to voluntarily submit long-term strategies to achieve low GHG emissions. It is intended that this will serve to place the NDCs within the Party's longer-term planning and development strategies, to ensure that policies and plans remain aligned with the goals of the Paris Agreement.

2.3.32 At the twenty-ninth Conference of the Parties to the UNFCCC (COP 29) in November 2024 in Baku, Azerbaijan, the agenda highlights that the world is not on track to meet the long-term goal of limiting global temperature increases to 1.5°C. The UNFCCC has called for greater ambition in the next set of NDCs due to be submitted by 2025.

2.3.33 Prior to COP 29, on the 28th October 2024 the UNFCCC secretariat published the 2024 Nationally Determined Contributions (NDC) Synthesis Report (UNFCCC, 2024). This report consolidates an assessment of the combined projected impact that the current NDCs submitted by the Parties to date will have on expected global emissions by 2030. According to this Report, if all current NDCs (both committed and conditional) are implemented in full and without delay, they will *'fall miles short of what's needed to stop global heating from crippling every economy, and wrecking billions of lives and livelihoods across every country.'*

2.3.34 The Sixth Assessment Report (AR6) of the Intergovernmental Panel on Climate Change (IPCC[12]) was published in March 2023 (IPCC, 2023). It was cited by the Irish High Court in Ivan Toole & Golden Venture Fishing v Minister for Housing, Planning and Local Government, and Codling Wind Park [2024] IEHC 610 (Courts Service of Ireland, 2024) and Ivan Toole & Golden Venture Fishing v Minister for Housing, Planning and Local Government, and RWE Renewables [2023] IEHC 590 (Courts of Service in Ireland, 2023).

2.3.35 In AR6, the IPCC reported that GHG emissions have unequivocally caused climate change, with global surface temperatures already reaching 1.1°C above pre-industrial (1850-1900) levels in 2011-2020. GHG emissions continue to increase globally, particularly from unsustainable energy use, land use and land-use change, lifestyles and patterns of consumption and production across regions, between and within countries, and among individuals. This has caused widespread and rapid changes in the atmosphere, ocean, cryosphere and biosphere to occur. Adverse climate impacts are already occurring, causing loss and damage to people. Vulnerable communities who have historically contributed the least to current climate change are disproportionately affected.

2.3.36 The AR6 Report concluded that the NDCs announced by Parties up to October 2021 made it likely that atmospheric warming will exceed 1.5°C during the 21st century. It also concluded that this would make it harder to limit warming to below 2°C. The IPCC's best estimate is that the global temperature increase will reach the Paris Agreement's long-term limit of 1.5°C in the near term. As every increment of increased warming will intensify multiple and concurrent hazards to human health and to the environment, deep, rapid, and sustained reductions in greenhouse gas emissions will be needed to try to achieve a discernible slowdown in global warming within around two decades, and to discernible changes in atmospheric composition within a few years.

12 The Intergovernmental Panel on Climate Change (IPCC) is the international body for assessing the science related to climate change. The IPCC is currently in its seventh assessment cycle which began in July 2023.

2.3.37 The AR6 Report warns that adverse impacts and related losses and damages from climate change escalate with every increment of global warming, and climatic and non-climatic risks will increasingly interact, creating compound and cascading risks that are more complex and difficult to manage. Some future changes are deemed now to be unavoidable and/or irreversible, but can be limited by deep, rapid, and sustained global GHG emissions reductions. Limiting human-caused global warming requires net zero CO_2 emissions. Cumulative carbon emissions until the time of reaching net zero CO_2 emissions and the level of greenhouse gas emission reductions this decade largely determine whether warming can be limited to 1.5°C or 2°C. The modelling carried out by IPCC demonstrate that the only way to limit warming to 1.5°C (>50%) involve rapid and deep and, in most cases, immediate GHG emissions reductions in all sectors this decade. This requires net zero CO_2 emissions are reached, globally, by the early 2050s.

2.3.38 The AR6 Report highlights that climate change is a threat to human well-being and planetary health, and that there is a rapidly closing window of opportunity to secure a liveable and sustainable future for all. The choices and actions made by Governments, corporates, communities and individuals in this decade will have impacts now and for thousands of years. Deep, rapid, and sustained mitigation and accelerated implementation of adaptation actions in this decade would reduce projected losses and damages for humans and ecosystems, and deliver many co-benefits, especially for air quality and health.

2.3.39 Building on the work of the IPCC in the AR6 Report, the UNFCCC's 2024 NDC Synthesis Report includes the following stark observations:

(a) If full implementation of all current NDCs (including conditional measures) is achieved (an optimistic scenario), it is estimated that global GHG emissions will be on average 5.9% lower in 2030 relative to 2019 levels. If conditional measures are excluded, GHG emissions will likely increase by 0.8% in 2030 over 2019 levels.

(b) The IPCC have modelled the level of reductions necessary to keep global temperature increases at 1.5°C and below 2°C by 2100. There is a significant gap between current NDCs and what the IPCC modelling shows is necessary.

a. To achieve 1.5°C, GHGs must be reduced by an average of 43% by 2030 relative to 2019. As noted, current NDCs show a 5.9% reduction in a best case.

b. To achieve 2°C, GHGs must be reduced by an average of 27% below 2019 levels by 2030. Current NDCs fall far short at 5.9%, in a best case.

c. Projecting to 2035, to be in line with modelled pathways to limiting warming to 1.5°C by 2100, by 2035 GHG emissions have to be reduced by, on average, 60% over 2019 levels. To achieve 2°C, GHG emissions have to be reduced by 35% by 2035 relative to the 2019 respectively.

(c) The current absolute difference in the level of GHG emissions by 2030 according to the latest NDCs and these modelled scenarios to keep within temperature limits is "sizeable".

(d) Projected global mean temperatures are subject to significant uncertainty owing to the range of emission levels estimated for 2030 resulting from implementation of NDCs (including whether conditional elements are implemented or not), the range of illustrative emission extensions beyond 2030, and inherent climate system uncertainties. The best estimate of peak temperature in the twenty-first century (projected mostly for 2100 when temperature continues to rise) is in the range of 2.1–2.8°C depending on the underlying assumptions[13].

(e) Based on the current NDCs, cumulative CO2 emissions between 2020–2030 will consume 86% of the remaining carbon "budget" which has been estimated to be available while limiting global warming to 1.5°C. The equivalent of just two years of projected total global emissions by 2030 would remain available after 2030. If 2°C is treated as the target, approximately 37% of the available carbon budget will have been consumed by 2030.

2.3.40 As noted by the UN 2030 Agenda:

'The future of humanity and of our planet lies in our hands. It lies also in the hands of today's younger generation who will pass the torch to future generations.'

2.3.41 To illustrate this point, the 'Summary for Policy Makers' of the IPCC Sixth Assessment Report includes an illustration of the observed global surface temperature from 1900-2000, and the projected temperature from 2021-2100. This shows how the climate has already changed and will continue to change under different GHG emissions scenarios. The illustrated timeline shows how these projected temperature increase scenarios interact with the lifespans of those born in 1950, 1980 and 2020.

13 The 1.5 and 2 °C warming levels in these scenarios are usually considered to be 20-year averages of warming, with warming in individual years – owing to natural variability – being potentially higher than those levels.

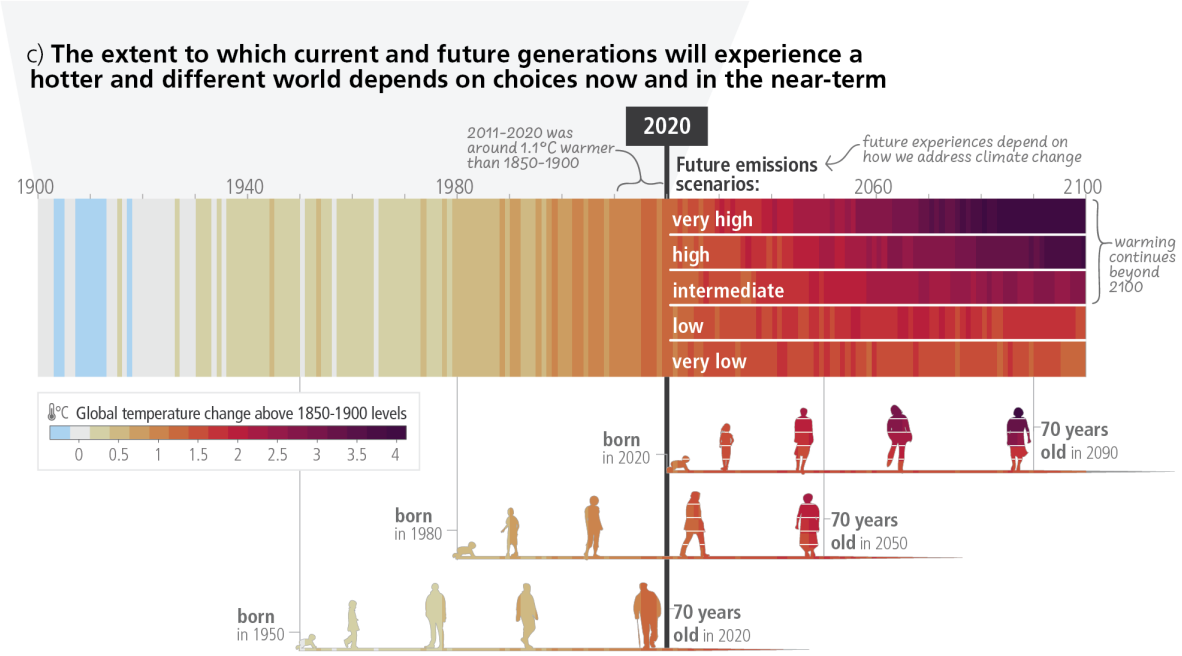

Figure 1 IPCC AR6 SYR SPM Figure 1

2.3.42 As both the IPCC and UNFCCC Synthesis reports make clear, the impact of delay in making deep, rapid, and sustained cuts in GHG emissions across all sectors, including by replacing fossil fuel consumption with renewable energy, is being experienced and will continue to be inflicted most acutely on young people, and future generations. The very concept of sustainable development is defined by meeting the needs of today without compromising the ability of future generations to meet their own needs.

2.3.43 As noted in the EU's Fit for 55 Communication (discussed below):

'Next generations will bear the brunt of more frequent- and more intense - storms, wildfires, droughts and floods, as well as the conflicts that they could trigger around the world. Tackling these crises is therefore a matter of intergenerational and international solidarity. What we achieve in the next decade will determine our children's future. This is why there is sustained and growing public support for climate ambition and action. Stepping up climate action is also an appeal of especially young people, including today's teenagers, who, as agents of change, call on governments and the EU to act decisively and without delay to protect the climate and environment for next generations.'

UN Convention on Biological Diversity (UNCBD), 1992 and Global Biodiversity Framework, 2022

2.3.44 The UN Biodiversity Convention on Biological Diversity defines 'biological diversity' as the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.

2.3.45 The Global Biodiversity Framework, formally titled the Kunming-Montreal Global Biodiversity Framework, was agreed in 2022 at the fifteenth Conference of the Parties to the UN Biodiversity Convention (COP15). It requires the Parties to the Framework to take active steps to address biodiversity loss, restore ecosystems and protect indigenous rights.

2.3.46 Parties to the Biodiversity Convention committed under the Global Biodiversity Framework to put 30 per cent of the planet and 30 per cent of degraded ecosystems under legal protection by 2030. Parties are obliged to prepare national biodiversity strategies and action plans, and to set or revise national targets to match the ambition of the Global Biodiversity Framework goals. The Framework's long-term goals include:

'GOAL A

The integrity, connectivity and resilience of all ecosystems are maintained, enhanced, or restored, substantially increasing the area of natural ecosystems by 2050;

Human induced extinction of known threatened species is halted, and, by 2050, extinction rate and risk of all species are reduced tenfold, and the abundance of native wild species is increased to healthy and resilient levels;

The genetic diversity within populations of wild and domesticated species, is maintained, safeguarding their adaptive potential.

GOAL B

Biodiversity is sustainably used and managed and nature's contributions to people, including ecosystem functions and services, are valued, maintained and enhanced, with those currently in decline being restored, supporting the achievement of sustainable development, for the benefit of present and future generations by 2050.'

2.3.47 Climate change and biodiversity loss (as well as pollution) are part of an interlinked triple planetary crisis the world is facing today. At the 2024 UN Convention on Biological Diversity (UNCBD) Conference of the Parties (COP16) held in October 2024 in Cali, Colombia, healthy ecosystems and a stable climate were recognised as underpinning sustainable development. Strong linkages between biodiversity loss and climate change were apparent in the negotiations.

2.3.48 In a message to the 2024 UNFCCC Conference (COP29) the Secretariat of the Biodiversity Convention COP16 called for the strengthening of coordination and greater policy coherence between the work of the UNFCCC under the Paris Agreement and of the UNCBD under the Global Biodiversity Framework, and to break the 'silos' separating national actors working on climate change and biodiversity loss.

2.3.49 One of the outcomes from Cali is a call for National Biodiversity Strategies and Action Plans under the Biodiversity Convention to be more closely connected with NDCs being prepared under the Paris Agreement. This action is found in the 4th National Biodiversity Action Plan, which calls for a biodiversity representative to be involved in the preparation of the Offshore Renewable Energy Development Plan II (see National Biodiversity Action Plan).

Making Peace with Nature: A scientific blueprint to tackle the climate, biodiversity and pollution emergencies (UNEP, 2021)

2.3.50 The United Nations Environment Programme (UNEP) published a first UNEP Synthesis Report in 2021: Making Peace with Nature: A scientific blueprint to tackle the climate, biodiversity and pollution emergencies, based on evidence from a wide range of global environmental and scientific assessments. One of the key messages from this Synthesis Report is that the interconnected nature of climate change, loss of biodiversity, land degradation, and air and water pollution means they must be addressed together to maximize the benefits and minimize trade-offs.

2.3.51 Among the key messages contained in the report, Making Peace with Nature, the following points are noted:

'The well-being of todays' youth and future generations depends on an urgent and clear break with current trends of environmental decline. The coming decade is crucial. Society needs to reduce carbon dioxide emissions by 45 per cent by 2030 compared to 2010 levels and reach net-zero emissions by 2050 to limit warming to 1.5°C as aspired to in the Paris Agreement, while at the same time conserving and restoring biodiversity and minimizing pollution and waste.

Earth's environmental emergencies and human well-being need to be addressed together to achieve sustainability. The development of the goals, targets, commitments and mechanisms under the key environmental conventions and their implementation need to be aligned to become more synergistic and effective.'

2.3.52 It is recognised in the UNEP Report that meeting the Paris Agreement targets requires more ambitious national climate commitments and rapid transformations in areas including energy systems, land use, agriculture, forest protection, urban development, infrastructure and lifestyles. By lowering the degree of warming, quickly reducing greenhouse gas emissions makes it easier and cheaper to adapt to climate change and protect progress toward the UN Sustainable Development Goals. The loss of biodiversity can be halted and reversed by expanding protected areas, including marine protected areas under the Marine Strategy Framework Directive and the Natura 2000 network under the Habitats and Birds Directives, and providing space for nature while also addressing the drivers of degradation such as changing land and sea use, over-exploitation, climate change, pollution and invasive alien species. The adverse effects of chemicals and waste on the environment and human health can be substantially reduced by fully implementing existing international conventions and further strengthening the scientific basis of global policymaking and regulation.

2.3.53 The 'European Green Deal' (see European Green Deal (2019) explicitly states that that the document *'resets the Commission's commitment to tackling climate and environmental-related challenges'* and addressing the triple challenges of climate change, pollution, and biodiversity loss together as key drivers of its environmental objectives. In seeking to address these inter-connected crises, the European Green Deal focuses specifically on the importance of clean energy supply, being one of the UN Sustainable Development Goals. Climate change is recognised to be the third most important driver of biodiversity loss globally.

2.3.54 Furthermore, the EU Biodiversity Strategy for 2023 (see EU Biodiversity Strategy) that was adopted under the European Green Deal recognises that the biodiversity and climate crises are intrinsically linked. The EU Offshore Wind Strategy (see EU Strategy for Offshore Renewable Energy (2020)), also adopted under the European Green Deal, recognises that a reduction of greenhouse gas emissions of 55% by 2030 *'will require a scale up of the offshore wind industry, which is estimated to require less than 3% of the European maritime space and can therefore be compatible with the goals of the EU Biodiversity Strategy.'*

2.3.55 These excerpts illustrate the intertwined nature of the climate and biodiversity crises and the reality that non-action does not equate with business as usual or indeed with the protection of the environment, but rather, with a pathway towards 'irreversible tipping points' as emphasised in the Fit for 55 Communication, and the IPCC Sixth Assessment Report (2023), and the UNFCCC Secretariat's NDC Synthesis Report (2024).

2.3.56 The proposed Dublin Array project should be considered in this real-world context. When assessing the environmental impacts of the proposed development and whether it is consistent with marine planning policy objectives and proper planning and sustainable development, to keep in mind the trade-offs that may be necessary to meet the needs of future generations and to properly evaluate and weigh the costs of doing nothing or delaying necessary action to ensure deep sustained cuts to fossil fuel consumption and GHG emissions. As noted, Dublin Array is capable of achieving more than one of the UN's Sustainable Development Goals, while also providing resilience in line with EU and Irish Security of Supply objectives in case of further geopolitical and energy shocks.

2.4 European climate and renewable energy legislation

2.4.1 In this section, a selection of the most significant EU legislative measures of relevance to climate action and renewables are set out, including the legally binding targets and objectives that Dublin Array can achieve.

EU Governance Regulation – Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action

2.4.2 The EU Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action is a core piece of EU Climate and Energy legislation that consolidates and streamlines many existing energy and climate planning and reporting requirements, and which assists the EU's compliance with its commitments under the Paris Agreement particularly with respect to the reporting of NDCs on behalf of European Member States.

2.4.3 The EU Governance Regulation requires Member States to submit a National Energy and Climate Plan (NECP) to the European Commission in advance of each NDC reporting period. Each NECP is required to set out, amongst other things, the Member State's proposed approach to compliance with the revised targets for that Member State under the Effort Sharing Regulation (EU) 2023/857. Ireland's target under the revised Effort Sharing Regulation is 42% reduction of GHG by 2030 compared against 2005 levels. As discussed below, Ireland is currently well-below target (see Ireland's Greenhouse Gas Emission Projections 2023-2050).

2.4.4 The NECP must also detail the Member State's contributions to EU level 2030 targets regarding renewable energy and energy efficiency. Member states must submit biennial progress reports on implementing plans, tracking advancements in decarbonisation, energy efficiency, energy security, the internal energy market, and research, innovation, and competitiveness.

2.4.5 The EU Climate Law (Regulation (EU) 2021/1119) modifies the EU Governance Regulation by mandating reductions in net domestic GHG emissions by at least 55% by 2030, compared to 1990 levels. The EU Governance Regulation is crucial for guiding Ireland's transition to a low-carbon energy system. The significant step-up in scale of new renewable electricity generation capacity that can be achieved by offshore wind farms is of critical importance in achieving these targets, as is clear from Tables 10 and 11 of Ireland's latest NECP (2024) (see National Energy and Climate Plan 2021-2030).

European Climate Law – Regulation (EU) 2021/1119

2.4.6 Under the European Green Deal, the EU committed to creating a first European Climate Law to enshrine Europe's commitment to achieving climate neutrality by 2050, and to setting out a plan for reducing Europe's GHG emissions by 55% by 2030 compared to 1990 levels.

2.4.7 The European Climate Law sets a legally binding target of net zero greenhouse gas emissions by 2050 and an interim binding target of reducing net greenhouse gas emissions by at least 55% by 2030 compared with 1990. This effectively writes into law the policy goals of the European Green Deal (discussed below).

