



Energy for
generations

ESB Generation and Trading's Response to MARA Competitive MAC

30th September 2025

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1. INTRODUCTION

ESB Generation and Trading (ESB GT) welcomes the opportunity to respond to this consultation outlining MARA's proposals for a competitive MAC process to be used to encourage delivery of ORE.

The delivery of a sufficiently flexible, competitive and certain process for the assigning of seabed rights, along with a suitably defined and efficient auction process (ORESS) is necessary for investor confidence and certainty. Securing of a MAC is one step in the process for delivery of large-scale investment into offshore which will ultimately deliver on government climate targets and provide large scale capacity security for Ireland. Securing of a MAC that maximises economic rent and has sufficient incentives to help support a project progressing to route to market are in our view the main goals for this process. We support the ambitions of seeking to use the MAC to support social and environmental targets, but it is one stage in the overall process and is quite an early stage in project delivery.

In our view, this means that the competitive MAC framework must have cognisance of the various routes to market and externalities that will also drive investment in offshore. Namely, alignment of the competitive MAC process with planning, network development and delivery, other technology development (hydrogen offtake and storage), as well the support schemes that are necessary to support delivery and ultimately deliver the MWs that contribute to our national environmental targets. A process for seabed leasing pre-empting any specific guarantees of delivery (e.g. proposal around PPA) is not realistic if the route to market and other externalities that drive construction, commissioning and delivery remain unclear.

Additionally, it is important to note at this point that it has been difficult to provide definitive feedback to this paper given it does not contain a great amount of detail or evidence to support MARA's positions and preferences in the various sections of the paper. This is due to the fact that the relevant Baringa paper was not released alongside the consultation. This will be especially called out in our response to the auction proposal. It is strongly requested that this be released to allow for more informed engagement with stakeholders in the industry on suitable approaches for the competitive MAC.

Lastly, we note MARA's view that grid access is not a matter for this process. We welcome this as in our opinion this process for seabed options should be agnostic towards grid access. Grid access is a matter for the TSO to model and consider and should be phased to meet new development as it is becoming more feasible. The DMAP process should be a key signal for the TSO to prioritise grid access where appropriate, but the framework itself for the competitive MAC, for it to be more fully competitive, should remain agnostic to grid access.

ESB GT has responded to this important consultation under each of the consultation questions. We have included an executive summary below for ease of reference to the key points raised in our response.

2. EXECUTIVE SUMMARY

Throughout our response the key themes we have raised are as follows:

- We are supportive of what MARA is seeking to achieve but at this early stage, the interaction of various other policies, and the rationale for specific preferences in the paper is not clear enough to provide certainty for forthcoming auctions. Specifically, we call out the interaction between NZIA and NPFs being proposed by MARA.
- The lack of evidence, clarity and detail in this paper has meant that an informed and clear response to some of the questions posed, has been challenging. We have requested access to the Baringa report to inform more detail responses.
- We are supportive of the use of NPFs in principle as an important differentiator and potential driver for innovation and environmental protection. However, this paper does not provide clear definitions, evidence of how the NPFs will operate, justification for the specific NPFs preferred, how they will be scored and weighted. In addition, the NPFs chosen in this paper are challenging by benefit of the stage they are being applied to, i.e. skills and training at such an early stage in project development would be difficult to demonstrate. Therefore, it has been difficult to provide complete support for how they are discussed and proposed in this paper.
- As outlined in question 1 and in further questions, the interaction of each of the various parts of the framework with each other, the interaction of the proposals on NPFs with the National DMAP and possible routes to market that developers may choose, are significant points that require clarity.
- We have provided commentary on competitive factors, i.e. price effectiveness and transparency, (as per clause 93(3) of MAPA 2021¹). Cost effectiveness and encouragement of competition in the competitive MAC should not be underestimated. NPFs if developed clearly and transparently will be important to drive differentiation and value, but the relationship to price and the weighting of NPFs have not been provided in the paper.

We are committed to a competitive MAC process that will provide price efficiency for the benefit of customers as well as provide clear demonstration of future value through non-price factors, where appropriately defined and applied. In our view, this consultation is incomplete without the detailed report, and it is incomplete without detail of the interaction with DMAP and potential future routes to market.

3. RESPONSE TO CONSULTATION QUESTIONS

Overall Design Approach

Question 1. Overall design approach: The graphic contained on page 12 of the consultation document summarises the design options considered across all components of the draft competitive MAC framework and highlights MARA's preferred options, which are explained in more detail in the consultation document. MARA believe that this is a comprehensive model. Do you agree? If not, why not?

