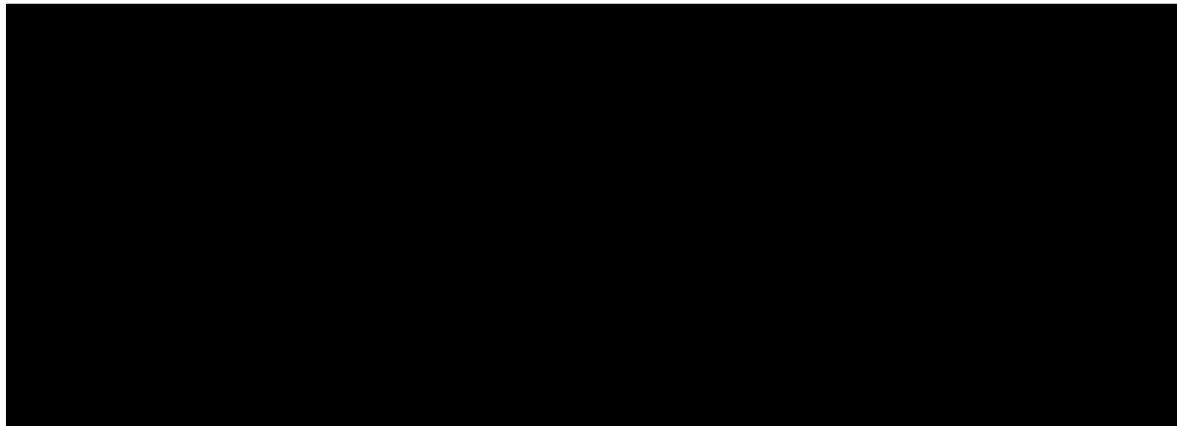


13 December 2025

Maritime Area Regulatory Authority
2nd Floor
Menapia House
Drinagh Business Park
Drinagh
Wexford
Y35 RF29
Email info@mara.gov.ie

Response to Mara Notice Pursuant to section 117(6)(b) of the Maritime Area Planning Act 2021 ("the Act"), the Maritime Area Regulatory Authority ("MARA") requiring Codling Wind Park Limited (CWPL) to give notice to the public stating that the application MUL230034 has been made to MARA, and to the said Notice dated 19th November 2025.

Dear Colleagues,



1. Context of Assessment and Objection. It is noted that before any plan or project receives consent, MARA, the competent authority must determine whether it is likely to have a significant effect on a European Site, either alone or in combination with other plans/projects.

If significant effects cannot be ruled out, an Appropriate Assessment must be carried out based on best scientific knowledge, considering each site's conservation objectives.

Consent can only be granted if the authority is satisfied that the plan or project will not adversely affect the integrity of the European Site and its objectives, except in cases of overriding public interest and where compensatory measures are provided.

This is a requirement of Article 42 of the EU Birds Directive Regulations 2011 which incorporates into Irish Law the EU Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC) by ensuring protection of Natura 2000 sites in Ireland.

2. An immediate and apparent concern is that the applicant has confirmed that a **derogation licence for marine mammals** will be sought—This is an explicit admission that deliberate disturbance cannot be ruled out rendering the NIS conclusion of “no adverse effect” invalid. Also 2.11 of the Application states that “With the assumption that a Stage 2 Appropriate Assessment (AA) is required, a Natura Impact Statement (NIS) will be submitted upon receipt of MARA’s appropriate assessment screening determination.”

3. The purpose of this letter is to highlight the concerns of our clients East Coast Fishers and object to the issue of this licence. We are instructed to rely upon attached report of Marie Louise Heffernan Environmentalist and to make this Objection to and **Submission to the above application** on behalf of East Coast Fishers set out under, and as part of this letter of objection.