2.4.8 As stated in the second recital to the European Climate Law, the European Green Deal *'aims to protect, conserve and enhance the Union's natural capital, and protect the health and well-being of citizens from environment-related risks and impacts.'* The eleventh recital notes that, in light of the importance of energy production and consumption for the level of greenhouse gas emissions *'it is essential to ensure a transition to a safe, sustainable, affordable and secure energy system relying on the deployment of renewables, a well-functioning internal energy market and the improvement of energy efficiency, while reducing energy poverty. Digital transformation, technological innovation, and research and development are also important drivers for achieving the climate-neutrality objective.'*

2.4.9 The European Climate Law provides for:

(a) a process for setting a 2040 climate target, based on an indicative GHG budget to be prepared by the EU Commission.

(b) a commitment to negative GHG emissions after 2050.

(c) The creation of a new European Scientific Advisory Board on Climate Change, to provide the EU institutions with independent scientific advice.

(d) stronger legal provisions on adaptation to climate change.

(e) measures to ensure that EU policies across a range of sectors are consistent with the climate neutrality objective.

(f) a commitment to engage with sectors to prepare sector-specific roadmaps charting the path to climate neutrality in different areas of the economy.

2.4.10 On 18th December 2023, the European Commission issued a Recommendation on the consistency of Ireland's measures with the Union's climate-neutrality objective and with ensuring progress on adaptation found that *'progress towards the Union's climate-neutrality objective appears largely insufficient for Ireland'* (European Commission, 2023).'

2.4.11 The Commission recommended that Ireland should take action to *'(s)tep up climate mitigation efforts, by making tangible progress on the existing and planned policies and consider additional, urgent measures to align the expected greenhouse gas emission reductions and projections with the climate-neutrality objective'*. Particular efforts were suggested in relation to emissions in agriculture and removals in the Land Use, Land-Use Change, and Forestry (LULUCF) sector. It is clear that scaling renewable energy generation also provides a means of significantly reducing GHG emissions arising from consumption of fossil fuels.

Revised Renewable Energy Directive (EU) 2023/2413 ('RED III')

2.4.12 The revised Renewable Energy Directive (EU) 2023/2413 (RED III) amends Directive (EU) 2018/2001, Regulation (EU) 2018/1999, and Directive 98/70/EC, and it repeals Council Directive (EU) 2015/652. RED III entered into force on 20 November 2023. It forms part of the EU's 'Fit for 55' package (discussed below). RED III aligns the legislation with the updated GHG reductions and renewables targets and commitments.

2.4.13 RED III establishes a binding renewable energy target of at least 42.5% of overall energy consumption by 2030, with an aim of reaching 45% as soon as possible. This represents a minimum 10.5% increase over the previous RED II targets, advancing the ambitions of the European Green Deal and the legally binding climate neutrality objective by 2050. Given the step-up in scale of renewable energy generating capacity that can be achieved by offshore wind, these revised renewable energy targets underscore the essential role that offshore wind energy plays in Ireland and other EU coastal states with suitable offshore wind resources, to meet the EU's climate neutrality objective and ratchet-up the emissions reductions to be achieved through the NDCs under the Paris Agreement.

2.4.14 According to figures from the Sustainable Energy Authority of Ireland (SEAI), in 2022, renewable energy represented 23.0 % of energy consumed in the EU, up from 21.9% in 2021. Meeting the new target of 42.5% by 2030 will require doubling this share. RED III includes additional measures to try to accelerate the EU's clean energy transition. Key amendments include additional sectoral targets for renewable energy use and coordinated mapping by Member States to identify potential and suitable locations for renewable energy plants and related infrastructure, such as grids and storage facilities. RED III further presumes these projects as being of overriding public interest, and deems any killing or disturbance of protected species, where necessary mitigation measures have been adopted, as being non-deliberate for the purposes of the prohibitions and derogation procedures set out in the EU Habitats, Birds and Water Framework Directives.

2.4.16 In particular, RED III provides as follows:

'Recital 37 – The construction and operation of renewable energy plants can result in the occasional killing or disturbance of birds and other species protected under Directive 92/43/EEC or under Directive 2009/147/EC of the European Parliament and of the Council. However, such killing or disturbance of protected species should not be considered to be deliberate within the meaning of those Directives if the project for the construction and operation of those renewable energy plants provides for appropriate mitigation measures to avoid such killing, to prevent disturbance, to assess the effectiveness of such measures through appropriate monitoring and, in the light of the information gathered, to take further measures as required to ensure that there are no significant adverse impact on the population of the species concerned.

Article 16b(2) – [...] Where a renewable energy project has adopted necessary mitigation measures, any killing or disturbance of the species protected under Article 12(1) of Directive 92/43/EEC and Article 5 of Directive 2009/147/EC shall not be considered to be deliberate. Where novel mitigation measures to prevent as much as possible the killing or disturbance of species protected under Directives 92/43/EEC and 2009/147/EC, or any other environmental impact, have not been widely tested as regards their effectiveness, Member States may allow their use for one or several pilot projects for a limited time period, provided that the effectiveness of such mitigation measures is closely monitored and appropriate steps are taken immediately if they do not prove to be effective.

Article 16f – By 21st February 2024, until climate neutrality is achieved, Member States shall ensure that, in the permit-granting procedure, the planning, construction and operation of renewable energy plants, the connection of such plants to the grid, the related grid itself, and storage assets are presumed as being in the overriding public interest and serving public health and safety when balancing legal interests in individual cases for the purposes of Article 6(4) and Article 16(1), point (c), of Directive 92/43/EEC, Article 4(7) of Directive 2000/60/EC and Article 9(1), point (a), of Directive 2009/147/EC. Member States may, in duly justified and specific circumstances, restrict the application of this Article to certain parts of their territory, to certain types of technology or to projects with certain technical characteristics in accordance with the priorities set out in their integrated national energy and climate plans submitted pursuant to Articles 3 and 14 of Regulation (EU) 2018/1999. Member States shall inform the Commission of such restrictions, together with the reasons therefor.'

2.4.17 RED III's focus on significantly increasing the share of renewable energy necessitates the expansion of offshore wind capacity where available in Europe. This is vital for Ireland given its favourable maritime conditions and extensive coastline, and potential for greater levels of electrical interconnectivity to Europe in the future[14]. Offshore wind farms are a cornerstone of Ireland's strategy to reach the new renewable energy targets, helping to transition away from fossil fuels and significantly reduce carbon emissions. Offshore wind is also a cornerstone of Ireland's future security of supply strategy for electricity. As Ireland aims to double its renewable energy share to meet the RED III binding targets, offshore wind projects capable of delivering significant new generating capacity before 2040, such as Dublin Array, are necessary.

2.4.18 RED III entered in force in November 2023 with a transposition deadline for 1 July 2024 for permit-granting procedures, and 21 May 2025 more generally. RED III has not yet been transposed in Ireland, despite the deadlines having now passed. The European Commission issued a letter of formal notice to Ireland on 25 September 2024 in respect of this, which is a precursor to infringement proceedings. In certain circumstances, where transposition deadlines have passed, the State, including emanations of the State, may have an obligation to give effect to the objectives of the provisions of the Directive that ought to have been transposed, despite it not yet being transposed.

Council Regulation (EU) 2022/2577 on Accelerating Deployment of Renewable Energy, as revised by Regulation (EU) 2024/223

2.4.19 Regulation (EU) 2022/2577 on Accelerating Deployment of Renewable Energy, subsequently updated by amended by Council Regulation (EU) 2024/223 following the enactment of RED III, aims to facilitate the rapid deployment of renewable energy projects across EU member states in response to the climate emergency and the need for energy independence (also referred to as security of supply). As an island nation, Ireland is particularly vulnerable to gas supply interruptions and shocks, and to interruptions to operation of electricity interconnectors. These Regulations establish a streamlined framework to expedite permitting processes, enhance grid connections, and promote investments in indigenous renewable technologies on the Island.

14 gov.ie - National Policy Statement on Electricity Interconnection 2023

2.4.20 Regulation (EU) 2022/2577 also established a presumption that renewable energy infrastructure, in prescribed circumstances, is in the overriding public interest in the context of the Habitats Directive, the Birds Directive and the Water Framework Directive. The presumption applied on a temporary basis, for a period of 18 months, ending on 30th June 2024. It was not deemed necessary to prolong the presumption in Regulation (EU) 2022/2577 since such a presumption separately applies by virtue of Article 16f of RED III, as referred to above, from 1st July 2024 onwards.

2.4.21 Furthermore, Regulation (EU) 2022/2577 required that renewable energy projects be given priority in the planning and permit-granting processes when balancing legal interests in the individual case. This requirement was specifically prolonged by the amending legislation, Council Regulation (EU) 2024/223, until 30th June 2025 (and may be further extended).

2.4.22 Regulation (EU) 2022/2577, as amended, also sets out the considerations that can be taken into account when assessing whether there are no satisfactory alternative solutions to a project for the purposes of the derogations set out in Articles 6(4) and 16(1) of Directive 92/43/EEC, Article 4(7) of Directive 2000/60/EC and Article 9(1) of Directive 2009/147/EC. These provisions also apply until 30th June 2025, unless further extended.

2.4.23 In particular, Regulation (EU) 2022/2577, as amended, provides as follows:

*'Article 3(1) – The planning, construction and operation of plants and installations for the production of energy from renewable sources, and their connection to the grid, the related grid itself and storage assets shall be presumed as being in the overriding public interest and serving public health and safety when balancing legal interests in the individual case, for the purposes of Article 6(4) and Article 16(1)(c) of Council Directive 92/43/EEC (1), Article 4(7) of Directive 2000/60/EC of the European Parliament and of the Council (2) and Article 9(1)(a) of Directive 2009/147/EC of the European Parliament and of the Council (3). Member States may restrict the application of those provisions to certain parts of their territory as well as to certain types of technologies or to projects with certain technical characteristics in accordance with the priorities set in their integrated national energy and climate plans (*no longer in force*).*

Article 3(2) – Member States shall ensure, for projects which are recognised as being of overriding public interest, that in the planning and permit-granting process, the construction and operation of plants and installations for the production of energy from renewable sources and the related grid infrastructure development are given priority when balancing legal interests in the individual case. Concerning species protection, the first subparagraph shall only apply if and to the extent that appropriate species conservation measures contributing to the maintenance or restoration of the populations of the species at a favourable

conservation status are undertaken and sufficient financial resources as well as areas are made available for that purpose.

Article 3a(1) – When assessing whether there are no satisfactory alternative solutions to a project for a plant or installation for the production of energy from renewable sources and its connection to the grid for the purposes of Articles 6(4) and 16(1) of Directive 92/43/EEC, Article 4(7) of Directive 2000/60/EC and Article 9(1) of Directive 2009/147/EC, this condition may be considered as being fulfilled if there are no satisfactory alternative solutions capable of achieving the same objective of the project in question, notably in terms of development of the same renewable energy capacity through the same energy technology within the same or similar timeframe and without resulting in significantly higher costs.

Article 3a(2) – When assessing whether there are no satisfactory alternative solutions to a grid infrastructure project which is necessary to integrate renewables into the electricity system, for the purposes of Articles 6(4) and 16(1) of Directive 92/43/EEC, Article 4(7) of Directive 2000/60/EC and Article 9(1) of Directive 2009/147/EC, this condition may be considered fulfilled if there are no satisfactory alternative solutions capable of achieving the same objective of the project in question within the same or similar timeframe and without resulting in significantly higher costs.'

2.4.24 Also of note are the following recitals from the amending legislation, Council Regulation (EU) 2024/223:

'Recital 13 – One of the temporary measures introduced by Regulation (EU) 2022/2577, which has shown positive effects and which has significant acceleration potential in the future, is the introduction in Article 3(1) of a rebuttable presumption that renewable energy projects are of overriding public interest and serve public health and safety for the purposes of specific derogations foreseen in the relevant Union environmental legislation, except where there is clear evidence that such projects have major adverse effects on the environment which cannot be mitigated or compensated for. Directive (EU) 2018/2001, by means of Article 16f thereof, introduced a rebuttable presumption that renewable energy projects are of overriding public interest and serve public health and safety, with almost identical wording as compared to the wording of Article 3(1) of Regulation (EU) 2022/2577. Therefore, it is not necessary to prolong the application of Article 3(1) of Regulation (EU) 2022/2577 since such a rebuttable presumption will apply by virtue of Article 16f of Directive (EU) 2018/2001.

Recital 14 – However, Article 3(2) of Regulation (EU) 2022/2577 requires priority to be given to projects that are recognised as being of overriding public interest whenever the balancing of legal interests is required in individual cases and where those projects introduce additional compensation requirements for species

protection. An analogous provision is not present in Directive (EU) 2018/2001. The first sentence of Article 3(2) of Regulation (EU) 2022/2577 has the potential, in the current urgent and still unstable energy situation on the energy market which the Union is facing, to further accelerate renewable energy projects since it requires Member States to promote those renewable energy projects by giving them priority when dealing with different conflicting interests beyond environmental matters in the context of Member States' planning and the permit-granting process. The Commission's report demonstrated the value of the first sentence of Article 3(2) of Regulation (EU) 2022/2577 which recognises the relative importance of renewable energy deployment in the current difficult energy context beyond the specific objectives of the derogations foreseen in the Directives referred to in Article 3(1) of Regulation (EU) 2022/2577. Given the particularly severe situation in the supply of energy which the Union is currently facing, it is appropriate to prolong the application of Article 3(2) of Regulation (EU) 2022/2577 in order to appropriately recognise the crucial role played by renewable energy plants to fight climate change and pollution, reduce energy prices, decrease the Union's dependence on fossil fuels and to ensure the Union's security of supply in the context of the balancing of legal interests carried out by permit-granting authorities or national courts. At the same time, it is also appropriate to keep the environmental safeguard that, for projects recognised as being of overriding public interest, appropriate species conservation measures, underpinned by sufficient financial resources, are adopted.

Recital 15 – As shown in the Commission's report, challenges exist in the application of another condition to apply specific derogations foreseen in the Union environmental legislation, namely the requirement regarding the absence of other alternative solutions. Such challenges limit the practical usefulness of the rebuttable presumption that renewable energy projects, their connection to the grid, the related grid itself and storage assets, are of overriding public interest, because it is a considerable hurdle to prove that a project could not take place elsewhere, if the territory of a whole country has to be considered, and even more if other renewable energy technologies have to be considered. Therefore, in order to speed up the deployment of renewables, their connection to the grid, and the building of the grid infrastructure necessary to integrate renewable energy into the electricity system which is a key objective recognised in the Commission's Communication of 28 November 2023, entitled 'Grids, the missing link – An EU Action Plan for Grids', it is appropriate to specify, for the purpose of this Regulation, how the conditions for applying specific derogations as foreseen in Union environmental legislation can be attained, as regards the scope of the relevant alternative conditions that have to be considered. in particular, for the purposes of relevant Union environmental law, in the necessary case-by-case assessments to ascertain whether there are satisfactory alternative solutions to the specific renewable energy project or grid infrastructure project which is

necessary to integrate renewable energy into the electricity system, it is necessary to specify that the scope of the assessment of alternative solutions can cover solutions that ensure the achievement of the same objectives as the project in question within the same or similar timeframe and without resulting in significantly higher costs. When comparing the timeframe and the cost of satisfactory alternative solutions, Member States should take into account the need to deploy renewable energy and grid infrastructure which is necessary to integrate renewable energy into the electricity system in an accelerated and cost-effective manner in accordance with the priorities set out in their integrated national energy and climate plans and updates thereof submitted pursuant to Regulation (EU) 2018/1999 of the European Parliament and the Council (4) and the expected speed to achieve those priorities. Such a temporary specification is justified in view of the current situation on the energy markets in order to facilitate the uptake of renewable energy plants and the related grid infrastructure, thereby recognising their role in fighting climate change and pollution, reducing energy prices, decreasing the Union's dependence on fossil fuels and ensuring the Union's security of supply.'

Net Zero Industry Act 2024 – Regulation (EU) 2024/1735

2.4.25 The Net Zero Industry Act 2024 (Regulation (EU) 2024/1735 on establishing a framework of measures for strengthening Europe's net-zero technology manufacturing ecosystem and amending Regulation (EU) 2018/1724) was adopted on 27th May 2024. It was triggered by the Green Deal Industrial Plan, the goal of which is to attract and retain manufacturing and investment in the research and development of clean technologies within the EU, to improve Europe's supply-chain resilience with respect to technologies which are in high demand globally to meet the Paris Agreement commitments, and to drive green growth.

2.4.26 The Act is expected to boost the competitiveness of EU industry, create quality jobs, and support the EU's efforts to become energy independent by speeding up the delivery of projects within Europe. The list of technologies supported by the Net Zero Industry Act includes offshore wind turbines and associated components.

European climate and renewable energy policies

2.4.27 There are many EU Climate and Renewable Energy policies of relevance to Dublin Array. A selection of the most directly relevant have been compiled below and are presented in chronological order from older to more recent for context and ease of reference.

Energy Roadmap 2050

2.4.28 The Energy Roadmap 2050, published by the European Commission in December 2011, served as a comprehensive strategy to guide Europe towards a sustainable and resilient energy future. It aims to synchronize the transition of the energy system with the GHG targets outlined in the Renewable Energy Directive in force at the time, while also boosting competitiveness and supply. Central to this vision was a shift away from fossil fuels towards renewable energy sources such as wind, solar, and hydroelectric power. The Roadmap outlined four main pathways to achieve a sustainable, secure, and competitive energy system by 2050:

- Energy efficiency;
- Renewable energy;
- Nuclear energy; and
- Carbon capture and storage.

2.4.29 These pathways are combined to generate seven scenarios for Europe's energy future, underlining the critical role of increasing the share of renewable energy. The analysis stressed the importance of timely investment in new technologies to prevent long-term disruptions and higher costs. Notably, the scenarios demonstrated wind power's dominance in the High Renewables scenario, underscoring the imperative to expand offshore wind farm capacity. Additionally, the roadmap highlighted the necessity of strategic planning and infrastructure investments to facilitate the integration of wind energy into the broader energy system, emphasising the need for robust transmission networks and smart grid technologies. Through supportive policies and regulatory frameworks, the EC aimed to incentivize private investment in wind energy projects and foster a conducive market environment for renewable energy development, ultimately driving the transition towards a low-carbon energy system that is sustainable, secure, and affordable for all.

A Roadmap for Moving to a Competitive Low Carbon Economy in 2050

2.4.30 Looking beyond 2020 in compliance with the EC Energy Roadmap 2050, this 2011 policy document specified an EU target of at least 27% as the share of renewable energy consumed in the EU in 2030. The Roadmap informed national policy in Ireland and influenced the Climate Action Plans made to date. The Roadmap highlighted the need for a comprehensive approach to energy generation, which includes the expansion of offshore wind capacity.

The 2030 Climate and Energy Framework

2.4.31 In January 2014 the European Commission presented 'A 2030 Framework for Climate and Energy Policies' which set out that a new target of a 40 % emissions reduction below the 1990 level would be met through domestic measures alone. An EU-wide binding target for renewable energy of at least 27% of energy consumption by 2030 was introduced which would be enforced through a new governance system based on national energy plans. This was subsequently updated in 2018, forming the basis of the EU Energy Governance Regulation. The framework set out three key targets for the year 2030:

- At least 40% cuts in greenhouse gas emissions (from 1990 levels);
- At least 32% share of renewable energy; and
- At least 32.5% improvement in energy efficiency.

2.4.32 Each Member State negotiated individual targets under this Framework, while Ireland negotiated a greater degree of flexibility for its targets than almost every other Member State.

European Green Deal (2019)

2.4.33 The European Green Deal (2019) has been a transformational growth strategy for the EU. It aims to transform the EU into a fair and prosperous society. It seeks to improve quality of life through a modern, resource-efficient and competitive economy where there are no net emissions of greenhouse gases in 2050, decoupling economic growth from resource use. The EU aims to do this by becoming climate-neutral by 2050. The European Green Deal is now supplemented with the European Green Deal Industrial Plan (2023), which has led to several important initiatives in support of jobs, economic growth and sustainable development, including the Net Zero Industry Act, 2024.