Our view is that the design approach appears detailed and intentional. It is welcomed to see how all the aspects are designed.

However, there appears to be no inclusion of feedback loops and iterative processes where necessary, as the design evolves and develops (e.g. to show feedback from the outcome of a competitive

¹ [Marine Area Planning Act 2021](#)

allocation round on the refinement of non-price factors, for instance). In addition, there is no sense of time with respect to the process from pre-qualification to auction, to final MAC award or the sequencing with the likely support scheme for offshore.

In addition, as we note in later questions, there is also not a real sense in this overall approach, how the various parts of the framework are understood to interact with each other, be dependent on each other and how the various stages lead to greater price, competitive refinement and/or feasibility of MAC award and delivery. For instance, as we comment in questions 6 and 7, the preferences in these specific areas of the paper on price and bid are dependent on the degree of scrutiny or light-touch at the pre-qualification stage.

The overall framework would also benefit from illustrating the relationship between the NPFs in this process compared to the expected NPFs delivered through route to market mechanisms.

Finally, the design framework does not consider the route to market and competitive framework that will support delivery of offshore wind projects. In particular, it is not clear as to how the seabed option framework fits within the broader competitive framework supported by ORESS or other routes to market.

Allocation Model

Question 2. Pre-qualification: MARA favours a light-touch financial requirement (e.g., minimum threshold) for pre-qualification. In reaching this decision, MARA considered that having a qualification on capabilities is a relatively simply step that should enhance deliverability without creating an undue burden on bidders or MARA. In addition, while assessing only the provisional winner as part of the allocation process, this may save time and reduce administrative burdens on MARA. This must be balanced against the risk of creating uncertainty for bidders regarding their qualification status. Do you agree? If not, why not?

In order to encourage participation and support investor certainty in the process, this step and all other steps must be transparent. As per the legislation, we understand that is the objective. However, the current detail in the paper is not enough to provide transparency.

We would also be concerned about the lack of detail about what light-touch requirements really entails. The pre-qualification is a critical stage as a first pass assessment that is sufficiently objective, well-understood, transparent and does not undermine the competitiveness of the next stage in the process.

It should be a process that still provides some certainty for MARA on likelihood of development. We would ask for far more clarity and detail around this step as it sets up the framework for the subsequent steps.

In the recent R5 seabed lease in GB, there were quite detailed and stringent pre-qualification requirements. Even though there is a considerable amount of work required to get through pre-qualification of that level, it is important to ensure this process can provide a first indication of likelihood. Experienced developers would likely rather appreciate a more certain pre-qualification assessment as helps support the level of feasibility of projects.

With reference to the previous section, it is also not clear the timing of the pre-qualification stage, how long it will remain open and if pre-qualification stage will be followed up with any details of successful projects progressing to the next round. These would all be important considerations in the process timeline.

Question 3. Competitive allocation model: MARA strongly favours NPFs/delivery incentives mainly for the first round of competitive MACs. With deliverability prioritised and other objectives encompassing different forms of value, focussing mainly on NPFs and delivery incentives is most appropriate to MARA's objectives. A focus on achieving high prices could lead to threats to project

viability in adverse conditions, while the dynamics of cost effectiveness for consumers vary depending on the funding model. As set out in Section 3 of the consultation document, it is MARA's intention that the design of the NPFs will be kept simple to avoid creating any burdens that could threaten deliverability. It is acknowledged that a shift towards price may be necessary in the future, but MARA believes that focusing on NPFs is preferred for getting capacity built and built sustainably. Do you agree? If not, why not?

MARA provides some commentary to support their focus on NPFs compared to price (i.e. reference to high prices and cost effectiveness) but does not provide any evidence with respect to weighting, the degree of importance they place on NPFs, how they will be scored, measured or defined.

NPFs can be an important additional factor, but without clear measurable details (e.g. scoring and weighting), it is unclear how the NPFs mentioned, are intended to contribute to the overall outcomes of the auctions and contribute to price effectiveness. We would request that the Baringa report be released to hopefully make clear, some of this detail.

Price-based Factors

Question 4. Payment Period: MARA recognises that all 3 options can present benefits. One-off fees can help avoid disincentives to continue development between MAC award and COD. Fees at development stage would provide an incentive for speed of delivery as developers would want to avoid additional annual payments. However, it can also be an incentive to halt a project depending on the level of the fees and the macroeconomic context affecting project viability. Operational stage fees do not incentivise speedy delivery but have a low present cost (i.e., good for cost effectiveness for consumers) and can be variable with other factors such as revenues and risk-sharing.

Therefore, MARA considers that all 3 of these options could be part of the framework, recognising, however that in the near-term it is most likely that fees at development stage will be important to achieve deliverability and incentivising timely delivery. Do you agree? If not, why not?