4. East Coast Fishers fish for Whelk, Crab, Lobster and Shrimp on the Codling Sandbank and Cable Corridor off the coast of Wicklow and Dublin. This is where Codling wishes to site their windfarm and carry out damaging geophysical and geotechnical surveys. The surveys carried out have damaged our client’s fish stocks and livelihoods. There has been no consideration given to the cumulative effect of all the surveys by all the windfarms, and the planned construction and operation of windfarms particularly by Codling, RWE and SSE. Nor has there been given any due consideration to the displacement of our fisher clients and other fishers on the East Coast from Arklow to Dublin particularly for whelks, crab, lobster and shrimp on the sand banks, inshore fishing grounds and cable corridor. The displacement has already occurred by displacement during survey and damage to fishing stocks, with no pre-survey fish stock analysis, despite requests to Codling to do so, which requests were refused. Secondly no genuine liaison has occurred with our fisher clients prior to this application. I will cause further displacement during survey and damage to fish stocks. The foreshore survey licence is part of the overall planning process for the construction and operation of three huge windfarms, with turbines over 300 meters high, by Codling, RWE and SSE in this area. The cumulative effect of all stages from survey to construction to operation including a likely restriction, through law or commercial insurability, of fishers coming within 500m of each turbine, when turbines are placed 1000m apart, making the 3 said windfarms and cable corridors a no-go area for fishers. It will destroy the marine environment, fish stocks and access thereto and in turn destroy their livelihoods. The in-combination effect of these three windfarms has since circa 2021

commenced a process of displacement of fishers by the said windfarms from Arklow to Dublin.

5. There has been a refusal by Codling to engage with East Coast Fishers and the other Fishers on this coast through solicitors. This request has been made by East coast Fishers directly to Codling and to its solicitors, A&L Goodbody during judicial review proceedings HJR 2023 no 946 by our clients against Codling Wind Farm Park Foreshore Survey Licence FS007045 (granted in 2023), resulting in the attached Court Order and declaration against that licence. At a meeting on 15 April 2024 at 6pm in the Glenview Hotel, Codling's representative, Courtney French, expressly told me at the commencement of that meeting that they would not meet me or other solicitors representing our clients. I left the meeting on the assurance that Codling would engage in a meaningful way with our clients including a financial package to deal with the displacement of East Coast Fishers on this Coast and Sand Bank with the said Windfarms and surveys. There was no follow up by Codling and I am instructed by our clients to object to this failure to engage with local fishermen, particularly our clients fishing on the sand banks and inshore grounds from Arklow to Dublin. This contrasts starkly with the representation made at clause 2.6 and 2.7 of the Codling Application Form. Our clients repeat their offer to meet Codling through us as their solicitor, together with other fishers in the Area represented by Dermot Conway and Benville Robinson solicitors to constructively engage with the issues of damage to marine environment and displacement of fishers. If this offer is again refused or ignored, it is submitted that this application has failed in its requirement for engagement with fishers effected 5. Our clients as fishers rely on the healthy state of the marine environment, going back generations. The EU recognises that the marine environment health is closely dependent on the SPA's and SACs within the environmental vicinity of the proposed surveys and windfarms. Our clients object to the environmental damage which has been caused by these prior surveys to the marine environment and particularly the cumulative adverse environmental effect on the SPA's and SACs affected by these surveys, and each of their site specific objectives, more particularly set out in the report below of Marie Louise Heffernan, and to the in combination adverse effect on the marine environment.

6. Codling Windfarm Park and its previous survey applications have already been challenged in Judicial Review Proceedings in the High Court resulting in declaration against its previous Foreshore Survey Licence. See copy Order attached which includes :

"A Declaration that, in the period prior to the publication of site specific conservation objectives in respect of the Wicklow Head Special Protection Area on 10 September 2024, the First and/or Second named respondents failed to fulfil their obligations under Article 26(2) of the European Communities (Birds and Natural Habitats) Regulations

2011, SI 477 of 2011 (as amended), by failing to establish the necessary site specific conservation objectives in the Wicklow Head Special Protection Area.”

This needs to be considered by MARA for this assessment. It is submitted that this application fails to provide an appropriate assessment of this and other relevant matters.