2.4.34 In terms of clean, affordable and secure energy supply, the European Green Deal emphasises that to meet the EU's climate and sustainability goals, all sectors must increase their use of renewable energy and phase out fossil fuels.

2.4.35 The European Commission's 2019 Communication on the European Green Deal outlines key policies to achieve these goals, including investing in green technologies supporting innovation, promoting clean transport, decarbonising the energy sector, improving building efficiency and enhancing global standards.

2.4.36 A European Parliament resolution on the European Green Deal urged the EC to give the Green Deal a 'blue' dimension and to fully include the ocean dimension as a key element of the Green Deal by developing an oceans and aquaculture action plan, among other actions. The EC published 'Transforming the EU's Blue Economy for a Sustainable Future' in 2021.

2.4.37 The 2021 'Blue Economy' policy document notes that the blue economy can contribute to carbon neutrality by developing offshore renewable energy and by greening maritime transport and ports. Offshore renewable energy can help to meet Europe's renewable energy targets and *'generate a quarter of the EU's electricity in 2050, mainly (though not exclusively) through offshore wind energy. A sustainable ocean energy mix should include (in addition to bottom-fixed offshore wind) floating wind, thermal, wave and tidal energy - emerging technologies that are expected to reach commercial stage within ten years.'*

EU Strategy for Offshore Renewable Energy (2020)

2.4.38 In November 2020, the European Commission unveiled a strategy to significantly boost offshore renewable energy production, aiming to make it a key component of Europe's energy system by 2050. The strategy seeks to increase offshore renewable electricity generation from 12 Gigawatts (GW) to over 60 GW by 2030 and 300 GW by 2050. The strategy emphasises regional cooperation, a diversified approach, and the substantial potential of EU islands.

2.4.39 The Strategy acknowledges the potential of offshore technologies such as tidal, wave, floating solar, and algae for biofuel, however, the Commission considers that wind power is the only commercially viable offshore renewable technology at this time. It estimates that 240 to 450 GW of offshore wind power will be needed by 2050 to limit temperature rise to 1.5^{0}C.

2.4.40 The anticipated advancement of floating wind technologies in the future will allow for the exploitation of a wider array of offshore sites in deeper waters. To support the required investment of nearly £800 billion, the strategy aims to enhance investor certainty, ease bottlenecks, and balance public and private financing.

2.4.41 On 18 September 2023, the European Court of Auditors published a Special report (ref.22/2023) titled: *'Offshore renewable energy in the EU – Ambitious plans for growth but sustainability remains a challenge'*. The Court of Auditors is one of the EU Institutions established under the Treaty on the Functioning of the EU. The Auditors undertook a review of the EC Offshore Wind Strategy (2020), and whether EU money has effectively financed offshore renewable energy development. (The Report looks at EU-funded projects financed between 2007-2022). The audit covers policy developments before and after the adoption of the EU Strategy on offshore renewable energy. The Auditors also looked at how social and environmental consequences were assessed and addressed by Member States and the European Commission.

2.4.42 In their report, the Auditors noted that the European Green Deal put energy transition at the heart of the EU's efforts to reach climate neutrality by 2050 and fight biodiversity loss and pollution. The path towards these objectives requires an increase in the use of renewable energy in a sustainable manner. Offshore renewable energy is one of these renewable energy sources and is expected to contribute significantly to reaching the EU Green Deal objectives.

2.4.43 The European Commission's comments in response to the draft Auditor's report made the following observations:

(a) The European Commission noted that offshore renewable energy is crucial for a climate neutral Europe, as it is among the renewable technologies with the greatest potential to scale up and will be a core component of Europe's energy system in the years to come. In January 2023, building on the EU Offshore Strategy and the TEN-E Regulation, Member States agreed on non-binding goals for Offshore Renewable Energies (ORE) generation by 2050, with intermediate goals for 2030 and 2040, in each of the EU's five sea basins. For the North Sea basin, the Ostend Summit in April 2023 resulted in a further strengthening of the ambition level (including by Ireland[15]). At the same time higher ambitions in offshore renewable sector will have to be turned into reality for the EU to maintain global leadership, which underlines the relevance of the Raw Materials and Net Zero Industrial Act (NZIA) and the Critical Materials Act 2024.

(b) The European Commission highlighted in its response that, in addition to offshore wind, several offshore renewable technologies have reached a very advanced technology readiness level, as has been reflected in the recent Commission proposal on the Net Zero Industry Act. Bottom fixed wind structures are noted as already representing a mature commercially available technology.

15 Ostend Declaration on the North Seas as Europe's Green Power Plant delivering cross-border projects anchoring the renewable offshore industry in Europe, agreed 24 April 2023.

(c) As regards the potential conflicts between offshore renewable energy developments and fisheries, the Commission noted that this has already been the subject of a number of European Commission studies in 2020, notably a study '*Overview of the effects of offshore wind farms on fisheries and aquaculture*', and a Study for the European Parliament (PECH committee) on the impact of the use of offshore wind and other marine renewables on European fisheries.

In this respect, the Commission noted that there is a specific International Council for the Exploration of the Sea (ICES) working group on Offshore Wind Development and Fisheries (WGOWDF) composed of expert (fisheries) economists and social scientists, fishery/fishing operational experts, marine biologists, oceanographers, survey design and statistical methods experts, and ecosystem scientists from government, academia, and industry.

(d) The European Commission noted its active participation in the North Sea Energy Cooperation (NSEC), where Member States cooperate to assess cumulative impacts of offshore renewable energy developments and has recently joined discussions about a Greater North Sea Basin Initiative, which intends to look at developments for energy, food and nature in an integrated way.

2.4.44 In the offshore renewable energy sector, which includes the wind and ocean energy industry, the Court of Auditors concluded that the EU needs to keep up its current strong global position. As increased offshore targets in the non-binding agreements put additional pressure on the supply chains, there is a risk of creating an increasing gap between ambition and the capacity to deliver.

2.4.45 According to the Commission, offshore renewables can produce economic benefits in terms of value creation, new and better job opportunities and help finance the overall welfare in the Member States. Faced with increasing competition from other regions and countries like for instance China and the United States, the ambition level must also encompass the objective to have competitive supply chains in the EU.

2.4.46 The Commission agreed with the Auditors that several aspects on marine biodiversity protection are still to be addressed to realize the full potential of the coexistence with offshore installations such as the knowledge gaps on potential impacts of ORE, the assessment of cumulative effects on biodiversity and the identification of the most appropriate solutions to mitigate impacts but also to increase synergies with biodiversity protection and restoration. The Commission referred to the Guidance notes that it has already issued on windfarms and habitats, updated in 2021 to take account of offshore wind farm development in 2021 (see European Commission guidance).

2.4.47 Furthermore, as noted under OSPAR several States are working collaboratively to develop best available techniques and guidance for offshore renewable energy development in the North Atlantic, including Principles governing the framework for Cumulative Effects Assessment (CEA) of offshore wind farm development (EIHA 2023 Summary Record, § 8.7). The OSPAR Commission has also prepared a 'Feeder Report 2021 – Offshore Renewable Energy Generation' which identifies new project development and measures being taken to address any environmental effects arising from offshore wind projects.

EU Fit for 55 Package

2.4.48 The EU Fit for 55 Package was published in late 2021 with the aim of reducing EU greenhouse gas emissions by at least 55% by 2030 compared to 1990 levels and making the EU carbon-neutral by 2050. This EU package is a set of proposals to revise all existing EU Acts on climate and energy and increase the EU target for renewables in the overall energy mix from 32% in 2030 to 40%. Echoing the recent reports from the IPCC and the AR6, the "Fit for 55" Communication notes:

'We are at a pivotal moment in the world's response to the climate and biodiversity emergencies and we are the last generation that can still act in time. This decade is a make-or-break moment for delivering on our commitments under the Paris Agreement, in the interest of the health, wellbeing and prosperity of all. The EU has led by example in setting ambitious targets for reducing net emissions by at least 55% by 2030 compared to 1990 and for being the first climate neutral continent by 2050. These goals are no longer aspirations or ambitions but obligations laid down in the first European Climate Law that create new opportunities for innovation, investment and jobs.

...

Acting before we reach irreversible tipping points will allow us to design that transformation rather than react and adapt to it. While the cost of non-action is clearly higher than the cost of fulfilling our climate ambitions, sterile numbers cannot capture the stark consequences of continuing business-as-usual. Non-action could also lead to new dividing lines: between those who can afford clean, modern technologies based on renewables and those with no alternative to old-fashioned and polluting ones. Next generations will bear the brunt of more frequent- and more intense - storms, wildfires, droughts and floods, as well as the conflicts that they could trigger around the world. Tackling these crises is therefore a matter of intergenerational and international solidarity. What we achieve in the next decade will determine our children's future. This is why there is sustained and growing public support for climate ambition and action. Stepping up climate action is also an appeal of especially young people, including today's teenagers,

who, as agents of change, call on governments and the EU to act decisively and without delay to protect the climate and environment for next generations.'

RePower EU (2022)

2.4.49 RePower EU, spearheaded by the European Commission in response to Russia's invasion of Ukraine, serves as a strategic initiative aimed at fortifying Europe's energy security and reducing dependency on external energy sources. The plan outlines a comprehensive strategy to accelerate the transition to renewable energy while bolstering domestic energy production capabilities. It proposed, among other measures, that the EU 'boost' its renewable energy targets and seek to deliver them more quickly than previously planned.

2.4.50 Specifically, Part 2 of RePower EU was entitled 'Pillar 2: accelerate delivery of European Green Deal' and it addressed the actions required to eliminate EU dependence on Russian fossil fuels in the medium term. The express aim of this Pillar was to act quickly to achieve diversification of gas supplies and reduction of EU fossil fuel dependency. To support this objective, legislative amendments were planned in addition to those proposed within 'Fit for 55'. This led to amendment of the Renewable Energy Directive (RED III), with further amendments in RED III for the Energy Efficiency Directive, and the Energy Performance of Buildings Directive.

2.4.51 RePower EU emphasises the expansion of both onshore and offshore wind capacity throughout Europe. Ambitious targets are set for the deployment of advanced wind turbine technologies to enhance efficiency and reduce costs, making wind energy increasingly competitive with conventional sources. Additionally, the plan underscores the necessity of strategic planning and infrastructure investments to facilitate the integration of wind energy into the broader energy system, including the development of robust transmission networks and smart grid technologies. By prioritising the development and deployment of renewable technologies, such as wind, solar, and hydroelectric power, RePower EU aims to mitigate disruptions in European energy supplies and enhance resilience in the face of geopolitical tensions.

2.4.52 Through targeted policies and investments, the European Commission seeks to foster a sustainable, secure, and self-reliant energy system that is resilient to external shocks and conducive to long-term economic prosperity. As an island at the periphery of Europe, this is of particular importance for Ireland.

European Wind Power Action Plan and Wind Energy Charter

2.4.53 As the most recent relevant publication as of 2024, the European Wind Power Action Plan, published in October 2023, outlines a strategy to ensure a sustainable and competitive wind supply chain across the EU. It focuses on six key areas: accelerating deployment, improving auction designs, enhancing access to finance, ensuring fair international trade practices, developing skills, and encouraging industry engagement. The accompanying Wind Energy Charter, signed by Ireland and other member states, further reinforces commitments to meet EU renewable energy targets, including improving permitting processes, scaling up wind energy manufacturing, and delivering on post-2030 offshore wind energy targets. Ireland's commitment to the charter supports the development of projects such as Dublin Array, contributing to European decarbonisation efforts and enhancing the national grid with up to 824 MW of clean energy.

2.5 Irish Climate Action and Renewable Energy Legislation, Policies and Plans

2.5.1 In this section, a selection of the most relevant legislation giving effect to EU Climate and Renewable Energy legislation and policy is set out, together with a selection of recent policies and plans in chronological order.

Climate Action and Low Carbon Development Act 2015, as amended

2.5.2 The Climate Action and Low Carbon Development Act 2015 was substantially amended in 2021, giving it considerable weight and creating accountability on the part of public bodies to ensure that their functions are performed in accordance with the climate plans and strategies created under the Act.

2.5.3 The Act established for the first time in 2015 a national objective of transitioning to a low carbon, climate resilient and environmentally sustainable economy by 2050. In 2021, new legal obligations were imposed, requiring the Government to prepare comprehensive plans addressing climate change, promoting a transition towards a biodiversity-rich, climate-neutral economy. These amendments include the establishment of carbon budgets and sectoral emission ceilings, as well as provisions for climate justice and a just transition, enhancing the framework's robustness and accountability.

2.5.4 While the EU Effort Sharing Regulation requires a 42% reduction of emissions compared to 2005 levels by 2030, the Climate Action and Low Carbon Development Act 2015, as amended, has specified 2018 as the base year from which a 51% emission reduction is to be achieved by 2030.

2.5.5 The establishment of an independent Climate Change Advisory Council remains crucial, as it will provide expert advice to the Minister for the Environment, ensuring informed policy developments in line with updated climate objectives.

2.5.6 It is an obligation under the Act that, where the total GHG emissions for a preceding five-year budget period exceed the carbon budget for that period, the excess GHG emissions from the preceding budget period is carried forward to the next period. The carbon budget for the next period is then decreased by the amount carried forward. In this way, a failure to take the necessary steps to achieve the necessary reductions in the first budget period, reduces the available budget for subsequent periods. Delays and inaction therefore disproportionately affect future generations subject to successively reducing budgets.

2.5.7 Another key feature of the Act is the placing of Climate Action Plans on a legally enforceable footing. The Climate Action Plan 2024 is discussed below. Section 15 of the Climate Action and Low Carbon Development Act 2015, as amended, requires public bodies, including An Bord Pleanála, to perform their functions in a manner that is consistent with the latest approved Climate Action Plan, national long-term climate action strategy, national adaptation framework and approved sectoral adaptation plans, the furtherance of the national climate objective and the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State, insofar as is practicable. This constitutes an obligation on public authorities, including An Bord Pleanála, to act consistently with the climate plans and strategies and objectives specified in Section 15 insofar as is practicable, within the parameters of the law. This would involve favouring the grant of permission for a renewable energy project which goes towards achieving the objectives of the most recent approved Climate Action Plan, where this is permitted by law. This would also involve exercising a discretion to grant a derogation from another requirement or obligation in favour of a renewable energy project where such derogation is permitted by law[16]. As noted at Section 2.5.25 below, where the Climate Action Plan is discussed, Dublin Array is essential to the attainment of Ireland's binding target of at least 5 GW of offshore wind by 2030, the attainment of which is itself essential to the linked objectives and binding targets to electrify and decarbonise other sectors, including transport, heating, and industry.

16 See, for example, Coolglass Wind Farm Limited v An Bord Pleanála and Ireland and the Attorney General [2025] IEHC 1, and Directive (EU) 2023/2413 amending Article 16f of Directive (EU) 2018/2001.

National Energy and Climate Plan 2021-2030

2.5.8 An initial draft NECP was prepared in 2018. This set out in tables a trajectory for offshore wind generating capacity based on scenarios of high and low oil prices, and with and without additional measures to accelerate offshore wind deployment.

2.5.9 In 2019 in line with a new Programme for Government, and the EU Energy Governance Regulation, a revised NECP was prepared which strongly emphasised the Government's intention to progress measures to develop offshore wind at scale. The 2019 NECP stated:

'Offshore Wind

Ireland is targeting at least 3.5 GW of offshore renewable energy of mainly offshore wind, the development of up to 1.5 GW of grid scale solar energy, and an increase in onshore wind capacity of up to 8.2 GW. This will be delivered in a competitive framework of auctions and corporate contracting with a renewed focus on community and citizen participation.

Ireland has one of the best offshore renewable energy resources in the world with a sea area of 900,000 square kilometres which is approximately 10 times the size of our landmass. Because of Ireland's location at the Atlantic edge of the EU, we have more offshore energy potential than most other countries in Europe. Achieving 70% renewable electricity by 2030 will require us to build out significant infrastructures and the capacity to integrate new technologies such as wave and tidal energy. Ireland's coast is one of the most energy productive in Europe, with a long-term potential of 70 GW of ocean energy opportunity (wind, wave and tidal) within 100 km of the Irish coastline.'

2.5.10 The 2019 NECP noted that the Government was in the process of introducing the National Marine Planning Framework and the Maritime Area Planning Act 2021, with the intention of producing marine spatial plans for offshore renewable energy and for marine protected areas.

2.5.11 The 2024 NECP outlines the key measures to address the five dimensions of the EU Energy Union: decarbonisation, energy efficiency, energy security, internal energy markets and research, innovation, and competitiveness. It provides the roadmap for how Ireland will accelerate efforts to meet its climate goals in the face of both increasing global climate ambition and immediate challenges like energy security.

2.5.12 A key focus is of the NECP is the phased reduction and eventual elimination of fossil fuels, such as peat and coal, by 2050. To ensure the security and reliability of the energy system during this transition, the plan prioritises increasing and diversifying Ireland's production of indigenous clean energy, with a particular focus on large-scale offshore wind projects.

2.5.13 Offshore wind is a cornerstone of Ireland's clean energy transition and NDCs under the NECP, with significant infrastructure investments required to realise its full potential.

2.5.14 Ireland's latest 2024 NECP, published in July 2024, notes that the estimated trajectory for offshore renewable energy targets with existing measures (WEM) and with additional measures (WAM), falls short of the interim targets that Ireland is required to meet under the EU Governance Regulation. This is stated to be *'primarily due to the fact that large projects, particularly offshore wind projects, cannot be constructed in shorter timeframes and will not be fully operational by the end of the decade.'*

2.5.15 Accordingly, Table 10 of the NECP projects that, with existing measures, the installed capacity of offshore wind in Ireland will be 2,650 MW by 2030 and 6,650 MW by 2040. Table 11 of the NECP projects that, with additional measures installed capacity could reach 4,000 MW by 2030 and 11,300 MW by 2040. As will be noted, even with these measures, Ireland's trajectory of emissions increases is far greater than it needs to be, if the Paris Agreement goals are to be achieved.

Ireland's Greenhouse Gas Emission Projections 2023-2050

2.5.16 The National Climate Change Strategy designated the Environmental Protection Agency (EPA) with responsibility for developing annual national emission projections for greenhouse gases for all key sectors of the economy, including transport.

2.5.17 The EPA publishes greenhouse gas emission projections on an annual basis and submits emission projections to the Commission as required under the Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action.

2.5.18 The EPA's publication, titled 'Ireland's Greenhouse Gas Emission Projections 2023-2050' (2024) provides an updated assessment of Ireland's projected GHG emissions out to 2050 which includes an assessment of progress towards achieving its emission reduction targets set down under the revised Effort Sharing Regulation.

2.5.19 Ireland's 2030 target under the revised Effort Sharing Regulation is a 42% reduction of GHG emissions compared to 2005 levels by 2030. The EPA projects that, with existing measures that are currently implemented, Ireland will achieve a 9% reduction of GHG emissions by 2030 compared to 2005 levels. This falls alarmingly short of the 42% reduction target and is also lower than the 10% reduction projected in the EPA's 2023 projections.

2.5.20 The EPA projects that, even if planned additional measures are implemented, based on current trajectories Ireland can only expect to achieve a reduction in GHG emissions of 25% by 2030, still short of the 42% reduction target and also lower than the 30% reduction that the EPA estimated in its 2023 projections.

2.5.21 The EPA finds that the majority of the GHG emissions come from the agricultural and transport sectors. Ireland's interim target (as part of the national climate objective) under the Climate Action and Low Carbon Development Act 2015, as amended, is to achieve 51% reductions in total GHG emissions by 2030 when compared with 2018. The EPA projects that with existing measures, Ireland can only reduce GHG emissions in this period by 11%. With the extensive additional measures specified in the Climate Action Plan 2024, the EPA projects that this could achieve emissions reductions of just 29% by 2030 when compared with 2018.