It is unclear why MARA will like all three of the payment options to be part of the framework. Clarity on this would be welcomed.

ESB GT's preference is for payment to be later in the process, as this is when the income stream being earned by the project can support payments. We do also appreciate however, the need to balance timing for payment and behaviour in the auction and unintended consequences. Therefore, option 2 may be reasonable if there is clearly a requirement to mitigate specific consequences.

Question 5. Revenue type: MARA considers that profit share model is, while theoretically attractive, likely to be too complicated for effective delivery. MARA's levy framework charges a flat fee at development stage and revenue share during the operational stage. MARA is of the opinion that this provides a good balance of incentives and risk-sharing and proposes keeping this model. Do you agree? If not, why not?

ESB GT supports the current MARA model for the competitive MAC. It is already well-understood which is a benefit.

Question 6. Price bidding: MARA's preference is to have at least one price component bid set in a manner which allows for differentiation between bidders (uncapped or capped at a level high enough so that most bids are expected to fall below the cap). The higher weighting of NPFs in the overall framework will limit the overall importance of the price component and contribute to project

deliverability (see Section 2 on Competitive allocation model). We anticipate that any bidding would focus on the development stage payments. Do you agree? If not, why not?

The response to this question primarily highlights the interaction that this section has with the pre-qualification and bid mechanisms (questions 2 and 7). This interaction governs which option for price bidding should be considered and ultimately, our view is that price bidding and bid mechanisms options should not be narrowed to a single approach at this stage. In addition, our view from question 2 is that pre-qualification stage should be robust and can govern the pot of candidates then price bidding and competing at auction. Also, as outlined in question 1, consideration of the interaction between all the various elements of the process would be beneficial at this framework stage. It would provide an important roadmap to support future consultations before auctions.

Question 2 on pre-qualification preferences, coupled with price bidding and bid mechanism (questions 6 and 7) are all strongly interconnected and interact with each other. A preference for a light-touch obligations at pre-qualification for instance, could require further scrutiny at a later stage or stronger bidding mechanisms to ensure that speculative bidding or seabed hoarding can be controlled effectively. Therefore, we would recommend you consider our response to these three questions together.

ESB GT can see the benefit of both capped and uncapped prices in specific scenarios. Either can be a suitable and appropriate option based on the pre-qualification thresholds for entry. Therefore, both should remain options for MARA.

Uncapped would be suitable so long as there is some mechanism to prevent excessive prices (e.g. ascending clock bid mechanism) and where there can already be some degree of feasibility test at the outset of the process (pre-qualification). Uncapped price bidding also coupled with an ascending clock bid mechanism would provide a high degree of price discovery and would likely generate a large amount of competition, which would be positive for consumers in terms of the final competitive price for the auction. It is also a more straightforward approach in terms of management.

On the other hand, a capped price with a sealed bid, can have benefits but needs to provide other differentiators to help projects to provide clear competitive differentiation. In our experience, sealed bids in GB can be problematic and do not always lead to cost effective pricing or clear outcomes in terms of awards.

However, we note that the rationale for MARA's preference for sealed bid is the reliance on higher weighted NPFs. As we outline below, the chosen NPFs can be challenging given how they are outlined in the paper and given a lack of detail provided. We also comment that some of the NPFs chosen may be too premature at this stage of an offshore project development. Furthermore, we have also pointed out that the weighting, scoring, evaluation of NPFs is entirely unclear. Therefore, it is hard for us to be supportive of this principle of sealed bidding with higher weighted NPFs.

Bidding (as per question 7) being focused on development stage payments (question 5) would suggest that ascending clock to achieve a competitive price, would be more favourable when considering the operation of price and bid mechanism. As outlined in question 7, there may be ways for NPFs to be accounted for initially to allow for the benefits of ascending clock bid mechanism.

For either option to be fully supported, they are reliant on far more clarity than was provided in this paper, specifically on the bid mechanism and the actual weighting scale, prioritisation, stages in the process where NPFs would be signalled, scored and added to the overall auction outcome. We would encourage MARA to consider carefully the actual interaction between the various parts of the framework, as mentioned in our response to Question 1.

Question 7. Bid mechanism: MARA notes that other countries that have used the ascending clock bidding mechanism, usually do so when they are not using NPFs. MARA strongly considers that sealed bidding is more appropriate when using NPFs and avoids administrative complexity. Do you agree? If not, why not?