6. There are two other recent judicial review order issued to our clients, relating to RWE and SSE applications for Derogation licences which have clear and obvious in combination effect, and binding precedent value, on this application by Codling. An immediate and apparent concern is that the applicant has confirmed that a **derogation licence for marine mammals** will be sought—This is an explicit admission that deliberate disturbance cannot be ruled out rendering the NIS conclusion of “no adverse effect” invalid. The two said Court Orders are dated 1st December 2025 are attached and include the following:

1. “An order of certiorari quashing the derogation, ref DER – CETACEANS -2024-105, granted on the 30th April, 2024, on the grounds that the First Respondent failed to correctly apply the provisions of Article 16(1)(c) of the Council Directive 92/43 EEC and regulation 54(2)(c) of the European Communities (Birds and Natural Habitats) Regulations 2011 S.I.477/2011, in that the First Respondent did not identify which of the reasons within Article 16(1)(c)/54(2)(c) were met in the circumstances as pleaded in the particulars of Core Ground 3 in §42 of the Applicants’ amended statement of grounds.

2. An order, pursuant to Order 84, rule 27 of the Rules of the Superior Courts, remitting the application for a derogation licence to the Minister for Housing, Local Government and Heritage (the “**Minister**”) with a direction to reconsider it and reach a decision in accordance with the following directions
 - i. The Minister to seek confirmation from the First Named Notice Party of the exact nature and extent, and timing, of the surveys actually carried out

 - ii. The Minister to consider and determine the application for a Derogation Licence based on the actual surveys that were carried out and the information available to the Minister (to include the information provided to the Minister in the application for the Derogation Licence and such further information as the Minister may deem necessary).”

It is submitted that this application errs in law insofar as there is a reliance on the categories of reasons provided for the Derogation Licence, referred to and relied upon in fundamental support of this Application, in Article 16 of the Habitats Directive and/or Regulation 54(2)(c) of the 2011 Regulations, as opposed to providing the actual reasons and particularisations of the reasons if any as the basis or reason for the derogation licence sought only provides for a category of reasons and which therefore could never amount in itself as a reason. In the said two RWE and SSE Derogation licence Judicial review Orders it was held to be inadequate that and unlawful to conflate a number of categories namely public health, public safety, imperative reasons of overriding public interest and not specify the reason(s) which were, in fact, relied on to grant the derogation licence to RWE and SSE. *It is submitted that Codling must in this application set out the actual said reasons they are relying upon for the grant of the Derogation licence they refer to and rely upon in this application for a Foreshore survey Licence. If this detail is not properly presented it undermines not only Codling's application for its proposed referred to and relied upon Derogation Licence, but also undermines the integrity of this application for a Foreshore Survey Licence.*

7. It is noted at 5.1 of the Application that “The main commercial fishing activity on the Codling Bank targets whelk (*Buccinum undatum*) with pots and occurs across the whole of the Codling Bank (Ireland’s Marine Atlas). According to Ireland’s Marine Atlas, creel fishing for crab (*Cancer pagurus*) and lobster (*Homarus gammarus*) occurs to a lesser extent within the vicinity of the Codling Bank. Seed mussel (*Mytilus edulis*) grounds are located inshore between the proposed array area and the coastline around Wexford Bay and Wicklow and are typically targeted by dredge for the purpose of aquaculture supply. Near Wexford Harbour extensive areas of mussel aquaculture occurs. Razor clams (*Ensis* sp.) are targeted by dredge along the nearshore to the north of Howth up to Dundalk Bay and south in Wexford Bay. Low levels of pelagic trawling are reported in nearshore areas. Little to no demersal trawling activity is reported on the Codling Bank. As identified using Ireland’s Marine Atlas, the Licence Area overlaps with the spawning and/or nursery grounds of several commercially important species of fish, namely cod and haddock spawning areas, and mackerel, horse mackerel, cod, and haddock nursery areas (Ireland’s Marine Atlas). The area of the Codling Bank which the Licence Area overlaps is known for blonde and thornback rays; it is unknown if they spawn there or if it is simply where they aggregate (Ireland’s Marine Atlas, 2024). Please refer to Figure 6 (Key Fish Spawning and Nursery Areas and Shellfish Water Directive Areas) and Figure 7 (Spawning Grounds (CEFAS)) and the AIMU report for full details.”