2.5.22 It is an obligation under the Climate Action and Low Carbon Development Act 2015, as amended, that where the total GHG emissions for a preceding five-year budget period exceed the carbon budget for that period, the excess GHG emissions from the preceding budget period must be carried forward to the next period. The carbon budget for the next period is then decreased by the amount carried forward.

2.5.23 According to the EPA's 2024 Projections, the GHG emissions will exceed the allocation for the first budget period (2021-2025) by 26 Mt CO_2e if current existing measures are implemented. Even if all the measures specified in the Climate Action Plan 2024 are implemented, the budget will be exceeded by 19 Mt CO_2e. With this carryover, the second budget is projected to be exceeded by 135 Mt CO_2e based on existing measures, and by 85 Mt CO_2e if all Climate Action Plan 2024 measures are implemented. Consequently, far higher emissions reductions will be needed in order to comply with Budget periods 2 and 3.

2.5.24 In this way, it is clear that a failure to take the necessary steps specified in the Climate Action Plan 2024 within the intended timeframe will result in GHG exceedances being carried over to the next budget period, creating a shortfall at that stage, and requiring much deeper cuts to be made. This is the very issue highlighted in the IPCC and UNFCCC AR6 reports. Delays and inaction disproportionately affect children and young people, as well as future generations, not only by increasing the climate risks but also the costs of reductions and mitigation.

Climate Action Plan (2024)

2.5.25 The Climate Action Plan 2024 (CAP24) was published in December 2023 and a final version was approved on 21st May 2024. The CAP refines and updates the strategies and initiatives essential for meeting carbon budgets and sectoral emissions targets. It serves as a roadmap for implementing measures to cut Ireland's emissions by 50% by 2030, and ultimately attaining net-zero emissions by no later than 2050.

2.5.26 According to CAP24, in 2022, renewable generation accounted for 38.6% of electricity, an increase from 35% in 2021. Emissions from the generation of electricity decreased by 2% in 2022, which is attributed in CAP24 to an increase in renewable generation, coupled with reductions in coal, fuel oil, and peat use for electricity generation. Following a decrease of 8.9% in natural gas use in 2021, there was an increase of 12.6% year-on-year in 2022.

2.5.27 According to the Sustainable Energy Authority of Ireland (SEAI), Ireland's electricity emissions in the first half of 2023 were 16.7% lower than for the same period in 2022. In the first half of 2023, renewables accounted for 43% of electricity generated, an increase of 0.9 percentage points on the first half of the previous year.

2.5.28 Despite these improvements, CAP24 identifies the immense challenge faced by the electricity sector in meeting demands for electricity from other sectors that must rapidly decarbonise, including transport, heating, and industry. The decarbonisation of these sectors relies to a significant degree on electrification. According to CAP24, the deployment rates of renewable energy and grid infrastructure required to meet the carbon budget programme for electricity is unprecedented and requires *'urgent action across all actors to align with the national targets.'*

2.5.29 CAP24 identifies Ireland's ambition to deliver 80% of electricity demand with renewables by 2030. To deliver this, renewable energy and grid infrastructure, particularly, onshore wind, solar, and offshore wind resources must be deployed and scaled up at an unprecedented rate. At least 5 GW of offshore wind is targeted for 2030.

2.5.30 In addition, CAP24 aims to:

- Accelerate the delivery of utility-scale onshore wind, offshore wind, and solar projects through a competitive framework;
- Target 9 GW of onshore wind, and 8 GW of solar, in addition to at least 5 GW of offshore wind by 2030;
- Ensure that new or repowered renewable electricity generation projects shall implement a Community Benefit Fund equivalent to the Renewable Energy Support Scheme (RESS) requirements of €2/MWh;
- Deliver a streamlined electricity generation grid connection policy and process, and remove barriers, where possible, for the installation of renewables and flexible technologies reducing the need to build grid, including hybrid connections; and
- Target the production of 2 GW of renewable hydrogen sourced from offshore wind to be in development by 2030.

2.5.31 The electricity measures set out in CAP24 are supported by SEAI analysis, which states:

'Delivery and integration of onshore and offshore wind and solar PV is the best-performing mitigation measure to deliver emissions abatement at scale and at speed.'

2.5.32 CAP24 further analyses the EPA's 2023 projections of GHG emissions against targets based on the previous CAP23, and notes that the EPA identified significant exceedances, and that as a minimum all measures identified in CAP24 would be needed to have any chance of staying within the relevant sectoral emissions ceilings and applicable carbon budget allowance for the relevant budget period.

2.5.33 With a capacity of up to 824 MW, Dublin Array represents over 16% of Ireland's target for offshore wind generation for 2030. As the second largest of the four offshore wind projects to succeed in Ireland's first Offshore Renewable Energy Support Scheme (ORESS1), Dublin Array represents a significant proportion of the State's commitment to 2030 renewable electricity targets and is of critical importance to meeting what CAP24 describes as the immense challenge of meeting the decarbonisation demands of other sectors of the economy, including transport and industry.

2.5.34 Furthermore, by prioritising community benefits, Dublin Array not only supports the national goal of achieving 5 GW of offshore wind by 2030 but also strengthens its partnership with local communities, ensuring they share in the benefits of renewable energy development. Dublin Array, as a successful project under the Offshore Renewable Electricity Support Scheme (ORESS1), is committed to contributing to community development through a dedicated Community Benefit Fund of €2/MWh.

Future Framework for Offshore Renewable Energy, 2024

2.5.35 To reach Ireland's commitments to reduce emissions by 51% and have 80% of electricity generated by renewables by 2030, Ireland is targeting the deployment of 5GW of new offshore renewable energy generation by the end of the decade. The Government has adopted a phased approach to transitioning towards a plan-led regime, so as to maximise the social and environmental welfare of offshore renewable energy development. The 'Phase 1' projects, of which Dublin Array is the second largest, are intended to deliver the maximum competitively procured offshore wind capacity at the earliest feasible deployment stage. Six projects participated in the first competitive Offshore Renewable Energy Support Scheme (ORESS 1) which resulted in the State procuring over 3 GW of capacity from four projects, including on the East Coast, Dublin Array, the North Irish Sea Array, and the Codling Wind Park. A further project on the West Coast was also successful in ORESS1. A further 1.2 GW of capacity across the two projects unsuccessful in ORESS1 are being progressed as 'Merchant Phase 1' projects (Oriel Wind Park and Arklow Wind Park – Phase 2).

2.5.36 As noted in Future Framework, all six 'Phase 1' projects have seabed rights (a Maritime Area Consent), a pathway to connecting to the grid transmission system, and are submitting planning applications to An Bord Pleanála under the Planning Act.

Ireland's Long-Term Strategy for Greenhouse Gas Emissions Reduction 2024

2.5.37 In June 2024, Ireland published its first statutory long-term strategy for GHG emissions reductions, under the terms of the Climate Action and Low Carbon Development Act 2015, as amended, and in accordance with Ireland's obligations under the EU Climate Law.

2.5.38 The long-term strategy identifies the significant steps taken to date to advance the target of 5 GW of offshore wind generation by 2030, and the work being undertaken in parallel to designate further maritime areas for protection under the Habitats and Birds Directives, and sets out the further plans and commitments to extend the range of actions needed to significantly cut emissions from a range of sectors, particularly through the electrification of transport and industry, projecting out to 2050.

Offshore Renewable Electricity Support Scheme

2.5.39 Ireland's first Offshore Renewable Electricity Support Scheme (ORESS1), specifically focused on offshore renewable energy projects which were sufficiently well advanced to potentially deliver new installed generating capacity towards Ireland's 2030 renewable electricity targets.

2.5.40 ORESS1 provides conditional financial support for offshore projects that secure development permission from An Bord Pleanála and that deliver against pre-determined performance milestones.

2.5.41 Dublin Array is the second largest of four offshore wind projects that succeeded in securing conditional financial support under ORESS1.

2.5.42 Since offshore wind farms often require extensive onshore infrastructure (such as substations and transmission connections), the ORESS framework ensures that these components are integrated within Ireland's renewable energy and grid expansion goals.

Offshore Renewable Energy Development Plan I & II

2.5.43 The OREDP was first published in February 2014 and sets out a framework for the sustainable development of Ireland's offshore renewable energy resources. The OREDP identified the opportunity to maximise the use of Ireland's offshore energy resources to increase the indigenous production of renewable energy, lower greenhouse gas emissions, improve energy supply security and create green economy jobs and discussed the feasibility of an ISLES (Irish–Scottish Links on Energy Study) network. The OREDP was the subject of a strategic environmental assessment (SEA) and AA prior to its adoption by Government. The Environmental Report for the SEA identified Dublin Array and other offshore renewable energy projects in the Irish Sea and off the West Coast of Ireland that were proposed at that time.

2.5.44 A new OREDP (II) has been drafted, following an interim review in 2018, and sets out Ireland's new spatial strategy for offshore renewable energy. OREDP II presents a high-level framework for the long-term planned development of offshore wind, wave, and tidal energy resources and provides guidance on where these activities will be developed in the future. This strategic approach aims to align with national and EU energy policies, promoting environmental sustainability and economic growth while ensuring the efficient use of marine space.

2.5.45 Dublin Array is aligned with the objectives set out in the OREDP and Draft OREDP (II), both in terms of its contribution to renewable energy production and its adherence to sustainable development principles. The project's scale and location are consistent with the spatial assessments outlined in the OREDP, particularly regarding the Irish Sea's suitability for offshore wind development. As part of the SEA of the OREDP, the Irish Sea and its surrounding approaches were evaluated for their capacity to support offshore wind projects without causing significant adverse environmental effects. This assessment found that Dublin Array, crossing both northern and southern east coast assessment areas, fits within the strategic framework, with the region able to accommodate between 4,200 and 4,800 MW of offshore wind without adverse impacts on the environment or other marine users.

2.5.46 The OREDP suggests a series of project-level mitigation measures, categorised based on various stages of development and project phases, including:

- Site/cable route selection stage;
- Project design stage;
- EIA stage;
- Project installation; and
- Project operation and maintenance (O&M).

2.5.47 These measures cover broad environmental topics such as geology, benthic ecology, marine birds, marine mammals, archaeology, shipping, tourism, and climate, among others. In line with these recommendations, the EIAR has evaluated and integrated these mitigation measures at each stage of development to ensure compliance with the OREDP guidelines (see Part 1 B Planning Report included with the planning application)

2.5.48 Each of the OREDP's suggested mitigation measures has been considered throughout the project's lifecycle, from site selection and design through to the EIA process and installation. For example, mitigation measures relevant to marine ecology, protected species, and seabed disturbance have been addressed within the EIAR and AA, minimising potential impacts. The compliance with these mitigation measures, as well as with the OREDP's strategic objectives, is further demonstrated in the Planning Report, where a detailed assessment of policy alignment has been documented.

Powering Prosperity: Ireland's Offshore Wind Industrial Strategy

2.5.49 Powering Prosperity: Ireland's Offshore Wind Industrial Strategy outlines a roadmap to develop Ireland's offshore wind sector in line with the national energy and climate objectives. This strategy focuses on fostering domestic manufacturing, increasing supply chain capacity, and enhancing skills to support the growing offshore wind industry. It aims to create a competitive and sustainable offshore wind sector, driving economic growth, job creation, and energy independence. The strategy aligns with the objectives set out in the OREDP, emphasising collaboration among stakeholders to optimise the development of offshore wind projects, such as Dublin Array, while ensuring environmental protection and community engagement.

Policy Statement on Security of Electricity Supply (2021)

2.5.50 The Security of Electricity Supply Statement 2021 set out the key challenges to ensuring the security of electricity supply, such as establishing adequate indigenous generating capacity and grid infrastructure. Maintaining a secure electricity supply during the transition to 80% renewable consumptions by 2030 will require support from various technologies. Since the majority of renewable energy generated is expected to come from variable sources like wind and solar, they will need to be supplemented by conventional generation, interconnections, demand flexibility, energy storage and renewable gases.

2.5.51 The Government considered that additional electricity transmission and distribution grid infrastructure, electricity interconnection and electricity storage should be permitted and developed in order to support the growth of renewable energy and to support security of electricity supply.

2.5.52 Dublin Array will support the transition to 80% renewable consumption by 2030 and can work in conjunction with energy storage solutions, demand flexibility, and interconnections to develop a resilient and secure electricity grid.

Energy Security in Ireland to 2030

2.5.53 The Energy Security in Ireland to 2030 Package outlines a shift towards a sustainable, carbon-neutral energy system by 2050. This transition involves moving away from oil and gas towards renewable energy, smart grid infrastructure, and integration with Europe's energy system. Emphasising energy efficiency and zero-emission buildings, the strategy aims to meet climate, renewable, and efficiency targets set in the annually updated CAP. To ensure a secure transition to 2030, the Energy Security Package prioritises reducing demand, increasing renewable energy use, enhancing system resilience, and implementing robust risk governance measures. These actions aim to mitigate disruptions to energy supplies and address domestic capacity shortfalls, particularly in light of European energy supply disruptions.

2.5.54 Dublin Array is consistent with the Energy Security Package, providing a significant increase in renewable energy indigenous generating capacity close to demand on the East Coast of Ireland.

2.6 EU biodiversity and environmental protection legislation, plans and policies

Birds Directive (2009/147/EC)

2.6.1 The Birds Directive (Directive 2009/147/EC) is one of the core pieces of EU legislation aimed at conservation through the the 'protection, management and control' of all wild bird species naturally occurring in the European Union. The Directive requires Member States to protect birds, their eggs, nests, and habitats. It establishes a network of Special Protection Areas (SPAs), which, together with Special Areas of Conservation (SACs) under the Habitats Directive, form the Natura 2000 network. The protection under the Birds Directive applies also to migratory and overwintering bird species.

2.6.2 Offshore wind farms can potentially impact bird populations through habitat disturbance, collision risks with turbines, and displacement from important feeding or breeding areas. The Birds Directive requires that these risks be assessed during the planning stages. If significant impacts are identified, appropriate mitigation must be put in place. Compliance with the Birds Directive in the design of a project, the consideration of alternatives (including alternative technologies), and the assessment of risks and design of mitigations, contributes directly to ensuring that offshore wind projects are developed in a manner that minimises the potential for harm to bird species, especially those listed as protected under the Directive.

2.6.3 Ireland has recently designated new SPAs in the maritime area, including for example the North-West Irish Sea SPA (004236). It is anticipated that this site, together with other marine SPAs and SACs, will in due course form part of a statutory network of maritime protected areas (MPAs) once the necessary MPA legislation is enacted.

Habitats Directive (92/43/EEC)

2.6.4 The Habitats Directive (Directive 92/43/EEC) focuses on the conservation of natural habitats and species of wild fauna and flora within the EU. Its aim is to maintain or restore these habitats and species to a favourable conservation status. The Directive establishes the framework for the creation and management of Special Areas of Conservation (SACs), which are part of the Natura 2000 network, alongside SPAs designated under the Birds Directive.

2.6.5 Member States have primary responsibility for the active management and protection of sites within the Natura 2000 network (which under the Planning Act, are referred to as 'European sites'). National competent authorities, such as An Bord Pleanála, have responsibility for carrying out an Appropriate Assessment (AA) where necessary, where a proposed plan or project, or activity, is considered likely to have a significant effect on a European site. Only after excluding potential adverse effects on the integrity of a European site can the competent authority then proceed to authorise the plan or project, or the activity concerned.

2.6.6 Certain species are given strict protection under the Habitats Directive. These are species that may not be deliberately disturbed or killed without a prior derogation from the strict protection regime from the relevant competent authority.

2.6.7 Offshore wind farms in Ireland must adhere to the requirements of the Habitats Directive, particularly regarding their potential impacts on designated Natura 2000 sites. The construction and operation of these projects can disrupt marine habitats and affect protected species, such as marine mammals and seabirds.

2.6.8 Close adherence to the requirements of the Habitat's Directive ensures that biodiversity conservation and protection is centred and safeguarded throughout the design, planning and development process.

Water Framework Directive (2000/60/EC)

2.6.9 The Water Framework Directive (WFD) (Directive 2000/60/EC) is a key piece of EU legislation aimed at protecting and enhancing the quality of water resources across Europe. It establishes a comprehensive framework for the management of inland surface waters, transitional waters (such as estuaries), coastal waters (out to 1 nautical mile, and groundwater. The WFD's primary goal is to achieve 'good status' for all water bodies be preventing pollution, promoting sustainable water use, and protecting ecosystems.

2.6.10 Offshore wind farms can impact inland, coastal and estuarine ecosystems through construction and ongoing operations, such as potential changes to water flow and sedimentation patters. The WFD mandates that potential effects on water bodies be thoroughly assessed and mitigated. This includes evaluating impacts on hydrology, sediment transport, and aquatic ecosystems. Compliance with the WFD is essential for ensuring that offshore wind developments do not compromise the ecological status of surrounding water bodies. Therefore, as part of the planning process, developers must demonstrate how their projects align with the objectives of the WFD, and the applicable River Basin Management Plan, contributing to the overall goal of achieving good water quality and safeguarding aquatic environments in line with Ireland's environmental policies and EU commitments (see Volume 3, Chapter 2, Volume 4, Appendix 4.3.2-1 and Volume 6, Appendix 6.5.4-4).

Strategic Environmental Assessment Directive (2001/42/EC)

2.6.11 The SEA Directive (Directive 2001/42/EC of 27 June 2001) requires that public 'plans and programmes' likely to have a significant effect on the environment are evaluated thorough the SEA process, at an early stage of the decision-making process of the relevant plan, which may be national, regional or local in its scope. Many of the plans, strategies and policies mentioned in this chapter have been subject to SEA prior to their adoption, including the Climate Action Plan, the National Marine Planning Framework, the OREDP/II, and the National Planning Framework.

2.6.12 The SEA ensures that environmental considerations, including the potential for biodiversity effects, are identified, described and evaluated at an early stage in the forward planning and project-planning processes.

The Marine Strategy Framework Directive (2008/56/EC)

2.6.13 The Marine Strategy Framework Directive (MSFD) 2008/56/EC is a vital European regulation aimed at achieving and maintaining Good Environmental Status (GES) of the EU's marine waters, which includes the coastal waters covered by the WFD and extends out to include the waters of the EEZ, including also the seabed and subsoil.

2.6.14 Adopted in 2008, the Directive requires EU Member States to develop marine strategies that include an initial assessment of the marine environment, the establishment of environmental targets and indicators, and the implementation of monitoring programs. These strategies are designed to ensure marine environments remain clean, healthy, and productive while balancing environmental protection with sustainable resource use.

2.6.15 The MSFD mandates that each Member State sets specific targets to track progress towards GES and develop programs of measures to address identified pressures. It also emphasises public participation and stakeholder engagement in strategy development and review. Regular updates and reporting are required to reflect new scientific knowledge and progress, ensuring transparency and ongoing evaluation. This Directive represents a comprehensive effort to manage and protect Europe's marine environments through an integrated and adaptive approach.

2.6.16 The MSFD was amended by European Commission Directive (EU) 2017/845 of 17th May 2017 as regards the indicative lists of elements to be taken into account for the preparation of marine strategies, and for determining 'GES'. The amending Directive substitutes Annex III of the MSFD, which provides indicative lists of ecosystem elements, anthropogenic pressures and human activities relevant to the marine waters. This Annex includes the use of the maritime area for renewable energy infrastructure and grid transmission cabling.

2.6.17 Dublin Array could potentially impact marine ecosystems, therefore compliance with the MSFD requires assessment of how the development aligns with the goal of achieving GES for marine environments. This involves evaluating potential direct and indirect impacts on water quality, biodiversity, and marine habitats throughout the project's lifecycle, from planning and construction to operation and decommissioning (see Volume 3, Chapters 2-8 and Volume 4, Appendix 4.3.2-1).