It is difficult to provide a comment as this is highly dependent on clarity regarding the weighting of NPFs, and price bidding etc. From our experience, we have participated in auctions both with a sealed bid and ascending clock bid mechanism. As above, we would consider that neither option should be ruled out of MARA's toolbox for future auctions.

From the recent R5 seabed lease in GB, there were very strong pre-qual requirements in R5 which all applicants had to pass thereby providing a minimum threshold all applicants had to meet before price was considered – which may be a specific mechanism to consider with respect to NPFs in the competitive MAC. If this is the method for NPFs to be implemented, then it may mean that the bid mechanism does not also need to be defined by the weighting of the NPFs.

As developers and from a market economics perspective, we would be supportive of the ascending clock auction as they are designed to help reduce the risk of overpaying and provides multiple chances of winning at auction. This would be a suitable outcome for MARA in encouraging strong competition, but without a risk of overpayment.

We note MARA's preference towards sealed bids with the clarification that this mechanism would be more suitable accompanied with weighted NPFs. We would not agree that the use of ascending clock could not be achieved whilst having strongly weighted NPFs. In fact, as MARA is rather minded to a "light-touch" pre-qualification process and reliant on NPF's in combination with a sealed bid mechanism, it could create transparency issues.

Non-Price based Factors (NPFs)

Question 8. Environmental criteria (Assessment Evaluation of NPFs): MARA's preference is to use metrics and standards, rather than plan, for assessment purposes both at pre-qualification questionnaire (PQQ) and at allocation stage. This avoids subjectivity and excessive administrative burden on bidders and MARA.

For PQQ, MARA would favour pass/fail scoring of individual criteria, which could then lead to a pass criteria of 6 out of 10 or could require 100% pass rate across all PQQ criteria. This reflects the objective of a prequalification stage, which aims at ensuring that minimum standards are met across the bidder pool.

However, for allocation stage, MARA would consider scoring (granular or binary) where multiple criteria contribute to an overall score, and no individual criterion could fail the entire bid. Developers' bids would then be evaluated based on their total score with the highest-scoring bid being successful. Do you agree? If not, why not?

It is extremely difficult to comment on the section regarding non-price factor proposals. This is largely due to the lack of detail and content as well as evidence. How NPFs are weighted and applied should be dependent on what stage in the process that they are related to, i.e. pre-qualification or competitive allocation.

As we have flagged, there is also no sense as to how NPFs will align or complement NPF requirements for further stages on the offshore development glidepath, i.e. we assume further clarity on criteria should be set out in the DMAP, but this is not clear. The MAC is a process for seabed award only and depending on the sequencing of the MAC auction compared to the support scheme auction, this could be an extremely early stage for certain NPFs (i.e. skills and training and community shareholding) to

be definitive. It is important to be aware that some NPFs will likely be more achievable or clear at different stages, including outside the MAC process (i.e. ORESS or other capacity delivery auction).

Other NPFs like environmental criteria are obvious and necessary but depending on where they are assessed in the process, could still be challenging. Environmental criteria are not, as per the competitive MAC paper, easier criteria to validate. Specifically, the paper does not provide calculations or examples as to how the proposed evaluation could work in practice, how the scoring is intended to be completed, the weighting being placed on NPFs and what level of detail will be needed to validate the various criteria preferred by MARA (e.g. positive biodiversity impact compared to minimisation of biodiversity impact are likely two very different criteria in terms of verification).

It is critical that that if NPFs are applied, that they can be demonstrated to support competition in the awarding of MACs. We are not at this stage clear that the specific NPFs considered in this paper will contribute to competition for the MAC, or that they will contribute to price effectiveness, both due to the NPFs chosen and due to the lack of evidence.

This all informs any evaluation criteria for NPFs within the competitive MAC process, particularly where the MAC process is intended to be a flexible, efficient and enduring framework for seabed allocation that can account for the changing policy environment.

Question 9. Environmental criteria (Choice of NPFs): In relation to supply chain sustainability MARA is of the opinion that this is a complex topic which would be difficult to score. Therefore, MARA supports the inclusion of both biodiversity criteria on the basis that metrics can easily be developed, assessed and monitored. In addition, various options can be applied to both (e.g., financial contribution/deployment of relevant technology), which enables them to be easily adapted for site-specific call. Do you agree? If not, why not?

In principle we are supportive of environmental criteria being a non-price factor for offshore development. But environmental criteria would be informed by seabed surveying, procurement and monitoring. All of which may not necessarily be at a defined or mature stage at the time of the pre-qualification or competitive allocation stage of the competitive MAC.

In addition, very little detail has been provided to explain the indicators of the two criteria favoured by MARA (i.e. positive impact and minimisation of impact). It is also important to understand the legislative requirements that may underpin these two criteria, i.e. Habitats Directive, NZIA, Nature Restoration or other requirements.