It is submitted that there has been inadequate consultation with fishers, that there has been inadequate consideration of the importance of the Codling Bank and Cable lane as a spawning and essential marine environment for the preservation of fishing stocks and further that the Codling Bank is the wrong site for these proposed surveys and the planned construction and operation of such large scale Windfarm Parks. There has been no adequate engagement with the fishers to take into consideration the risks to the marine environment set out at 5.2 of the Application. CWP have expressly refused to engage in mediation or constructive meeting and engagement, the type referred to at 5.3 of the Application, with our client fishers, and other

fishers and their legal representatives. This expressly contradicts the assurances given by CWP in 5.3 of the application. Our clients have no faith in the role of the FLO , particularly when CWP continue to engage with the Fishers legal representatives. It is respectfully submitted that MARA should not grant this licence until there is evidence of engagement with the fishers legal representatives , with a view to protection of the fishers marine environment and livelihoods.

8. The Codling Wind Park has applied for planning permission ref 320768 for the largest offshore wind farm in Ireland on the bank between Greystones and Wicklow Town.

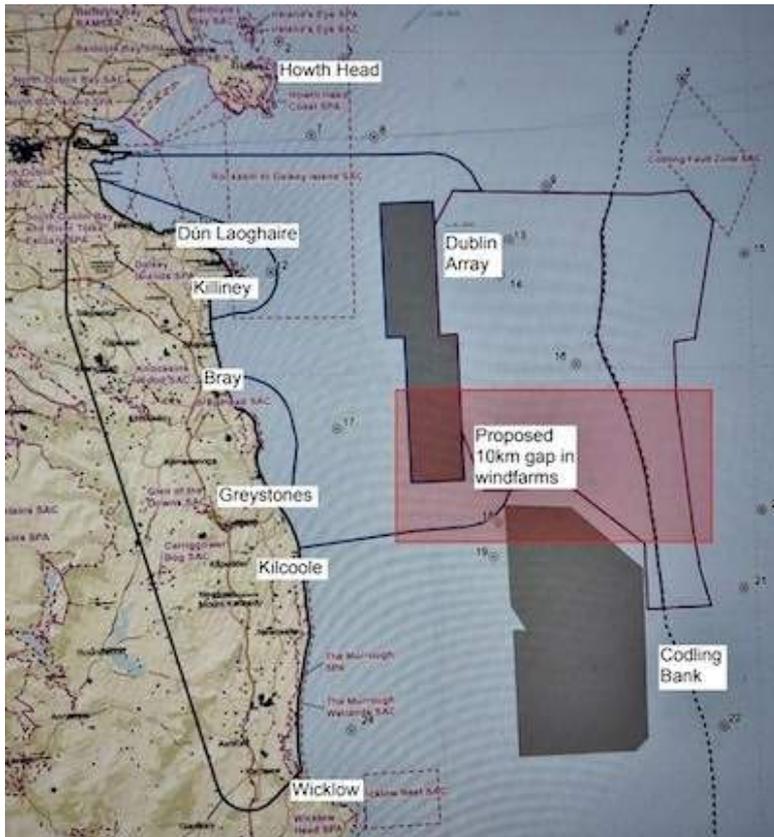
Coimisiun Pleanála has asked for further information in a 70-page request sent to the developers, with a deadline for reply of May 2026, 20251209 320768-Codling Wind Farm - FI Request.pdf

The information covers habitat loss, coastal processes – including erosion, birds, marine mammals, fish, search and rescue, seascapes and visual appearance. Substantial surveys will be required to complete this.

It particularly asks for a better assessment of the cumulative impact with the other 4 wind farm proposals on the East Coast.

The Dublin Array proposal is very close to Codling and the Arklow Bank proposal is fairly close.

The cumulative visual impact will in places cover most of the sea vista with turbines taller than Bray Head, the tallest item on the East Coast.