EIA Directive (2011/92/EU and 2014/52/EU)

2.6.18 The EIA Directive sets out a process by which the significant effects of a proposed project can be identified, described and assessed before a decision is made on whether to grant development consent for a proposed project. The integration of the EIA Directive into the Planning Act and Planning Regulations is described in detail in section 2.2 of this chapter.

2.6.19 The construction, operation and decommissioning phases of offshore wind farms can affect marine ecosystems, water quality, seabed habitats, and biodiversity, including birds and marine mammals. The EIA process ensures that these potential impacts are adequately identified, described, assessed, and that appropriate mitigation and development control measures are imposed, where necessary, to prevent and avoid and minimise such effects or the level of effect on a relevant environmental receptor.

2.6.20 The EIA Directive guarantees rights to public participation in the EIA process, and rights of access to the Courts, if necessary, to challenge the substantive or legal validity of a decision to grant or refuse development consent.

Nature Restoration Law (Regulation (EU) 2024/1991)

2.6.21 The Nature Restoration Law (NRL) (Regulation (EU) 2024/1991) entered into force with direct effect on 18 August 2024. This Regulation establishes a framework within which Member States shall put in place effective and area-based restoration measures with the aim to jointly cover, as a Union target, at least 20 % of land areas and at least 20 % of sea areas by 2030, and all ecosystems in need of restoration by 2050.

2.6.22 The Nature Restoration Law does make provision for renewable energy infrastructure and specifically notes in recital 68 that *'considering the importance of addressing consistently the dual challenges of biodiversity loss and climate change, the restoration of biodiversity should take into account the deployment of renewable energy and vice versa. It should be possible to combine restoration activities and the deployment of renewable energy projects, wherever possible….'*

2.6.23 Dublin Array project would, if deployed, constitute a significant contribution to Irish and EU offshore renewable electricity targets and this EIAR, in combination with the full suite of application documents, the environmental assessments comprised therein and the extensive mitigation measures proposed, seeks to effectively balance this significant challenge of mitigating climate change and biodiversity loss.

EU Biodiversity Strategy

2.6.24 The EU Biodiversity Strategy 'Bringing Nature back into our lives' was adopted on 20th May 2020. It recognises that

'Decarbonising the energy system is critical for climate neutrality, as well as for the EU's recovery from the COVID-19 crisis and long-term prosperity. More sustainably sourced renewable energy will be essential to fight climate change and biodiversity loss. The EU will prioritise solutions such as ocean energy, offshore wind, which also allows for fish stock regeneration, solar-panel farms that provide biodiversity-friendly soil cover, and sustainable bioenergy.'

2.6.25 The strategy further notes at para 2.2.6 that, with respect to restoring good environmental status of marine ecosystems,

'Restored and properly protected marine ecosystems bring substantial health, social and economic benefits to coastal communities and the EU as a whole. The need for stronger action is all the more acute as marine and coastal ecosystem biodiversity loss is severely exacerbated by global warming.

Achieving good environmental status of marine ecosystems, including through strictly protected areas, must involve the restoration of carbon-rich ecosystems as well as important fish spawning and nursery areas. Some of today's sea uses endanger food security, fishers' livelihoods, and the fishery and seafood sectors. Marine resources must be harvested sustainably and there must be zero-tolerance for illegal practices. In this regard, the full implementation of the EU's Common Fisheries Policy, the Marine Strategy Framework Directive and the Birds and Habitats Directives is essential.

The application of an ecosystem-based management approach under EU legislation will reduce the adverse impacts of fishing, extraction and other human activities, especially on sensitive species and seabed habitats. To support this, national maritime spatial plans, which Member States have to deliver in 2021, should aim at covering all maritime sectors and activities, as well as area-based conservation-management measures. The Commission will also propose a new action plan to conserve fisheries resources and protect marine ecosystems by 2021. Where necessary, measures will be introduced to limit the use of fishing gear most harmful to biodiversity, including on the seabed. It will also look at how to reconcile the use of bottom-contacting fishing gear with biodiversity goals, given it is now the most damaging activity to the seabed. This must be done in a fair and just way for all. The European Maritime and Fisheries Fund should also support the transition to more selective and less damaging fishing techniques.'

2.7 Irish biodiversity and environmental protection legislation, policies and plans

2.7.1 In this section, only a small selection of relevant legislative and policy measures is discussed, as many issues are already covered in the previous sections of this chapter. Other relevant national legislation, plans and guidance are discussed in individual chapters of the EIAR.

Sea Pollution Act, 1991, as amended

2.7.2 As noted, various International Conventions and Agreements which result in the prevention of pollution in maritime waters are given effect to through the Sea Pollution Act 1991, as amended, and the statutory instruments made under that Act. The Act gives the relevant Minister broad powers to make regulations to prevent and prohibit discharges anywhere at sea from a ship registered in Ireland, or the discharge in the State from any ship, of any oil, oily mixture, noxious liquid substance, harmful substance, sewage, garbage, substances subject to control under Annex IV of the MARPOL Convention, anti-fouling systems, or ships' ballast water and sediments. Such regulations may also regulate and prescribe operations on board vessels relating to any such substances carried on board.

2.7.3 Breach of the Sea Pollution Acts or any regulations made thereunder constitutes an offence which may be criminally prosecuted. Examples of regulations made under the Sea Pollution Acts include:

- Sea Pollution (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations 2008;
- Sea Pollution (Ballast Water Management Convention) Regulations 2023;
- Sea Pollution (Prevention of Oil Pollution) Regulations 2018;
- Sea Pollution (Prevention of Air Pollution from Ships) Regulations 2010 as amended;
- Sea Pollution (Harmful Substances in Packaged Form) Regulations 2016;
- Sea Pollution (Prevention of Pollution by Sewage from Ships) Regulations 2012;
- Sea Pollution (Prevention of Pollution by Garbage from Ships) Regulations 2012; and
- Sea Pollution (Control of Anti-Fouling Systems on Ships) Regulations 2008.

2.7.4 These are generally applicable binding rules on all marine vessels operating within Irish waters, except vessels that the Minister has exempted from compliance. There are similar technical regulations made in relation to vessel safety under the Maritime Safety Act 2005, and in relation to the save construction and operation of vessels in regulations made under the Merchant Shipping Act 2010.

Foreshore and Dumping at Sea (Amendment) Act 2009 (amending the Dumping at Sea Act, 1996)

2.7.5 Dumping at sea from vessels, aircraft or offshore installation of a substance or material without a permit is prohibited by the Dumping at Sea Act 1996 as amended by the Foreshore and Dumping at Sea (Amendment) Act 2009. The purpose of a Dumping at Sea permit is to regulate the dumping of material at sea. It is anticipated that the Applicant will apply for a Dumping at Sea permit, to authorise the disposal of dredged or excavated spoil within the Array Area and the Export Cable Corridor (ECC) as defined by the MAC. The EPA has prepared technical guidance notes in 2020, setting out the detailed information required to be submitted before a Dumping at Sea Permit will be granted. This includes sediment sample chemistry results from the area from which sand and sediment will be temporarily removed and reinstated during construction.

European Communities (Marine Strategy Framework) Regulations 2011 (S.I. No. 249 of 2011), as amended

2.7.6 The European Communities (Marine Strategy Framework) Regulations 2011 (S.I. No. 249 of 2011), as amended by S.I. No. 265/2017 - European Communities (Marine Strategy Framework) (Amendment) Regulations 2017, and S.I. No. 648/2018 - European Communities (Marine Strategy Framework) (Amendment) Regulations 2018, implement the MSFD in Ireland. The purpose of these regulations is to protect and preserve the marine environment, prevent its deterioration, and, where possible, restore marine ecosystems in areas where they have been adversely affected.

2.7.7 Key aspects of the regulations include:

- Marine Strategies Development: Ireland must develop strategies to achieve 'Good Environmental Status' (GES) of its marine waters by 2020. These strategies include assessments of the marine environment, the establishment of environmental targets and monitoring programs, and the implementation of measures to achieve GES.

- Assessment of Marine Waters: The regulations mandate a comprehensive assessment of the current state of the marine environment, analysing physical, chemical, biological, and anthropogenic impacts.
- Environmental Targets and Indicators: Specific targets and indicators must be established to guide progress towards achieving GES. These include measures to maintain biodiversity, reduce pollution, and manage human activities that affect the marine environment.
- Monitoring Programmes: Regular monitoring programs are required to assess ongoing environmental status and the effectiveness of measures taken. Data collected from these programmes inform adaptive management strategies.
- Public Participation: The regulations emphasize the importance of public consultation and stakeholder engagement in the development and implementation of marine strategies.
- Coordination and Cooperation: Ireland must coordinate its efforts with other EU member states, particularly in the context of shared marine regions, to ensure a cohesive and effective approach to marine environmental protection.

2.7.8 Overall, the European Communities (Marine Strategy Framework) Regulations 2011, as amended, establish a structured approach for Ireland to protect its marine environment through assessment, monitoring, and strategic planning in line with the MSFD. As noted in the 4th National Biodiversity Action Plan, measures are required to be taken by the State to ensure full compliance with the MSFD and to attain GES for all marine and coastal waters.

Wildlife Acts 1976–2023

2.7.9 This is the is the principal national legislation providing for the protection of wildlife and the control of some activities that may adversely affect wildlife. Its objectives include provisions for the protection and conservation of wild fauna and flora and the conservation of a representative sample of important ecosystems. Specific species are protected under its terms.

2.7.10 The Wildlife (Amendment) Act 2023, which commenced in November 2023, gives effect to Ireland's fourth National Biodiversity Action Plan (NBAP) by requiring all public service bodies, including government departments, agencies and local authorities to integrate biodiversity into their plans, policies and programmes. It also requires such public bodies to have regard to the latest National Biodiversity Action Plan when performing their functions under any other Act.

2.7.11 Notably, the jurisdiction of the Wildlife Acts is limited to the territorial sea and the seabed under it. It does not, therefore, extend into the EEZ. Dublin Array is wholly within the 12 nautical mile limit of the territorial sea; therefore, no jurisdictional issue arises. Proposed new MPA legislation is expected to apply to the entire EEZ, Continental shelf and territorial sea.

2.7.12 The Wildlife Act partly gives effect to the Birds Directive, and it also provides for the protection of biodiversity and sites of ecological value, such as ecological stepping stones and corridors, and for the protection of natural heritage areas.

European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011), as amended

2.7.13 The Habitats Regulations (S.I. 477 of 2011, as amended by S.I. No. 499 of 2013 - European Communities (Birds and Natural Habitats) (Amendment) Regulations 2013, S.I. No. 355/2015 – European Communities (Birds and Natural Habitats) (Amendment) Regulations 2015, and S.I. No. 239/2021 - European Communities (Birds and Natural Habitats) (Amendment) Regulations 2021, transpose the EU Habitat and Birds Directives into Irish law, in parallel with other legislative provisions including the Planning Act and the Wildlife Acts.

2.7.14 Where, as in this application, a proposed development requires permission under the Planning Act, the relevant AA is undertaken by the competent authority under Part XAB of that Act, and not under the Habitats Regulations.

2.7.15 However, there are other provisions of the Habitats Regulations which apply to certain activities and effects which may arise if permission is granted, and the development is carried out. For example, where a derogation is required under Regulation 54 of the Habitats Regulations from the prohibition of the acts specified in Regulation 51, the derogation licence application is made to the Minister for Heritage under the Habitats Regulations, notwithstanding that the derogation relates to development for which planning permission is being sought.

2.7.16 As referred to at section 2.4 of this chapter, a number of new EU law provisions have changed the way in which the derogation licence process operates in respect of renewable energy projects in certain circumstances. Namely:

- The revised Renewable Energy Directive (EU) 2023/2413 (RED III), which amends the first Renewable Energy Directive (EU) 2018/2001, Regulation (EU) 2018/1999, and Directive 98/70/EC, and repeals Council Directive (EU) 2015/652; and
- Regulation (EU) 2022/2577 on Accelerating Deployment of Renewable Energy, as amended by Council Regulation (EU) 2024/223.

2.7.17 In particular, the amendments introduced by RED III establish a presumption that renewable energy projects are of overriding public interest, and deems any killing or disturbance of protected species, where necessary mitigation measures have been adopted, as being non-deliberate for the purposes of the prohibitions and derogation procedures set out in the EU Habitats, Birds and Water Framework Directives.

2.7.18 Separately, Regulation (EU) 2022/2577 as amended requires priority planning and permit-granting procedures for renewable energy projects, when balancing legal interests in the individual case, and it sets out the considerations that can be taken into account when assessing whether there are satisfactory alternative solutions to a project for the purposes of the derogation test.

2.7.19 Notwithstanding the above, on a precautionary basis, Dublin Array has decided to make an application to NPWS for a derogation licence in respect of marine mammals, pursuant to Regulation 54 of the Birds and Natural Habitats Regulations 2011 (transposing Article 16 of the Habitats Directive). The application has been submitted to NPWS and a copy is included in this planning application (Volume 4 of the Environmental Impact Assessment Report, Appendix 4.3.5-8]. NPWS can either grant the derogation licence or refuse it. There are a number of grounds on which NPWS could refuse the application, including if it finds the disturbance not to be deliberate, within the meaning of Article 16b(2) of Directive (EU) 2018/2001 as amended by RED III. The Applicant will write to ABP to confirm the outcome of the derogation licence process, so that ABP can then take whatever steps it considers necessary in relation to the planning application. If NPWS grants the derogation licence, the Applicant will provide a copy to ABP for consideration, and public consultation if required, so that ABP can reflect the granting of the licence in its reasoned conclusion on the EIA and Appropriate Assessment to comply with the decision of the CJEU in Hellfire Massey v An Bord Pleanála and as part of its assessment of compliance with Biodiversity Policy 4 of the NMPF.

National Biodiversity Action Plan

2.7.20 Ireland's 4th National Biodiversity Action Plan 2023–2030 was adopted in 2023. As noted, under the Wildlife Amendment Act 2023, public authorities including An Bord Pleanála are required to have regard to it in the fulfilment of their statutory functions, including in decision-making under the Planning Act.

2.7.21 With respect to marine protected areas, the NBAP states:

'Marine Protected Areas

Ireland's national vision is to ensure that the sea and ocean is clean, healthy, biologically diverse, productive, sustainably used and resilient to the effects of

climate change within the broader Atlantic Ocean environment. As a key action to deliver this, the Government is developing legislation on MPAs and will rapidly progress its implementation to help meet our target of 30% protection in the marine environment by 2030. MPAs can be understood as geographically defined maritime areas that provide levels of protection to achieve a set of conservation objectives. The legislation comes on foot of expert recommendations from an independent advisory group and a substantial public engagement process. The establishment of MPAs in the coming years will help to ensure that the marine environment can continue to support our climate, our economy, our coastal communities, our cultural traditions and heritage, and our health and wellbeing.'

2.7.22 Actions proposed within the NBAP include:

- By 2026, Ireland is meeting all requirements for its transitional, coastal, and marine environment under the Water Framework Directive (WFD) and the Marine Strategy Framework Directive (MSFD), thereby achieving and maintaining High or Good Ecological Status and Good Environmental Status, respectively.
- DHLGH will implement and update national programmes of measures to achieve High or Good Ecological Status and Good Environmental Status within transitional, coastal, and marine waters, acting further to support OSPAR Decisions, Recommendations and Other Agreements, and to bolster marine biodiversity throughout the North-East Atlantic region.
- DHLGH will enact and implement comprehensive legislation enabling the designation and management of MPAs and the expansion of Ireland's network of area-based conservation measures in the coastal and marine environment. This legislation will cover species and habitats beyond those listed in EU Directives as well as features providing ecosystem services, including climate change mitigation and adaptation, and capturing transboundary considerations where possible, thereby acting further to support MSFD requirements, the OSPAR Convention for the Protection of the Marine Environment of the North-East Atlantic, and marine biodiversity throughout the region.
- DECC will ensure that the governance framework established as part of the work on the revised OREDP II will include biodiversity representatives to ensure that marine biodiversity objectives are included in the development of the Plan, and as part of the updated cycle for the Plan.

2.7.23 In addition to marine and coastal actions, the NBAP also addresses significant onshore biodiversity conservation and management needs. Key onshore actions include:

- Habitat Restoration: Initiatives to restore degraded terrestrial habitats, such as woodlands, grasslands, and wetlands.
- Species Protection: Measures to protect and enhance populations of terrestrial species, including those not covered by EU directives.
- Sustainable Land Use: Promoting sustainable agricultural and forestry practices that benefit biodiversity.
- Community Engagement: Encouraging local communities to participate in biodiversity conservation efforts through education and involvement in local projects.
- Public Sector Duty on Biodiversity: Under the Wildlife (Amendment) Act 2023, public bodies are required to consider biodiversity in their operations, which includes onshore activities. This ensures that biodiversity considerations are integrated into planning and development processes.

2.8 Marine spatial planning legislation and marine planning policy context

2.8.1 The applicable development consent statutory framework is described in section 1 of this chapter. This section addresses the considerations relating to Maritime Spatial Planning to which An Bord Pleanála may have regard when determining an application under section 291 of the Planning Act.

Maritime Jurisdiction Act, 2021, as amended

2.8.2 Under UNCLOS, the State's territorial sea extends 12 nautical miles seaward from the baseline, and includes the sea, the seabed and subsoil, and the air space above it. Beyond the territorial sea lies the EEZ. The EEZ extends 200 nautical miles beyond the territorial sea, measured from the baseline. The State has exclusive rights to explore, exploit, conserve, and manage, the natural resources of the water column, and of the seabed and its subsoil. The State has jurisdiction over living and non-living resources. The State also has exclusive rights over the production of energy from the water, currents and winds within the EEZ.

2.8.3 Under UNCLOS the Continental shelf of the State is the submerged seabed and subsoil that forms part of the natural landmass of the State extending to the outer edge of the continental margin. The outer boundary of the Continental Shelf may be either 200 nautical miles from the baseline (if the submerged 'landmass' does not extend out that far) or up to 350 nautical miles (depending on the extent of the continental margin, relative water depths, and proximity to other states). The State has exclusive rights over the exploration and exploitation of natural resources in the seabed and subsoil in the Continental Shelf.

2.8.4 UNCLOS is primarily implemented in Ireland through the Maritime Jurisdiction Act 2021, as amended, which was commenced (in part) on 22 November 2021. Under this Act, the State's sovereignty extends to the territorial sea, including the seabed, subsoil, the waters, and the airspace above it. The Act provides that the State owns, and has always owned, the seabed and subsoil of the territorial sea, including *'all forms of potential energy on, in, under and above the territorial sea.'*

2.8.5 In this respect, the definition of territorial sea is similar to the amended definition of the "foreshore", under the Foreshore Act 1933, as amended. The foreshore is defined as *'the bed and shore, below the line of high water of ordinary or medium tides, of the sea and of every tidal river and tidal estuary and of every channel, creek, and bay of the sea or of any such river or estuary'* and extends to the outer limit of the territorial sea (12 nautical miles), and includes (and shall be deemed to have always included) *'the subsoil below, and the water column above the bed and shore.'*

2.8.6 Additionally, the Maritime Jurisdiction Act 2021 asserts the State's sovereign rights over the natural resources within the EEZ including over the generation of wind energy. The State has the exclusive right to protect and preserve the marine environment and to carry out marine scientific research in the EEZ, and to authorise the establishment and use of 'installations' including fixed and floating structures, within the EEZ.

2.8.7 With respect to the Continental Shelf, the Maritime Jurisdiction Act 2021 gives the State the right to designate areas as forming the Continental Shelf by regulations. For any such designated area, the State has sovereign rights including the exclusive right to explore and exploit such areas for mineral and non-living resources in the seabed and subsoil, and to construct and to authorise and regulate the construction, operation and use of any installations on or in the Continental Shelf for that purpose.