As the sites have been selected under a plan-led regime, data necessary to set a baseline for biodiversity targets will be limited to what is available in the national datasets. Therefore, it will be difficult for developers to design appropriate plans for protection or improvement as this will already be decided.

Furthermore, as mentioned above, the weighting, validation and treatment of the two criteria could be significantly different, since one is related to positive impact and one relates to minimisation of impact. We would welcome further clarity on this detail at this early framework stage so that developers can be aware of what exactly is being retained in the toolbox for future auctions.

Question 10. Developer de-risking: MARA proposes not including any developer de-risking criteria in the framework in order to avoid multiple participants seeking to undertake the same surveys, obtain grid agreements for the same area, or engage with the local population. The objective is to avoid incentivising a duplication of effort. Do you agree? If not, why not?

We are supportive of no developer de-risking criteria being favoured at this stage.

Question 11. Socio-economic criteria: MARA considers that skills and training and community shareholding are the most appropriate criteria for the framework because they offer the best trade-offs between simplicity, measurability and impact. Do you agree? If not, why not?

Skills and training

From experience in other jurisdictions, monitoring and demonstrating direct involvement, direct delivery or output in skills and training from a single project would prove extremely challenging. In our view, overall company position and performance across their whole portfolio rather than a single project could be a useful metric in this area of skills and training. It is also important to consider at what stage this criterion will be assessed, as it may not be at a suitable stage for any clarity to be provided by developers.

Community shareholding

Community shareholding is not explained in great detail in the paper. ESB GT are committed to making a positive impact to communities and have had experience doing so through establishing a community benefit fund scheme. We would suggest it is important to consider what community shareholding is intended to be and then clearly and transparently consider the interaction with final community impact at the state of ORESS or another route to market.

Question 12. System integration criteria: MARA proposes to prioritise secured PPA offtake for initial calls for a competitive MAC without ORESS offtake. However, it also proposes keeping all options in the framework, including the potential to combine criteria in the future, in order to future-proof the framework for future evolutions and ways to manage energy integration. Do you agree? If not, why not?

We note MARA's preference for this criterion to be demonstrated by a secured PPA offtake without an ORESS offtake. In our view, developer certainty through a PPA will be challenging at the stage of the competitive MAC, compared to later in the project development. A PPA generally would be secured much later in a process where some consents have been granted, initial procurement may have occurred. This criterion is identified too early in the process.

In our view, limiting the criterion to this single factor is missing an opportunity for competitive tendering for MACs to be awarded for projects that could be delivering hydrogen and/or providing flexible or complex solutions that could meet the needs for decarbonisation, i.e. storage and hydrogen criteria.

Delivery Incentives

Question 13. Financial delivery incentives: MARA's preference is for a performance bond with progressive refund at milestones in the development stage. Such pre-operational milestones would be set administratively. The performance bond and associated milestones would be set in a manner which provides delivery incentives, while balancing the impact on developers of such sum being set aside over the pre-operational years. Do you agree? If not, why not?

We note that MARA's preference is for a performance bond with a progressive refund at milestones during the development stage. In our view, it is unclear the value or timeframe in which this bond would be held and would be dependent on the route to market option a development can secure in future.

We can appreciate the wish to have such a measure in place, but it remains unclear how it will operate, for what timeframe and how it will interact with different route to market options (some of which will also carry specific performance bonds). Therefore, it is challenging to be supportive of this intention.

Question 14: Non-financial delivery incentives: MARA considers Permit loss as being appropriate to MARA's regulatory role and it works in line with the progressive performance bond (i.e., permit loss if total loss of bond). It also preserves deliverability while a project is live and does not reduce competition by excluding bidders from future rounds. Do you agree? If not, why not?

ESB GT is supportive of option 1 in principle but with provisions to mitigate risk of automatic permit loss in all circumstances, see details below.

We would suggest that the approach taken in the Capacity Remuneration Mechanism (CRM) around contract loss, and the facilitation of extensions of time should be explored by MARA. In the CRM, a developer can highlight specific externalities outside its control, that are contributing to lack of progress. The regulator (CRU) can then grant extensions of time in which the developer can remedy the situation. This mitigates the risk of automatic permit loss for only specific defined reasons, e.g. supply chain delay. This applies an appropriate level of regulatory oversight but does not expose the developer to automatic permit loss for factors outside their control.

If MARA's approach to this incentive is based on the developer acting in good faith and it acknowledges appropriately where there are risks outside the control of the developer, this will likely be a reasonable measure to implement in the competitive MAC framework.