It is submitted that there should

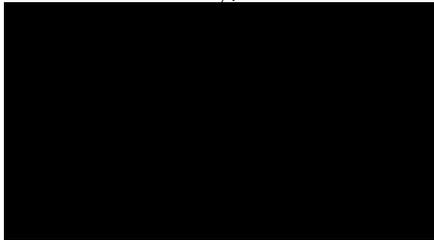
be at least a 10km gap must be left between these nearshore wind parks.

No Irish planning decisions have been made in recent years on nearshore wind parks, but recent Welsh and English decisions have significantly reduced the cumulative span of proposals at Llandudno and Brighton for visual and other reasons. It is submitted that the further information sought includes at 10 (e) the effect of the Geophysical Survey , at paragraph 11 the effect of surveys and subsequent pile driving on Fish , shellfish ecology and displacement of “disproportionately large” spawning area a request at 11(c) (iii) to revise Chapter 9 fish, shellfish and turtle ecology , at 11(f) to set out the “effect of underwater noise and vibration on fish and shellfish , at 12 Commercial Fisheries , at 12(a)(ii) the Marine Institute submission on displacement of fishing effort would potentially increase fishing pressure and competition in neighbouring areas , are all central to the subject matter of this survey licence application. The further information requested seriously questions the siting of the windfarm on the Codling Bank. The Foreshore survey licence is part of the whole planning process, and it is submitted that the questions about suitability and Cable Corridor as a Wind Farm site must first be addressed and decided upon before the Foreshore surveys License issues permitting further geophysical and geotechnical surveys. It is submitted that until this attached 20251209 320768-Codling Wind Farm - FI Request is responded to that MARA is not able to properly consider the suitability of the Codling Bank as a site for geotechnical and geophysical surveys. It is too late after the damage by these surveys to the marine environment to consider whether the site is suitable in the first place. It is submitted that this

is putting the cart before the horse, and that these questions ought to be put by MARA to the Applicant, CWP, before MARA can be considered properly equipped and informed to decide is the Codling Bank and Cable Corridor at all suitable and safe for such extensive surveys sought to be done in this Application. It is no extra or unfair burden on CWP to answer these questions now for this application than to await the May 2026 deadline.

Our client request that we are kept abreast of the progress of this application and reserve their rights to make such further and other objections and observation as may arise.

Yours faithfully,



AUGUSTUS CULLEN LAW
Gus.Cullen@aclsolicitors.ie

ASTER ENVIRONMENTAL CONSULTANTS LTD



Thursday, 30 October 2025

Submission on the Codling Wind Park Maritime Usage Licence Natura Impact Statement

From:

Marie Louise Heffernan MSc CEnv MCIEEM
Director, Aster Environmental Consultants Ltd.

To:

Maritime Area Regulatory Authority (MARA)

Introduction

I am writing to provide a professional ecological and legal response to the Codling Wind Park (CWP) Maritime Usage Licence (MULA) Natura Impact Statement (NIS) on behalf of the East Coast Fishers.

Based on a review of the document and associated correspondence between MARA and the applicant, it is clear that the NIS fails to meet the requirements of **Article 6(3)** of the **EU Habitats Directive (92/43/EEC)**.

The project cannot lawfully proceed because:

1. The assessment underestimates the duration, scale, and ecological footprint of proposed activities.
2. It fails to consider cumulative, ecosystem-level, and trophic impacts.
3. The treatment of seabirds and marine mammals is inconsistent, outdated, and legally unsound.
4. The applicant has confirmed that a **derogation licence for marine mammals** will be sought—an explicit admission that deliberate disturbance cannot be ruled out, rendering the NIS conclusion of “no adverse effect” invalid.

On these grounds, I submit that the only lawful conclusion is that **adverse effects on the integrity of Natura 2000 sites cannot be excluded** and that the **application should be refused**.

1. Duration and Recurrence of Activities

The NIS misrepresents the temporal scale of the proposed works.

Devices and PAM moorings are to remain in situ for **up to 36 months**, with multiple campaigns occurring under a **five-year licence**. Each mobilisation may last **two to eight months**, creating a near-continuous disturbance regime.