2.8.8 The Maritime Area Planning Act, 2021, as amended, applies to activities and developments and other matters within the "maritime area", which is defined by that Act as the area extending from the *'high water of ordinary or medium tides of the sea to the outer limit of the continental shelf'* and includes the following areas as defined by the Maritime Jurisdiction Act 2021:

(a) the sea and tidal areas of internal waters;
(b) the territorial seas;
(c) the EEZ; and
(d) the continental shelf.

2.8.9 The territorial sea, EEZ, Continental shelf and the foreshore, all fall within the jurisdiction of the Marine Strategy Framework Directive (MSFD) incorporating the coastal waters of the Water Framework Directive. The Marine Strategy Framework Directive 2008/56/EEC applies to 'marine waters' which includes (a) the waters, seabed and subsoil on the seaward side of the baseline extending to the outer limit of the maritime jurisdiction of the State (as defined in accordance with UNCLOS); and (b) 'coastal waters' as defined by the Water Framework Directive 2000/60/EC (out to 1 nautical mile from the baseline), and the seabed and their subsoil.

EU Integrated Maritime Policy (IMP)

2.8.10 Cooperation on Europe's coastal zones became a key focus of the European Parliament and Council in the early 1990s, which led to a Council Recommendation on Integrated Coastal Zone Management in 2002 (ICZM Recommendation). The ICZM Recommendation called on coastal Member States to develop ICZM strategies based on principles set out in the Recommendation. Between 2005 - 2012, the EU adopted many key initiatives focused on identifying and maximising 'blue economy' opportunities including offshore wind and protecting the maritime environment to a greater and more co-ordinated extent than had previously occurred, with the publication of a proposal for a maritime strategy framework directive.

2.8.11 There followed a period of extensive activity within EU Institutions to try to develop a coherent set of Marine Planning Policies. For example:

(e) Green Paper (2005) – 'Towards a future Maritime Policy for the Union: A European vision for the oceans and seas';

(f) INSPIRE - Directive 2007/2/EC on establishing Infrastructure for Spatial Information in the European Community;

(g) IMP – An Integrated Maritime Policy for the European Union;

(h) European Energy Policy – An Energy Policy for Europe;

(i) Roadmap for Maritime Spatial Planning (2008);

(j) European Offshore Wind Strategy (2008);

(k) Maritime Strategy for the Atlantic Ocean (2011); and

(l) Blue Growth Strategy (2012).

2.8.12 The Blue Growth strategy sought to place the blue economy to the forefront of economic growth by identifying (a) IMP and spatial planning measures; (b) seabed strategies (such as the strategy for the Atlantic); and (c) areas of potential economic growth and maritime development.

2.8.13 The Roadmap for Maritime Spatial Planning identified that:

'Increased activity on Europe's seas leads to competition between sectoral interests, such as shipping and maritime transport, offshore energy, ports development, fisheries and aquaculture and environmental concerns.

Climate change, in particular the rise of sea levels, acidification, increasing water temperatures, and frequency of extreme weather events is likely to cause a shift in economic activities in maritime areas and to alter marine ecosystems. MSP can play an important role in mitigation, by promoting the efficient use of maritime space and renewable energy, and in cost-efficient adaptation to the impact of climate change in maritime areas and coastal waters.'

2.8.14 The Roadmap envisaged that marine spatial planning could assist the development of offshore energy, per the European Offshore Wind Strategy, by providing a stable regulatory framework.

Marine Spatial Planning Directive 2014/89/EU (MSPD)

2.8.15 The Maritime Spatial Planning Directive 2014/89/EU has been the catalyst for reforming marine planning and development legislation in Ireland. The MSPD requires the establishment of a maritime spatial planning framework across all member states by 2021. This Directive specifically stipulates that every member state must create a maritime area spatial framework and subsequent plan which enables blue growth initiatives across the zone such as:

- Production of energy from renewable sources;
- Oil and gas exploration and exploitation;
- Maritime shipping;
- Fishing activities;
- Ecosystem and biodiversity conservation;
- Extraction of raw materials;
- Tourism;
- Aquaculture; and
- Installations and underwater cultural heritage.

2.8.16 The MSPD has as one of its goals the promotion and sustainable co-existence of uses and, where applicable, the appropriate apportionment of relevant uses in the maritime space. Uses identified in the MSPD in this context include: aquaculture, fishing, installations for oil and gas exploration and exploitation, installations for the extraction of minerals and aggregates, and installations for renewable energy production, maritime transport routes and traffic flows, military training areas, areas designated for nature and species conservation and protection, raw material extraction areas, marine scientific research, subsea cables and pipelines, tourism, and underwater archaeology and cultural heritage.

2.8.17 Unlike the MSFD, the MSPD expressly promotes and supports sustainable development in the maritime area (similar to the IMP), but like the MSFD it requires marine spatial plans to be prepared pursuant to an ecosystems-based approach. The MSPD has the express aim of ensuring that the collective pressure of all maritime activities and uses is kept within levels compatible with the achievement of good environmental status, to maintain and increase the capacity of marine ecosystems to respond to human-induced changes, while contributing to the sustainable use of marine goods and services by present and future generations.

2.8.18 Under the MSPD, there is a requirement to prepare marine spatial plans for all 'marine waters' (which has the same meaning as in the MSFD) with the exception of coastal waters that are already the subject of the State's terrestrial planning system.

2.8.19 The MSPD makes it clear that any necessary assessments under the SEA and Habitats Directive shall be carried out before the Marine spatial plan is adopted. Similar to the ICZM/IMP approach, marine spatial plans are required to consider relevant land-sea interactions.

2.8.20 The MSPD supports and facilitates the implementation of the Europe 2020 strategy for smart sustainable and inclusive growth 'the Europe 2020 strategy' by aiming to deliver high levels of employment productivity and social cohesion. The coastal and maritime sectors have significant potential for sustainable growth and are keys to the implementation of the Europe 2020 strategy and are key to blue growth initiatives.

2.8.21 Spatial planning ensures that land use is optimised in line with environmental, social, and economic objectives. It facilitates the strategic location of renewable energy infrastructure, balancing the needs of local communities with national and regional sustainability goals. Effective spatial planning helps identify suitable sites for wind farm infrastructure while minimising potential impacts on the environment and existing land uses. This alignment with broader policies enhances the efficiency of the planning process, supports community acceptance, and promotes the integration of renewable energy sources into local energy systems. By considering various factors such as biodiversity, land use, and community development, spatial planning contributes to a cohesive approach to energy transition and climate action at all levels.

2.8.22 The EU Offshore Renewable Energy Strategy acknowledges that achieving the target installed ORE capacity by 2050 will require a large number of maritime sites for ORE production and grid connection across the EU, long-term planning; assessing environmental, social and economic sustainability, ensuring coexistence with other activities, such as fisheries and aquaculture, shipping, tourism, defence or infrastructure deployment, and achieving public acceptance.

2.8.23 According to the EU Offshore Renewable Energy Strategy, designated sea spaces for ORE should be compatible with biodiversity protection, should take into account socio-economic consequences for sectors relying on good health of marine ecosystems, and should integrate as much as possible other uses of the sea. Maritime spatial planning is identified in the Strategy as an essential and well-established tool to anticipate change, prevent and mitigate conflicts between policy priorities while also creating synergies between economic sectors.

2.8.24 According to the Strategy, ORE projects and infrastructure can and should coexist with many other activities, in particular in crowded maritime areas. To this end, national maritime spatial planning should adopt a holistic, multi-use/multipurpose approach. This can demonstrate that the development of energy infrastructures is not incompatible with shipping routes and that it is possible to develop sustainable economic activities in marine protected areas. Proposed projects may draw on the latest monitoring and digital tools to ensure efficient coexistence.

Maritime Area Planning Act, 2021 (MAP Act)

2.8.25 The objective of this Act is to regulate the maritime area by means of a National Marine Planning Framework, marine planning policy statement, maritime area consents for the occupation of the maritime area for the purposes of maritime usages that will be undertaken for undefined or relatively long periods of time (including any such usages which also require development permission under the Planning Act, and licences for the occupation of the maritime area for maritime usages that are minor or that will be undertaken for relatively short periods of time. It established the Maritime Area Regulatory Authority (MARA), which takes administrative responsibility for legacy foreshore authorisations and generally oversees the enforcement of this Act. The MAP Act jurisdiction extends to the full extent of the EEZ and Continental shelf.

Marine Planning Policy Statement

2.8.26 Under section 6 of the MAP Act, Government may make a Marine Planning Policy Statement that sets out the principles and priorities of the Government in relation to maritime planning by the State in the maritime area for the period to which the statement relates. Before such Statement is made, any necessary SEA or AA shall be carried out and determined. The draft Statement the subject of such SEA and AA shall go through a process of consultation with the public and prescribed bodies, before being laid before both Houses of the Oireachtas to be adopted by resolution. The Minister is obliged to propose the Statement within six months of section 6 coming into force, which it has not.

2.8.27 Accordingly, while the Government made a marine planning policy statement previously, that is not a statutory Policy Statement for the purposes of section 6 of the MAP Act. This is important, because the obligation to have regard to the Statement is only applicable to such statutory Statement as the Minister may produce, in due course.

2.8.28 A Marine Planning Policy Statement must be prepared with regard to the National Planning Framework (NPF), the NMPF, the obligations of Ireland under UNCLOS and the Maritime Jurisdiction Act, the MSPD, the MSFD, the Habitats and Birds Directives, any current Government policy relating to marine planning, and any representations made on the proposed Statement.

2.8.29 Once the Marine Planning Policy Statement is made, public authorities shall ensure that they carry on their functions in a conforming manner.

National Marine Planning Framework

2.8.30 The National Marine Planning Framework (NMPF) was published on 30th June 2021, in line with the requirements of the MSPD. The NMPF enables the Government to *'set a clear direction for managing our seas, to clarify objectives and priorities, and to direct decision makers, users and stakeholders towards more strategic and efficient use of marine resources. It will inform decisions about the current and future development of the marine area, aiming to integrate needs.'* The NMPF contains a vision, objectives, and planning policies for all marine-based human activities.

2.8.31 As stated within the NMPF *'all applications for activity or development in Ireland's maritime area, including those made within the new development management system being provided for under the Maritime Area Planning Bill 2021, will be considered in terms of their consistency with the objectives of the plan.'*

2.8.32 The NMPF sets out a number of high-level objectives which are supported through both Overarching Marine Planning Policies (OMPPs) and activity specific Sectoral Marine Planning Policies (SMPPs) through technical disciplines such as biodiversity, economics social engagement and energy. Those policies which are identified as specifically relevant within the spatial extents of Dublin Array, have been identified as;

- Fisheries Policy 1;
- Heritage Assets Policy 1;
- ORE Policy 5;
- Ports, Harbours and Shipping Policy 4; and
- Protected Marine Sites Policy 2.

Table 1 National Marine Planning Framework offshore energy policies

Policy Objective	Description
ORE Policy 1	Proposals that assist the State in meeting the Government's offshore renewable energy targets, including the target of achieving 5 GW of capacity in offshore wind by 2030 and proposals that maximise the long-term shift from use of fossil fuels to renewable electricity energy, in line with decarbonisation targets, should be supported. All proposals will be rigorously assessed to ensure compliance with environmental standards and seek to minimise impacts on the marine environment, marine ecology and other maritime users.
ORE Policy 2	Proposals must be consistent with national policy, including the Offshore Renewable Energy Development Plan (OREDP) and its successor. Relevant Projects designated pursuant to the Transition

Policy Objective	Description
	Protocol and those projects that can objectively enable delivery on the Government's 2030 targets will be prioritised for assessment under the new consenting regime. Into the future, areas designated for offshore energy development, under the Designated Marine Area Plan process set out in the Maritime Area Planning Bill, will underpin a plan-led approach to consenting (or development of our marine resources).
ORE Policy 4	Decisions on offshore renewable energy (ORE) developments should be informed by consideration of space required for other activities of national importance described in the NMPF.
ORE Policy 5	Proposals for activity that may adversely impact ORE test projects by virtue of being within or adjacent to ORE test sites, or between site and landfall of ORE test projects that may adversely impact ORE test site projects, should demonstrate that they will in order of preference: a) avoid, b) minimise, c) mitigate adverse impacts.
ORE Policy 6	Proposals for infrastructure enabling local use of excess energy generated from emerging marine technologies (wave, tidal, floating wind) should be supported.
ORE Policy 7	Where potential for ports to contribute to ORE is identified, plans and policies related to this port must encourage development in such a way as to facilitate ORE and related supply chain activity.
ORE Policy 8	Proposals for ORE must demonstrate consideration of existing cables passing through or adjacent to areas for development, making sure ability to repair and carry out cable-related remedial work is not significantly compromised. This consideration should be included as part of statutory environmental assessments where such assessments are required.
ORE Policy 9	A permission for ORE must be informed by inclusion of a visualisation assessment that supports conditions on any development in relation to design and layout. Where a development consent is applied for in an area already subject to permission, proposals must include a visualisation assessment to inform design and layout. Visualisation assessments should demonstrate consultation with communities that may be able to view the proposal, in addition to any other ORE development, which had received consent to proceed at a given site at the time the consent application is made, with the aim of minimising impact. Visualisation assessments will be informed by specific emerging guidelines (detailed in the actions set out in Annexes to this NMPF). Prior to specific guidelines being available, policy and best practice relating to visualisation assessment should be used. This consideration must be included as part of statutory environmental assessments where such assessment is required.
ORE Policy 10	Opportunities for land-based, coastal infrastructure that is critical to and supports development of ORE should be prioritised in plans and policies, where possible.

Policy Objective	Description
ORE Policy 11	Where appropriate, proposals that enable the provision of emerging renewable energy technologies and associated supply chains will be supported.

2.8.33 Appendix F of the NMPF sets out the supporting actions to the framework, including the development of statutory marine planning guidelines for offshore renewable energy development. These guidelines encompass critical areas such as visual assessments, cumulative impact assessments and development management, which are essential for ensuring offshore wind projects are aligned with Ireland's broader marine and environmental objectives.

2.8.34 Compliance with the NMPF has been demonstrated in the Planning Report submitted alongside this EIAR in Part 1 B of the planning application. The Planning Report outlines how the proposed offshore wind farm adheres to the relevant policies, including those addressing visual impact, biodiversity protection, sustainable development, and cumulative effects. It provides a thorough analysis of how the project meets statutory requirements and supports national marine planning goals.

Offshore Renewable Energy Development Plan (OREDP II)

2.8.35 It is anticipated that OREDP II will be finalised and adopted by Government as a sectoral maritime spatial plan under the MAP Act. The draft OREDP II confirms that the first phase of offshore projects, including Dublin Array, are expected to start construction from 2027 onwards, subject to obtaining all necessary consents. The purpose of OREDP II is to set out how the long-term development of offshore wind will proceed after the second phase of offshore development in the South Coast Designated Maritime Area Plan. It envisages that a team within DECC will identify one or more broad areas of interest, following which DECC will propose the making of a Designated Maritime Area Plan (DMAP) in one or more of those areas. The principles to be applied in selecting the spatial extent of broad areas of interest and DMAPs are set out at a high level in OREDP II.

2.9 Grid connection legislation, policy and guidance

Planning and Development Act, 2000, as amended

2.9.1 Section 182A of the Planning Act applies to development of grid transmission infrastructure. In that section, 'transmission', in relation to electricity, is defined by reference to section 2(1) of the Electricity Regulation Act 1999, as amended, and also includes the transport of electricity by means of (a) a high voltage line where the voltage would be 110 kilovolts or more, or (b) an interconnector, whether ownership of the interconnector will be vested in the undertaker or not.

2.9.2 Section 182A is expressly disapplied by section 182AA of the Planning Act, where the development of electricity transmission infrastructure is the subject of an application for permission under section 291 of the Planning Act.

2.9.3 The grid transmission infrastructure proposed as part of Dublin Array project is the subject of the section 291 planning application. On completion, the grid transmission infrastructure will be transferred to EirGrid to own and operate pursuant to the terms of the licence granted to EirGrid by the Commission for the Regulation of Utilities (CRU) on an exclusive basis.

Electricity Regulation Act 1999, as amended

2.9.4 An electricity undertaking under the 1999 Act includes a person engaged in electricity generation and transmission, and who is responsible for the commercial, technical or maintenance tasks related to those functions, including a holder of a licence to generate granted by the CRU under section 14 of the 1999 Act, or an authorisation to construct a generating station under section 16 of the 1999 Act.

2.9.5 The 1999 Act provides that a licence to operate the transmission system shall only be granted to EirGrid. EirGrid's licence may cover the offshore transmission system and any extension to it, and any onshore facilities that relate to the offshore transmission system. These provisions give effect to the State's final policy decision in 2021 to designate EirGrid as the exclusive offshore transmission system owner and operator.

2.9.6 Under section 34 of the 1999 Act, an offer to an electricity undertaking to connect to or use the transmission or distribution system may be made on the basis that the applicant undertakes to construct the transmission system infrastructure on a contestable basis. The CRU's 'Offshore Connection Policy – Offshore Phase 1 Projects Grid Connection & Charging Decision, published 7th October 2022, requires the Applicant to obtain planning permission for the grid connection pursuant to the grid connection assessment (GCA) granted by EirGrid to the Applicant on 7th November 2022[17]. As noted, the grid connection will be transferred to the ownership of EirGrid as part of the offshore and onshore grid transmission system, for which EirGrid is the exclusive licensed operator.

17 The CRU Direction (D/20/2760) on 31 January 2020 had directed EirGrid to process grid connection applications for Dublin Array and other 'Phase One' projects.

2.9.7 The Applicant will apply for a generating licence under section 14 of the 1999 Act and an authorisation to construct under section 16 of the 1999 Act, after securing development permission for Dublin Array from An Bord Pleanála under section 293 of the Planning Act. The CRU does not currently accept applications under sections 14 and 16 of the 1999 Act until after planning permission has been obtained[18].

2.9.8 Under section 47 of the 1999 Act, the CRU may authorise by way of special order the right of the holder of an authorisation to construct (or a person who has applied for such authorisation) to acquire compulsorily any land, or to acquire or use compulsorily any easement or other right over land, for the purposes specified in the Electricity Supply Act 1927, as amended. Such special order shall provide for statutory compensation, as required. The CRU has established procedures, designed to protect the legal interests of relevant parties, which make it clear that a special order can only be granted by the CRU after planning permission has been obtained[19].

2.9.9 Under sections 48 and 49 of the 1999 Act, the CRU may grant statutory powers to electricity undertakings to lay electricity lines across or under a street, road or railway, and to break up any street or road or railway for that purpose (section 48), and across or under any other land (section 49). The CRU has established procedures which make it clear that an application under section 48 or section 49 of the 1999 Act can only be made after planning permission has been obtained[20].

Policy Statement on the Framework for Ireland's Offshore Electricity Transmission System (2021)

2.9.10 The Policy Statement on the Framework for Ireland's Offshore Electricity Transmission System sets out the objective that 5 GW of offshore wind generation will be installed by 2030. As one of a number of workstreams required to meet this objective, DECC developed a framework and associated policy for Ireland's future offshore electricity transmission system, which was approved by Government on 14 April 2021.

2.9.11 The framework provides clarity for all stakeholders regarding the future development, operation and ownership of Ireland's offshore electricity grid, facilitating the integration of offshore wind projects into the onshore infrastructure.

18 https://www.cru.ie/regulations-policy/licences/electricity-generation/
19 https://www.cru.ie/regulations-policy/licences/special-orders/
20 https://www.cru.ie/regulations-policy/licences/electricity-wayleave-consents/

2.9.12 It supports a phased transition from a decentralised offshore transmission system model to a centralised model over the course of this decade, with ownership of offshore transmission system assets to be assigned to EirGrid, Ireland's existing electricity Transmission System Operator. The electrical transmission infrastructure which is the subject of this planning application has been designed in accordance with EirGrid standards and will ultimately be transferred to EirGrid for it to operate as part of the national electricity transmission system.

2.9.13 A revised Offshore Electricity Transmission Policy for future phases of offshore wind development in Ireland is expected to be published in due course.

Shaping Our Electricity Future Roadmap (EirGrid & SONI) V.1.1 (July 2023)

2.9.14 The Shaping Our Electricity Future Roadmap was initially published in November 2021. In 2023, EirGrid released an updated version addressing the Climate Action Plan 2023 (CAP23), and in particular the introduction of ambitious sectoral carbon budgets and the grid's ability to deliver up to 80% renewable energy. The roadmap sets out the following key objectives:

- Supporting the delivery of renewable electricity;
- Find problems, gaps, opportunities, potential collaborations, or areas of duplication in the deployment of renewable electricity projects;
- Help to find and resolve potential regulatory, administrative and/or legal barriers to the faster deployment of renewable electricity projects;
- Increases alignment across the energy sector to support the delivery of renewable electricity generation projects; and
- Recommend appropriate investment conditions for electricity projects.

2.9.15 The pace of renewable energy delivery will be key to achieving a clean energy and low-carbon future. The roadmap emphasises the role of offshore wind stating that 'Ireland's greatest source of renewable energy is wind'. Development on the East Coast is the focus up to 2030, aligning with areas of highest demand.

EirGrid Transmission Development Plan 2024-2033

2.9.16 The EirGrid Transmission Development Plan (TDP) 2024-2033 sets out a strategic roadmap for developing Ireland's electricity transmission network over the next decade. This plan focuses on bolstering the grid infrastructure to support the growth of renewable energy, particularly offshore wind, and meeting Ireland's climate targets. The plan prioritises investments in grid reinforcements, interconnection with Europe, and integration of renewable energy to ensure both security of supply and the delivery of the 2030 climate action goals. It reflects EirGrid's commitment to upgrading existing infrastructure and preparing the transmission network for increased renewable energy penetration.

2.9.17 The plan is particularly relevant for offshore wind farm projects as it outlines the necessary grid expansions and connections needed to facilitate large-scale renewable energy integration, ensuring that these projects can contribute effectively to Ireland's energy transition. As noted, REDIII recognises the grid infrastructure required to connect renewables as being of overriding public interest.

Grid Implementation Plan 2023-2028

2.9.18 The Grid Implementation Plan (GIP) 2023-2028 outlines a comprehensive framework for enhancing both onshore and offshore grid development in Ireland while prioritising environmental protection and community engagement. EirGrid's policies emphasise best practices for environmental assessment, ensuring that the impacts of grid development are managed across terrestrial and marine environments. The GIP promotes a strategic approach to environmental assessments, aiming to optimise public engagement and minimise the ecological footprint of projects, including the use of sustainable urban drainage systems (SuDS) and adherence to air and noise quality standards. The plan further aligns with the strategic goals of "The White Paper: Ireland's Transition to a Low Carbon Energy Future 2015-2030," underscoring the connection between energy policies and economic growth.

2.9.19 The GIP acknowledges the significance of a secure transmission grid in attracting investment and facilitating high-tech, power-intensive industries, particularly highlighting the 5 GW offshore wind target set by CAP23 and the inclusion of projects, like Dublin Array, which received Maritime Area Consents in 2022 under the Maritime Area Planning Act 2021 and secured financial support under the first Offshore Renewable Energy Support Scheme (ORESS).

2.9.20 Additionally, the GIP addresses climate change by integrating mitigation strategies, protecting biodiversity, and considering social impacts, ensuring that the development of grid infrastructure supports Ireland's renewable energy goals while fostering sustainable community relationships.

2.10 National spatial plans and policies

2.10.1 For the land-based development, one of the most relevant considerations for An Bord Pleanála in determining an application under section 291 of the Planning Act, is the National Planning Framework and any Regional, Spatial and Economic Strategies, together with the relevant development plan of the local authority within whose functional area the proposed development will be carried out.

2.10.2 This section sets out a selection of the more relevant spatial plans and policies to which An Bord Pleanála is entitled to have regard. It is clear from this review that the national planning policy context further solidifies the foundation for Dublin Array project and offshore wind more generally in Ireland.

2.10.3 The NPF under Project Ireland 2040, the Draft First Revision of the NPF, and the National Development Plan outline strategic objectives for sustainable development, infrastructure enhancement, and climate action. The National Mitigation Plan Framework (NMPF) sets specific targets for reducing greenhouse gas emissions and transitioning to a low-carbon economy. These policies collectively emphasise the importance of integrating renewable energy solutions, such as Dublin Array, into Ireland's energy landscape, thereby driving the necessary investments and planning efforts to achieve national climate goals while promoting economic growth and environmental sustainability.

National Planning Framework – Project Ireland 2040

2.10.4 The National Planning Framework (NPF) was published by the Government in February 2018. The NPF is a 20-year planning framework designed to guide public and private investment, to create and promote opportunities for Irish citizens, and to protect and enhance Ireland's built and natural environment.

2.10.5 The NPF contains several National Strategic Outcomes (NSO) over various topics. NSOs 3, 6 and 8 support the strengthening of the economy, while NSOs 4,7 and 10 support providing quality access to public services. Achieving the sustainable growth of settlements and management of environmental resources are supported by NSOs 1 and 9. All of the NSOs are underpinned by:

- Sustainable Land Management and Resource Efficiency – adopting the principles of the circular economy to enable more sustainable planning and land use management of our natural resources and assets;
- Low Carbon Economy – accelerating action on climate change; and

- Renewable Energy – transition to a low carbon energy future.

2.10.6 National Strategic Outcome 8 emphasises the importance of transitioning to a low carbon and climate-resilient economy, of relevance to Dublin Array. By aligning with NSO 8, offshore wind farms contribute to Ireland's goals for sustainable economic growth and environmental protection.

2.10.7 The NPF recognises that Ireland's territorial waters present significant opportunities in the offshore renewable energy sector, and its development is dependent on enabling infrastructure. The NPF outlines that a shift to predominately renewable energy is required to transition to a low carbon economy, and this is an integral part of Ireland's climate change strategy. A series of National Policy Objectives (NPOs) provide context for regional and local planning policies in Ireland. This transition to a low carbon economy is supported though the following policy objectives:

- National Policy Objective 41a: Ensure that Ireland's coastal resource is managed to sustain its physical character and environmental quality. By adhering to Objective 41a, Dublin Array can ensure that it does not compromise the physical integrity or ecological health of coastal environments. Careful planning and design can minimise adverse impacts, ensuring that coastal areas continue to thrive environmentally and economically.

- National Policy Objective 42: To support, within the context of the Offshore Renewable Energy Development Plan (OREDP) and its successors, the progressive development of Ireland's offshore renewable energy potential, including domestic and international grid connectivity enhancements.

- National Policy Objective 47: Emphasises the importance of strengthening Ireland's energy infrastructure, including transmission networks and ensuring energy supply. Objective 47 facilitates the integration of this renewable energy into the national grid.

- National Policy Objective 52: The planning system will be responsive to our national environmental challenges and ensure that development occurs within environmental limits, having regard to the requirements of all relevant environmental legislation and the sustainable management of our natural capital.

- National Planning Objective 54: Reduce our carbon footprint by integrating climate action into the planning system in support of national targets for climate policy mitigation and adaptation objectives, as well as targets for greenhouse gas emissions reductions.

- National Policy Objective 55: Promote renewable energy use and generation at appropriate locations within the built and natural environment to meet national objectives towards achieving a low carbon economy by 2050.

Draft First Revision of the National Planning Framework

2.10.8 On the 10th of July 2024, the Government published the Draft First Revision of the National Planning Framework (Draft NPF), to take account of changes that have occurred since it was published in 2018 and to build on the framework that is in place. The Draft Framework sets out a vision and a shared set of goals for the Country as NSOs and was on public display until the 12th of September 2024. An updated Draft National Planning Framework was published on 5th of November 2024. At the time of submission of this document to An Bord Pleanála, the draft NPF is awaiting finalisation and subsequent publication.

2.10.9 Since publication of the last NPF, there have been significant responses to address the climate crisis in the form of EU Directives, national legislation and policy approaches. The NPF will support the response to climate change by encouraging the reduction of greenhouse gases. The measures will include:

- The achievement of compact growth objectives and the consequential reduction of overall land take;
- The interaction between land use planning and transport infrastructure, associated potential for carbon emissions reductions resulting from reduced commuting patterns associated with future growth;
- The continued reduction in dependency on imported fossil fuels and decarbonisation of the energy system as a whole and in particular the electricity sector through the identification of targets for renewable electricity and the accelerated roll out of onshore wind energy and solar development;
- Encouraging climate resilient planning policies;
- Limiting inappropriate developments in areas where climate impacts are likely to be most severe; and
- Providing guidance to local authorities on climate resilient planning practises including nature-based solutions.

2.10.10 Noting that the Government has set ambitious targets to achieve 5GW of offshore wind in addition to significant additional quantities of renewable energy, that 'the accelerated delivery of additional renewable electricity generation is therefore essential for Ireland to meet its climate targets, reduce its greenhouse gas emissions, and improve its energy security by reducing reliance on imported fossil fuels and diversifying its electricity supply.

2.10.11 A diversified energy portfolio from multiple sources is required, onshore wind, solar, and gas will remain a contributor for energy security, and this will require the upgrading and development of a range of key infrastructure, offshore and onshore, to support a secure and reliable energy supply amid projections of rapid electricity growth over the decade.' (p.133) The importance of this is also noted in respect of relevant EU targets under RED III and REPower EU. Dublin Array project is wholly consistent with this emphasis on delivery of offshore wind under the terms of the draft NPF.

Regional renewable electricity capacity allocations

2.10.12 In order to facilitate the accelerated roll-out and implementation of renewable electricity infrastructure for onshore wind and solar generation development and to achieve the national targets set out in the Climate Action Plan 2023 (which has been updated to CAP24) this Framework indicates a range of regional renewable electricity capacity allocations. These allocations are to be integrated into the Regional Spatial and Economic Strategies and the associated Regional Renewable Energy Strategies and in addition are to be translated to county-level targets that will inform city and county development plans.

2.10.14 National Policy Objective 74:

'Each Regional Assembly must plan, through their Regional Spatial and Economic Strategy, for the delivery of the regional renewable electricity capacity allocations indicated for onshore wind and solar reflected in Table 9.1 below, and identify allocations for each of the local authorities, based on the best available scientific evidence and in accordance with legislative requirements, in order to meet the overall national target.'

2.10.15 National Policy Objective 76:

'Local Authorities shall plan for the delivery of Target Power Capacity (MW) allocations consistent with the relevant Regional Spatial and Economic Strategy, through their City and County Development Plans.'

Region	Energised capacity 2023 (MW)	Additional Renewable Power Capacity Allocations (MW)	Total % of National Share in 2030	Energised Capacity 2023 (MW)	Additional Renewable Power Capacity Allocations (MW)	Total % of National Share in 2030
	Onshore Wind			**Solar PV**		
Eastern and Midlands	284	1,966	25%	306	3,294	45%
Northern and Western	1,761	1,389	35%	0.3	959	12%
Southern	2,622	978	40%	138	3,302	43%
Total	**4,667**	**4,333**		**445**	**7,555**	

Source: Table 9.1 Extract from Draft NPF (2024)

Figure 2 Regional Renewable Electricity Capacity Allocations

2.10.16 In order to achieve this objective a number of new NPOs have been added to the document which are of relevance to this project:

Onshore renewable energy

2.10.17 National Policy Objective 73:

'Support the co-location of renewable technologies with other supporting technologies and complementary land uses, including agriculture, amenity, forestry and opportunities to enhance biodiversity and promote heritage assets, at appropriate locations which are determined based upon the best available scientific evidence in line with EU and national legislative frameworks.'

2.10.18 National Policy Objective 73 promotes the integration of renewable technologies and complementary land uses while emphasising environmental protection and evidence-based decision-making. Co-locating renewable technologies allows for a more integrated approach to meeting local and regional energy needs. By aligning offshore wind developments with local energy demands, including onshore infrastructure, the overall effectiveness and acceptance of these projects can be enhanced.

Grid interconnection

2.10.19 National Policy Objective 71:

'Support the development and upgrading of the national electricity grid infrastructure, including to support the delivery of renewable electricity generating development.'

2.10.20 National Policy Objective 72:

'Support an all-island approach to the delivery of renewable electricity through interconnection of the transmission grid.'

2.10.21 Interconnecting the transmission grids across the island will facilitate the efficient integration of this energy generated by Dublin Array into the grid. This will ensure that the electricity generated offshore can be effectively transmitted to consumers, maximising the utilisation of the renewable resource. By supporting an all-island approach, National Policy Objective 72 encourages the optimisation of renewable energy resources available on both sides of the border. Offshore wind farms can complement other renewable technologies, such as onshore wind and solar, creating a more resilient and diverse energy mix that can adapt to varying weather conditions and energy demands.

Offshore renewable energy

2.10.22 Section 7.5 of Chapter 7 in the Draft NPF has been added to address offshore renewable energy. The Draft NPF acknowledges the likely acceleration in the deployment of a marine renewable energy sector to assist Ireland in meeting its commitments under the Climate Action Plan of at least 5 GW of offshore renewable energy capacity by 2030.

2.10.23 National Policy Objective 55:

'To support, the progressive development of Ireland's offshore renewable energy potential, the sustainable development of enabling onshore and offshore infrastructure including domestic and international grid connectivity enhancements, non-grid transmission infrastructure, as well as port infrastructure

for the marshalling and assembly of wind turbine components and for the operation and maintenance of offshore renewable energy projects.'

Nature restoration

2.10.24 The EU Nature Restoration Law seeks to restore at least 20% of the EU's land and sea areas by 2030 and all ecosystems by 2050. 80% of EU habitats are in bad or poor conservation status. The EU Nature Restoration Law provides an opportunity to restore nature, both nationally and across the wider EU region.

2.10.25 It is a target of the 4th National Biodiversity Action Plan (NBAP) to publish a National Restoration Plan by 2026, which is to set out the procedures for designation of nature restoration areas and corresponding policies.

2.10.26 The Draft NPF now includes policy objectives in relation to Nature Restoration. They are:

2.10.27 National Policy Objective 84:

'In line with the National Biodiversity Action Plan and the European Union Nature Restoration Law, and best available scientific information, regional and local planning authorities shall support the preparation of the National Restoration Plan.'

2.10.28 National Policy Objective 86:

'In line with the objectives of the National Biodiversity Action Plan, planning authorities should seek to address no net loss of biodiversity within their plan making functions.'

2.10.29 This EIAR assesses the impact of Dublin Array on biodiversity (see Volume 3, Chapters 2-8 and Volume 5, Chapter 2).

National Development Plan 2021-2030

2.10.30 Project Ireland 2040 encompasses the NPF, which outlines the comprehensive spatial strategy for the next two decades. National Development Plan 2021-2030 (NDP), published in October 2021, sets out the next decade of investment priorities that underpin the implementation and continuous objectives of the NPF, through a total public investment of approximately €165 billion. The NDP seeks to drive Ireland's long-term economic, environmental, and social progress over the next decade, in accordance with the spatial planning context of the NPF.

2.10.31 The NDP outlines a number of key energy initiatives, that set out to diversify the nation's energy resources, and to assist in the transition towards a decarbonised society.

2.10.32 The NDP further emphasises National Strategic Outcome 8: Transition to a Climate-Neutral and Climate-Resilient Society, noting that:

'Action in the energy sector will be critical to the achievement of Ireland's climate targets and the transformation to a high-renewable, net-zero emissions future. This will require a fundamental shift in the means by which we supply, store and use energy.'

'The target of delivering up to 80 per cent of Ireland's electricity from a combination of onshore and offshore renewable sources by 2030 will play a central role, not only in reducing emissions in the electricity sector itself, but in enabling emissions reductions in the transport sector through electrification of vehicles and in our homes, industry, and public and commercial buildings through electrification of heat.'

2.10.33 In achieving a Low-Carbon, Climate Resilient Society, the NDP outlines a New Renewable Electricity Support Scheme (RESS) to support up to 2.5 GW grid scale solar, 8 GW of onshore wind and 5 GW of additional offshore renewable electricity generation by 2030 (see Offshore Renewable Electricity Support Scheme).

2.10.34 It is considered that such schemes, in conjunction with greater investment in offshore renewable energy, diversity of supply, and increased utilisation and adoption of electricity storage, will significantly assist in promoting a low carbon, less energy intensive supply.

Regional Spatial & Economic Strategy for the Eastern and Midland Region (2019-2031)

2.10.35 The Regional Spatial & Economic Strategy (RSES) for the Eastern and Midland Region (EMR) came into effect on 28th June 2019. The RSES sets out a strategy to implement the NPF at a regional level for the Eastern and Midland Region. This strategy replaces the previous Regional Planning Guidelines which focused on the superseded National Spatial Strategy.

2.10.36 The RSES sets out a strategic vision which includes actions to mitigate against climate change. The RSES recognises the urgency to transition to a low carbon future, accelerate the transition towards a low carbon economy and increase the use of renewable energy sources across the key sectors of electricity supply, heating, transport and agriculture in order to safeguard and enhance the region's environment through sustainable development, prioritising action on climate change across the region and driving the transition to a low carbon and climate resilient society. The RSES states the following in relation to wind energy:

'Incorporating renewable energy within Ireland's energy supply may improve the resilience of energy infrastructure as reliance on energy imports and the

associated concentrated infrastructure is reduced. Distributed renewable energy sources can contribute to local energy system resilience. For example, during both Storm Ophelia and Storm Emma, when the operation of many of Ireland's infrastructures was challenged, wind energy maintained output throughout the adverse conditions and contributed to maintaining local supply and post event recovery to normal operation.'

2.10.37 The RSES includes a range of policy objectives which support the development of renewable energy projects. The most relevant of these are set out in Table 2.

Table 2 Regional planning objectives

Policy/Objective	Description
RPO 7.36	Focuses on promoting placemaking to support sustained economic growth and employment. It emphasises integrating urban design, public realm enhancements, amenities, and heritage to create attractive, liveable places that encourage active lifestyles and improve human health.
RPO 10.20	Support and facilitate the development of enhanced electricity and gas supplies, and associated networks, to serve the existing and future needs of the Region and facilitate new transmission infrastructure projects that might be brought forward in the lifetime of this Strategy. This Includes the delivery of the necessary integration of transmission network requirements to facilitate linkages of renewable energy proposals to the electricity and gas transmission grid in a sustainable and timely manner subject to appropriate environmental assessment and the planning process.
RPO 10.22	Support the reinforcement and strengthening of the electricity transmission and distribution network to facilitate planned growth and transmission/distribution of a renewable energy focused generation across the major demand centers to support an island population of 8 million people, including: Facilitating interconnection to Europe, particularly the 'Celtic Interconnector' to France and further interconnection to Europe/the UK in the longer term; Facilitating interconnection to Northern Ireland, particularly the 'North-South Interconnector and further co-operation with relevant departments in Northern Ireland to enhance interconnection across the island in the longer term; Facilitating transboundary networks into and through the Region and between all adjacent Regions to ensure the RSES can be delivered in a sustainable and timely manner and that capacity is available at local, regional and national scale to meet future needs; Facilitate the delivery of the necessary integration of transmission network requirements to allow linkages of renewable energy proposals to the electricity transmission grid in a sustainable and timely manner; and support the safeguarding of strategic energy corridors from encroachment by other developments that could compromise the delivery of energy networks.
RPO 10.24	Support the sustainable development of Ireland's offshore renewable energy resources in accordance with the Department of Communications, Energy and Natural

Policy/Objective	Description
	Resources 'Offshore Renewable Energy Development Plan' and any successor thereof including any associated domestic and international grid connection enhancements.
RPO 12.4	The Eastern and Midland Regional Assembly (EMRA) supports smart growth initiatives that develop new solutions to existing and future urban challenges, including climate risks in the Region and will support local authorities in the drawdown of climate and smart technology funds.