These are not short-term or isolated events.

This prolonged activity will cause chronic stress and potential desertion of foraging grounds by fish, seabirds, and marine mammals. No cumulative temporal analysis or activity calendar is presented, and seasonal overlap with spawning or migration periods has not been addressed.

2. Ecosystem and Trophic-Level Impacts

The NIS lists sampling and survey methods but fails to link these pressures to the food web.

There is no assessment of how repeated disturbance, sediment plumes, or acoustic activity will affect benthic invertebrates, plankton, or forage fish such as sprat and sandeel.

These organisms underpin the diets of seabirds, marine mammals, and commercial fish.

By ignoring trophic pathways, the NIS cannot demonstrate that the project will not undermine the ecological integrity of affected SACs or SPAs.

No BACI-style monitoring or power analysis is proposed to detect ecological change or recovery.

3. Spawning and Nursery Grounds

Codling Banks are recognised spawning and nursery areas for multiple species, yet the NIS provides no mapping, sensitivity analysis, or evaluation of impacts on egg and larval stages.

Turbidity, smothering, and acoustic energy may all cause direct mortality or reduce recruitment success.

No seasonal exclusion windows or sediment deposition thresholds have been defined, despite the multi-year duration of works.

This omission fails to comply with the requirement to assess and mitigate effects on habitats essential for the life cycles of qualifying features under the Habitats and Birds Directives.

4. Pollution and Hydrocarbon Risk

Pollution and litter are dismissed in a single paragraph, with impacts deemed negligible under “MARPOL compliance.”

However, chronic **oil and fuel leakage**, **bilge discharges**, and **surface sheens** from multi-year vessel operations are not assessed.

Even trace hydrocarbons can smother plankton, reduce oxygen exchange, and destroy the waterproofing of seabird plumage.

No hydrocarbon risk assessment, contingency plan, or spill-response protocol has been provided. The assumption that “best practice” equals “no impact” does not satisfy Article 6(3) standards.

5. Seabirds – Inconsistent and Incomplete Assessment

The NIS applies inconsistent logic between species groups.

Terns are dismissed from detailed assessment because they dive only briefly, yet the same reasoning is not applied in reverse to deep-diving seabirds such as **razorbills and guillemots**, which forage at depths up to 150 m—directly within the footprint of underwater disturbance. These birds are the most abundant birds on the Codling with peaks of 4203 razorbills and 7534 Guillemot recorded EIAR Volume 4 appendix 10.5 between April 2013 and 2014.

These species are qualifying interests of multiple Irish Sea SPAs (e.g. Lambay, Rockabill to Dalkey, Saltee Islands). Repeated acoustic and physical disturbance during prolonged survey campaigns will displace them from critical foraging areas and increase energetic costs.

No modelling of foraging displacement, energetic stress, or population consequences has been presented, and no mitigation measures (such as seasonal timing restrictions) have been proposed. This constitutes a serious gap in the NIS.

It must be noted that Codling is of considerable interest for thousands of Seabirds supporting close to the 20,000 threshold which requires SPA designation as well as Annex I and red listed species (see . appendix)

6. Marine Mammals

6.1 Derogation confirms disturbance is expected

MARA sought clarification on whether a **derogation licence for marine mammals** was required, and the applicant confirmed that one **would be sought**.

This confirms that **deliberate disturbance or injury cannot be ruled out**.

Under the Habitats Directive, projects that require a derogation licence under **Article 16** cannot simultaneously meet the “no adverse effect” test of **Article 6(3)**.

Derogation is a mechanism of last resort and may only apply if there are no alternatives and if populations are maintained at favourable conservation status—conditions not demonstrated here. The need for derogation is therefore a clear legal signal that the NIS conclusion of “no adverse effect” is untenable.

6.2 Outdated guidance relied upon

The NIS relies on the **DAHG/NPWS (2014) Guidance** for marine mammal mitigation, a document that NPWS itself has since deemed **obsolete**.

In 2023, NPWS issued a **call for tender** for a new framework, citing the need to incorporate modern risk-assessment principles, cumulative exposure, and population-level analysis.