2.11 Local policy context

2.11.1 Local policies serve as the foundation for implementing global, national, and regional climate and energy targets at the community level. The Dún Laoghaire-Rathdown County Development Plan (DLRCDP) 2022-2028, the Economic Plan for Dún Laoghaire Harbour 2021, and the Dún Laoghaire Town Spatial and Economic Study 2021 support offshore wind farm projects by providing a framework for sustainable development aligned with national and regional climate goals. Together, these policies ensure that local projects are consistent with broader sustainability objectives while addressing community needs.

Dún Laoghaire-Rathdown County Development Plan 2022-2028

2.11.2 Dún Laoghaire-Rathdown County Development Plan (DLRCDP) 2022-2028, published in April 2022, sets out the land use planning in the county. The vision for Dún Laoghaire-Rathdown is to embrace inclusiveness, champion quality of life through healthy placemaking, grow and attract a diverse innovative economy and deliver this in a manner that enhances our environment for future generations. The development plan is underpinned by five strategic county outcomes:

- Creation of a Climate Resilient County;
- Creation of a Compact and Connected County;
- Creation of a Network of Liveable Towns and Villages;
- Creation of an Inclusive and Healthy County; and
- Creation of a Vibrant Economic County.

2.11.3 The DLRCDP's support for renewable energy development is central to delivering a low-carbon and climate-resilient County. The plan recognises that wind and wave energy have an important role to play in achieving national targets in relation to reductions in fossil fuel dependency and greenhouse gas emissions. The DLRCDP also supports measures to reduce greenhouse gas emissions by facilitating enabling infrastructure for offshore wind and wave energy proposals. By facilitating necessary infrastructure for offshore wind, Dublin Array contributes to the strategic outcomes outlined in the DLRCDP. Further details on how this alignment is achieved can be found in the accompanying Planning Report.

2.11.4 The most pertinent energy policies/objective are set out in Table 3.

Table 3 Dún Laoghaire-Rathdown County Development Plan 2022-2028 policies and objectives

Policy/Objective	Description
CA10: Renewable Energy	It is a Policy Objective to support County, Regional, National and International initiatives and pilot schemes to encourage the development and use of renewable energy sources, including the SEAI Sustainable Energy Community initiatives, as a means of transitioning to a low carbon climate resilient County in line with national renewable energy targets.
CA11: Onshore and Offshore Wind Energy and Wave Energy	It is a Policy Objective to support in conjunction with other relevant agencies, wind energy initiatives, both onshore and offshore, wave energy, onshore grid connections and reinforcements to facilitate offshore renewable energy development when these are undertaken in an environmentally acceptable manner (consistent with NSO 8 and NPO 42 of the NPF and RPO 7.36 and 10.24 of the RSES).
EI18: Energy Facilities	It is a Policy Objective to encourage the provision of energy facilities in association with the appropriate service providers and in accordance with 'Government Policy Statement on the Strategic Importance of Transmission and Other Energy Infrastructure' (2012). In addition, the Council will facilitate, subject to the proper planning and sustainable development of the area, the expansion of the services and infrastructure of existing service providers, notably Bord Gáis, Eirgrid, the Electricity Supply Board (ESB), other strategic electricity infrastructure developers and statutory undertakers, in order to ensure satisfactory levels of supply and to minimize constraints for development.

2.11.5 Other policies/objectives considered relevant to Dublin Array are shown in Table 4.

Table 4 Other relevant policies and objectives

Policy/Objective	Description
Climate Action	CA1: National Climate Action Policy is a Policy Objective to support the implementation of International and National objectives on climate change including the 'Climate Action Plan 2021 Securing Our Future', the 'National Adaptation Framework' 2018, the 'National Energy and Climate Plan 2021- 2030', and take account of the 'Climate Action and Low Carbon Development (Amendment) Act 2021', and subsequent updates, other relevant policy, guidelines and legislation, that support the climate action policies included in the County Development Plan (CDP).
	CA18:

Policy/Objective	Description
	Urban Greening is a Policy Objective to retain and promote urban greening - as an essential accompanying policy to compact growth - which supports the health and wellbeing of the living and working population, building resilience to climate change whilst ensuring healthy placemaking. Significant developments shall include urban greening as a fundamental element of the site and building design incorporating measures such as high-quality biodiverse landscaping (including tree planting), nature-based solutions to SUDS, and providing attractive routes and facilities for the pedestrians and cyclist (Consistent with RPO 7.6, 7.22, 7.23, 9.10 of the RSES).
Marine Planning	GIB7: NMPF is a Policy Objective to support the policies and objectives as appropriate and relevant of the NMPF, with respect to the conservation, management, and protection for a sustainable future for the marine area.
Archaeology	HER2: Protection of Archaeological Material in Situ is a Policy Objective to seek the preservation in situ (or where this is not possible or appropriate, as a minimum, preservation by record) of all archaeological monuments included in the Record of Monuments and Places, and of previously unknown sites, features and objects of archaeological interest that become revealed through development activity. In respect of decision making on development proposals affecting sites listed in the Record of Monuments and Places, the Council will have regard to the advice and/or recommendations of the Department of Culture, Heritage and the Gaeltacht (DCHG).
Environmental Infrastructure	EI6: Sustainable Drainage Systems is a Policy Objective to ensure that all development proposals incorporate SuDS.
	EI9: Drainage Impact Assessment is a Policy Objective to ensure that all new development proposals include a Drainage Impact Assessment that meets the requirements of the Council's Development Management Thresholds Information Document (see Appendix 3) and the Stormwater Management Policy (See Appendix 7.1).
	E20: Low Carbon Economy is a Policy Objective to support the transition to a low carbon economy.

Dún Laoghaire-Rathdown County Council Climate Action Plan 2024-2029

2.11.6 The Dún Laoghaire-Rathdown County Council Climate Action Plan 2024-2029 (DLRCCAP) was adopted in February 2024 and features actions set out across six thematic areas; Energy and Buildings, Transport, Flood Resilience, Nature-Based Solutions, Circular Economy and Resource Management. The actions in these themes collectively address the four targets of the plan:

- 50% improvement in DLR's energy efficiency by 2030;
- 51% improvement in DLR's greenhouse gas emissions by 2030;
- To make Dublin a climate resilient region by reducing the impacts of future climate change related events; and
- To actively engage and inform our communities on climate action.

2.11.7 The DLRCCAP acknowledges that Ireland's heavy dependence on fossil fuels must be reduced to achieve national renewable energy targets and enhance energy security. Recognising the significant potential for offshore energy production, the council intends to *'engage with the relevant stakeholders in relation to the development and implementation of wind and other energy infrastructure projects.'*

2.11.8 The DLRCCAP specifically references the contribution Dublin Array will make to Ireland's renewable energy and carbon reduction goals. The plan recognises the opportunity for the area to benefit from renewable energy generation by fostering economic growth, sustainability, and improved quality of life for the local communities.

Economic Plan for the Dún Laoghaire Harbour 2021

2.11.9 The economic plan for Dún Laoghaire Harbour aims to develop the harbour and enhance its benefits for citizens. It includes seven strategic recommendations for its future development. Notably the fifth recommendation suggests developing Dún Laoghaire as an O&M base to support offshore renewable energy, aligning with national goals to achieve 5 GW of offshore wind capacity and broader wind decarbonisation efforts. The Plan also emphasises that the activities should coexist with the harbour's leisure and amenity uses and integrate with the Higher Education/Further Education and Training sector in the area.

Dún Laoghaire Town Spatial and Economic Study 2021

2.11.10 The Dún Laoghaire Town Spatial and Economic study aims to boost employment, increase the town's vibrancy, and attract economic centres, positioning it as an appealing community. It highlights the need for the town to adapt to economic changes and align with a unified vision for the area. Key objectives include promoting renewable technologies. The study's emphasis on adapting to economic changes and promoting renewable technologies aligns with the objectives of offshore wind projects. By integrating renewable energy initiatives, the study supports the overall vision for a sustainable and appealing community, making it a vital component in the transition to a low-carbon economy.

Wicklow County Development Plan 2022-2028

2.11.1 The Wicklow County Development Plan (WCDP) came into effect on the 23rd of October 2022, it sets out a strategic spatial framework for the proper planning and sustainable development of the County for the period between 2022 and 2028. While the Plan is in place for a six-year period, it is framed having regard to the long-term development objectives of the County beyond 2028.

2.11.2 The Development Plan Strategy is guided by three strategic principles, Healthy Placemaking, Climate Action and Economic Opportunity. These cross-cutting principles align with the key principles identified in the RSES.

2.11.3 These principles frame the strategic county outcomes, which include:

- SCO7 Climate Resilience & the Transition to a Low Carbon Economy: Support the transition to low carbon clean energy by facilitating renewable energy use and generation at appropriate locations and supporting the development of offshore renewable energy enabling infrastructure especially at ports and harbours. Facilitate the sustainable management of waste including the circular economy. Restrict development in areas that are at risk of flooding and protect the natural landscape and biodiversity.

2.11.4 Offshore wind energy is seen as a significant opportunity area for the County, the development plan aims to put in place the appropriate supports that will allow County Wicklow to contribute its share of the additional onshore national renewable electricity target, which estimated to be 285 MW – 315 MW.

2.11.5 With respect to the Wicklow Wind Energy Strategy, this was not updated, amended or reviewed as part of the development Plan review. It is intended that once the 2016 WEG are made, the WES will be updated to align with the new guidelines.

2.11.6 The WCDP Wind Energy Strategy for the County supports a plan led approach to wind energy development in Wicklow and sets out areas 'Most Favoured', areas 'Less Favoured' and areas 'Not Favoured' for Wind Energy Development within the County. It is the policy of the Council to maximise wind energy development within the County in all three of these areas, on a case-by-case basis, subject to meeting specific requirements and guidance contained within the strategy.

2.11.7 The most pertinent transposed policies and objectives are outlined in Table 5.

Table 5 Wicklow County Development Plan policies and objectives

Policy/objective	Description
(Chp 9) Economic Development	CPO 9.21 To encourage and facilitate the 'circular economy' and the development of 'green' industries, including industries relating to renewable energy and energy-efficient technologies, material / waste recycling and conservation.
(Chp 12) Sustainable Transport	CPO 12.62 To support the potential for facilitating offshore renewable energy development at Wicklow and Arklow ports.
(Chp 16) Information Communications & Energy	CPO 16.02 To support and facilitate the co-location of renewable energy developments and technologies to ensure the most efficient use of land identified as suitable for renewable energy generation.
(Chp 16) Information Communications & Energy	CPO 16.05 To encourage the development of wind energy in accordance with the County Wicklow Wind Energy Strategy and in particular to allow wind energy exploitation in most locations in the County subject to: consideration of any designated nature conservation areas (SACs, NHAs, SPAs, SAAOs etc) and any associated buffers; consideration of collision risk species (bird and bats); impacts on Wicklow's landscape designations; particular cognisance and regard being taken of the impact on wind turbines on residential amenity particularly with respect to noise and shadow flicker; impacts on visual and recreational amenity; impacts on 'material assets' such as towns, infrastructure and heritage sites; consideration of land cover and land uses on or adjacent to the site; best practice in the design and siting of wind turbines, and all ancillary works including access roads and overhead cables.
(Chp 16) Information Communications & Energy	CPO 16.6 To facilitate and support the development of off-shore wind energy projects insofar as onshore facilities such as substations/connections to the grid may be required and the development of O&M Bases as may be required.
(Chp 16) Information Communications & Energy	CPO 16.19 To facilitate planned growth and transmission/distribution of a renewable energy focused electricity generation across the main demand centers.
(Chp 16) Information Communications & Energy	CPO 16.23 To support and facilitate the development of landing locations for offshore generated wind energy and for any cross-channel power interconnectors.
(Chp 19) Marine Planning & Coastal Zone Management	CPO 19.1 To support and facilitate the development of landing locations for offshore generated wind energy and for any cross-channel power interconnectors.

Policy/objective	Description
(Chp 19) Marine Planning & Coastal Zone Management	CPO 19.2 To work with the Department of Housing, Local Government and Heritage and other relevant government departments and bodies on marine planning with particular reference to the following areas; the implementation of the National Marine Planning Framework; the implementation of the Maritime Area Planning Act in so far as it relates to the duties and functions of the Planning Authority; the designation of the nearshore area for County Wicklow; and the preparation of any sub-regional plans for the maritime area and nearshore area.
(Chp 19) Marine Planning & Coastal Zone Management	CPO 19.3 To support the development of the Marine Economy/Blue Economy sector, particularly in the renewable energy, shipping and fishing/aquaculture sectors. To support the work of the Wicklow Maritime Business Development Group and the implementation of strategies and projects related to enhancing the marine economy.

2.11.8 The proposed development complies with the objectives of the Wicklow CDP. The proposed development will provide additional renewable energy in Ireland and will support significant low carbon generation development. The proposed development has been designed and will be constructed with due consideration for social, environmental and cultural impacts.

2.12 Relevant guidance and 'best practice'

2.12.1 This section outlines key guidance documents that have informed the EIAR, with a focus on overarching policies and frameworks that govern project planning and implementation. These documents, representing best practices and industry standards, have been carefully selected to align the project with Ireland's national, regional, and local policy objectives. By integrating these frameworks, the project aims to address environmental impacts comprehensively while promoting community engagement and upholding principles of sustainability.

2.12.2 For guidance specifically related to EIAs, including methodologies and procedures, please refer to Volume 2, Chapter 3: EIA Methodology. Incorporating these guidelines helps ensure compliance with regulatory requirements and enhances Dublin Array's environmental integrity, ultimately contributing to Ireland's energy goals. By following these methodologies, Dublin Array demonstrates its commitment to a transparent, scientifically rigorous assessment process that aligns with best practices, supports Ireland's renewable energy objectives, and contributes to the broader EU climate goals.

European Commission guidance

2.12.3 The development of offshore wind farms in the Irish Sea and the Republic of Ireland must align with European Union environmental policies and directives to ensure sustainable and ecologically responsible progress. The European Commission's 2020 guidance on wind energy developments and EU nature legislation emphasizes the necessity for projects to comply with the Birds and Habitats Directives. This includes careful site selection, comprehensive environmental assessments, and the implementation of effective mitigation measures to safeguard biodiversity and minimise impacts on Natura 2000 sites. Additionally, the 2018 guidance on energy transmission infrastructure highlights the importance of strategic planning and adherence to legal frameworks, ensuring that the installation of transmission systems, such as subsea cables, does not compromise protected areas. Furthermore, the 2021 guidelines, "Planning Offshore Renewable Energy with Nature in Mind," advocate for an ecosystem-based approach, stakeholder engagement, and adaptive management strategies to enhance environmental sustainability. Collectively, these documents guide the integration of offshore wind energy infrastructure with environmental conservation goals, ensuring that renewable energy expansion is balanced with the protection of marine and coastal ecosystems.

Irish Wind Energy Association – Best Practice Guidelines for the Irish Wind Energy Industry

2.12.4 The Best Practice Guidelines for the Irish Wind Energy Industry were published by the Irish Wind Energy Association (IWEA) in 2008, and the Guidelines were updated in 2012.

2.12.5 These guidelines are to encourage responsible and sensitive wind farm development, and to provide assistance and recommendations for those developing onshore wind projects in Ireland. The approach taken throughout the development process of the proposed development has been in line with the 2012 IWEA guidelines.

IWEA Best Practice Principles in Community Engagement and Community Commitment (2013)

2.12.6 IWEA published its Best Practice in Community Engagement and Commitment in 2013, outlining best practices for wind farm operators to contribute to local communities. These principles, applicable to wind farms of 5 MW or above, ensure that local communities benefit from developments.

2.12.7 Best Practice Principles of community engagement when planning the engagement strategy and preparing associated literature are also outlined in the document. The aim of the publication is to ensure that the view of the local communities is taken on board at all stages of development and that local communities share in the benefits of the development.

2.12.8 The IWEA Community Engagement Strategy (March 2018) builds on these principles, emphasising early, transparent engagement and offering updated guidance on community benefit funds to ensure fair distribution of financial and social benefits.

Code of Practice for Wind Energy Development in Ireland – Guidelines for Community Engagement

2.12.9 In December 2016, the Department of Communications, Climate Action and Environment (DCCAE) issued a code of practice for wind energy development in relation to community engagement.

2.12.10 This Code of Good Practice:

> *'is intended to ensure that wind energy development in Ireland is undertaken in observance with the best industry practices, and with the full engagement of communities around the country.'*

2.12.11 The guidance states that the methods of engagement should reflect the nature of the project and the potential level of impact that it could have on a community. Throughout the consultation process the Applicant has had regard to the Code of Practice for Wind Energy including the practical steps that wind farm promoters should comply with in engaging with communities as set out in this Guidance.

Seafood and Offshore Renewable Energy Best Practice Guidance

2.12.12 The Seafood/Offshore Renewable Energy (ORE) Best Practice Guidance Note (Seafood/ORE Working Group, 2023) provides a framework for constructive engagement and coexistence between the seafood and offshore renewable energy sectors in Ireland. This guidance is an important policy reference for ensuring sustainable development in the maritime space.

2.12.13 The Guidance Note emphasises the importance of early and ongoing engagement between ORE project developers and seafood stakeholders. It outlines principles for cooperation, transparency, and mutual respect, recognising the significance of both sectors to Ireland's economy, society, and coastal communities. Key principles include:

- Cooperation: Encouraging collaboration between the seafood and ORE industries to achieve sustainable outcomes that benefit all parties; and
- Co-existence: Promoting the idea that both industries can share marine space respectfully and work together to minimise negative impacts on seafood activities.

2.12.15 The Guidance Note is structured around the lifecycle of an ORE project, from inception to decommissioning, and provides detailed recommendations for each stage. It highlights the need for:

- Impact assessment: Identifying and mitigating potential impacts of ORE projects on seafood activities;
- Stakeholder engagement: Ensuring meaningful and constructive dialogue with seafood stakeholders throughout the project lifecycle; and
- Best practices: Implementing best practices for environmental protection, safety, and operational efficiency.

2.12.16 For the Dublin Array project, the Seafood/ORE Best Practice Guidance Note is particularly relevant as it provides a framework for engaging with local seafood stakeholders. By adhering to the principles and recommendations outlined in the Guidance Note, the Dublin Array project has ensured to date and will continue to ensure that its development is conducted in a manner that respects and supports the interests of the seafood industry, thereby contributing to the sustainable use of Ireland's marine resources.

2.13 Conclusion

2.13.1 Ireland has recognised the urgency of transitioning to a low carbon economy and has put in place in recent years the firm legal instruments and policy framework to enforce its commitment to renewable energy development including offshore wind. Ireland's GHG emissions reduction targets per the revised Effort Sharing Regulation are not currently being met, requiring deeper reductions as we approach 2030. Ireland's ambitions to significantly decarbonise the transport and industrial sectors relies entirely on the development of renewables at scale, which can only be achieved by offshore projects. Dublin Array aligns with the EU's ambitious renewable energy targets and with the UN's Sustainable Development Goals under Agenda 2030, and reflects the objectives outlined in national strategies such as the Climate Action Plan, the National Biodiversity Action Plan, the National Energy and Climate Plan, the National Marine Planning Framework and the revised National Planning Framework.

2.13.2 Moreover, Dublin Array not only contributes to increasing Ireland's renewable energy capacity but also strengthens the onshore infrastructure through its connection to the national grid. EirGrid, as the Transmission System Operator, plays a crucial role in integrating this renewable energy into the grid, thus facilitating a sustainable and secure energy future for the country. The favourable policy context for the proposed development, combined with local planning support, ensures that the project will effectively contribute to meeting both national and European energy goals while advancing Ireland's transition to a greener economy.

2.14 References

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