It is thus unreasonable to base conclusions on guidance acknowledged as inadequate by its own authors.

6.3 Deteriorating conservation status

The conservation objectives for the Rockabill to Dalkey Island SAC date from 2013 and are based on pre-2011 data.

More recent research (Berrow et al., 2021) documents a **46% decline in harbour porpoise density between 2016 and 2021**, indicating deterioration in conservation status.

The NIS fails to acknowledge or address this decline.

6.4 Inadequate spatial and temporal scope

The in-combination boundary of 5 km (survey acoustics) and 26 km (piling) is ecologically meaningless.

Harbour porpoise and seals forage over **100–200 km**, and their management units span the entire Irish Sea.

Multiple concurrent offshore projects within this range are ignored, rendering the in-combination assessment incomplete.

6.6 Absence of quantitative acoustic and population modelling

No sound propagation maps, cumulative exposure modelling, or **Population Consequences of Disturbance (PCOD)** analysis is provided.

The assumption that animals will “return within 3–4 hours” lacks scientific support and fails to consider long-term energetic and reproductive effects.

6.6 Pollution, vessel noise, and functional linkages

Hydrocarbon pollution, low-frequency vessel noise, and functional linkages to SACs are ignored.

Disturbance in the project area may directly affect animals belonging to SAC populations, contrary to the **Holohan** judgment (C-461/17).

6.7 Systemic monitoring failures

No evidence of Article 10 monitoring or enforcement of cumulative noise or disturbance exists, despite overlapping derogation licences across the Irish Sea.

This represents a systemic breach of the Directive's monitoring obligations.

6.8 Conclusion – refusal required

Given that:

- The applicant has admitted disturbance requiring a derogation licence,
- The assessment relies on obsolete 2014 guidance,
- Conservation status is declining,
- No quantitative or cumulative analysis is provided, and
- Functional linkages to SACs are ignored,

the NIS cannot lawfully conclude that no adverse effect on site integrity will occur. The project **should therefore be refused**.

No further derogations or site investigations should proceed until:

1. Updated NPWS guidance is in place,
2. Conservation objectives are revised and current, and
3. A management-unit-scale cumulative assessment and monitoring framework are established.

7. Conclusion

The CWP MULA NIS fails to comply with Article 6(3) of the Habitats Directive and cannot remove reasonable scientific doubt regarding adverse effects on site integrity.

The NIS:

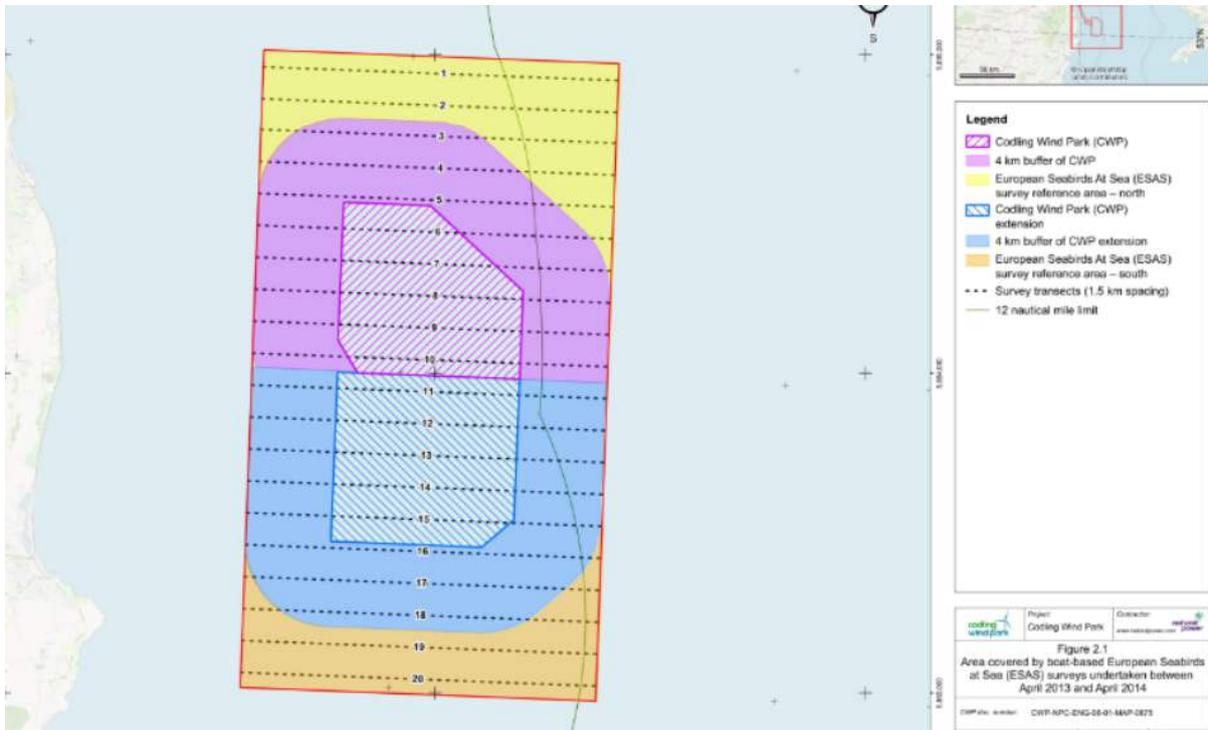
- Underestimates duration and cumulative disturbance,
- Ignores trophic and spawning effects,
- Relies on outdated and non-compliant marine mammal guidance,
- Fails to quantify acoustic or population impacts, and
- Admits the need for derogation, confirming disturbance will occur.

Recommendation:

That the application for the Codling Wind Park MULA be **refused**.

Appendix I Codling Bird Data summarised

DATA from EIAR - Volume 4 - Appendix 10.5 - Offshore Ornithology Baseline Characterisation Report				
Seabirds				
Table 2.2: Summed totals of each species recorded during boat-based ESAS surveys undertaken between April 2013 and April 2014				
Species / Species group	Array site	4 km buffer area	Northern and Southern reference areas	Total
Arctic or common tern	0	28	17	45
Arctic skua	4	2	3	9
Arctic tern	9	22	35	66
Arctic, common or roseate tern	0	20	40	60
Black guillemot	28	37	1	66
Black-headed gull	6	6	7	19
Common gull	12	35	10	57
Common scoter	2	2	1	5
Common tern	33	30	17	80
Cormorant	6	10	0	16
Cormorant or shag	1	0	0	1
Fulmar	15	38	21	74
Gannet	50	95	49	194
Great black-backed gull	24	107	14	145
Great northern diver	2	2	1	5
Great skua	0	0	3	3
Guillemot	1362	3221	2951	7534
Guillemot or razorbill	34	246	308	588
Herring gull	17	100	18	135
Herring or lesser black-backed gull	3	2	0	5
Kittiwake	757	1392	499	2648
Lesser black-backed gull	4	19	6	29
Little gull	21	31	5	57
Manx shearwater	548	1986	1005	3539
Puffin	4	16	13	33
Razorbill	621	2298	1284	4203
Red-throated diver	10	30	1	41
Roseate tern	0	15	1	16
Sabine's gull	0	1	0	1
Sandwich tern	0	2	0	2
Shag	50	115	7	172
Storm petrel	4	22	3	29
Unidentified gull species	1	0	0	1
Unidentified large gull species	0	8	0	8
				19886



Marie Louise Heffernan, MSc, MIEEM, CEnv

[redacted]
[redacted]

www.aster.ie

Partners Joice Carthy, (Managing), Damien Conroy, Deirdre Courtney, Ray Fitzpatrick, Jamie Hart, Neil Kidd, Eleanor McKiernan,

Consultants Gus Cullen, David Lavelle (Notary),

Associates Marie Hynes (Senior), Mary Ni Ghuairim (Senior), Edel O'Brien (Senior), Eoin Cleary, George Colley, Eoin Collins, Ed Kelly, Sarah Lavelle.

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