



Your Ref:

Our Ref: CT/CT/2024/3118

Date: 22nd December 2025.

BY EMAIL ONLY.

licence@mara.gov.ie

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Licence Unit,
Maritime Regulatory Authority,
2nd Floor,
Menapia House,
Drinagh Business Park,
Drinagh,
WEXFORD
Y35 RF29
SUBMITTED ONLINE.

22nd December 2025

Re: MARA Reference No.: MUL230034

Codling Wind Park Offshore Windfarm site survey works

Location: East Coast of Ireland, off the coast of County Wicklow

Submission from Golden Venture Fishing Limited, Tim Storey, Barry MacAuley

Dear Sirs,

This submission is filed on behalf of Golden Venture Fishing Limited with a registered address of Parkmore, Ashford, Co. Wicklow, [REDACTED]

[REDACTED] all of whom operate inshore commercial fishing operations in the proposed Licence Area.



Our clients' fish for lobster, brown crab, velvet crab, shrimp, fish and whelk in the vicinity of the proposed array and cable corridor area for Codling Offshore Windfarm. Our clients have significant concerns about the effect that this development and repeated site survey activities will have on the sensitive lifecycles of the species targeted, resulting in damage to the marine environment and an interference with our clients' right to earn a livelihood.

It is our clients' position that the project area for Codling Wind Park has one of the most valuable whelk fishing grounds in the Country. Significant crab, lobster, shrimp and shellfish migrate across the project area, and our clients' fish for all species in both the array and cable corridor areas and surrounding areas. The species spawn at different stages throughout the year and are also in a juvenile soft vulnerable stage while in the project area. The flawed site selection process for this project commenced in 1999, without the required consultation with the fishing industry and seafood processors. This developer led process is flawed and has not been subject to proper assessment, in particular in terms of the adverse effects from an environmental and commercial fishing perspective. The proposed mitigation measures have not been fully developed, and do not address the practical realities and downturn that the fishing industry and seafood processors are likely to face as a result of these site survey activities and ultimate development of the project.

Our submission will address the following concerns:

- (a) The conclusion that an EIA and Derogation Licence is not required.
 - (b) The proposed development should have been assessed in the context of Designated Maritime Area Plans (DMAPs) which will identify suitable locations for ORE projects and is premature pending the publication of the Marine Planning Guidelines.
 - (c) The proposed development is not consistent with the requirements of Section 15 of the Climate Action Act 2015, as amended.
 - (d) Ineffectiveness of mitigation of impact on commercial fisheries and seafood processors.
 - (e) Cumulative/In combination Impacts.
 - (f) Failure to publish all documentation.
 - (g) The ecological concerns as set out by Marie Louise Heffernan in the appended report.
- (a) The conclusion that an EIA and a derogation licence are not required.**

The works in this licence are proposed to take place immediately East of a Special Protection Area cSPA, i.e. the Murrough cSPA and is also adjacent to the Wicklow Reef SAC

The applicant is relying on the fact that the boreholes are not considered deep and fall within the exemption contained in part 2 of Schedule 5 of the Planning and Development Regulations 2001. It is noted that the license allows for up to 271

geotechnical investigations. The EIA Directive confirms that circumstances may arise in which any project, regardless of type or scale, may be subject to a requirement for EIA, based on the nature, size or location of that project. It is submitted that the MARA have erred in the determination that it is not necessary to carry out a screening for environmental impact assessment taking into consideration the size and nature of the project and considering the impacts by way of in combination assessment with all relevant plans and projects.

In addition, previous licenses obtained by the applicant relating to similar site survey activities have required a derogation license. It is a matter of concern that despite advising the MARA that a derogation license would be relied upon, this aspect has now been abandoned despite no change in the intended works. Our clients have concerns about the monitoring of the site survey activities and submit that adherence to all obligations should be overseen by an independent observer not employed by the applicant and with *“no skin in the game”*.

The Application form states that the impacts on activities such as drilling will be temporary and short in duration. Our clients do not agree that these drilling events, which will coincide with other site survey activities occurring with the other Phase One ORE projects on the East Coast, are not likely to cause significant impacts. The applicant confirms in the September 2024 FI response (pg 6) that a 5 year licence is required as the relevant surveys are due to take place across multiple seasons, and require flexibility to account for external factors. The summary of proposed activities and indicative program notes that the geotechnical surveys will take place over a 12 to 26 month period, at a 2-8 month time frame per mobilisation. The geophysical surveys and unexploded UXO surveys are expected to take 4-6 months, with mobilisation periods of 10-90 days. The applicant and BIM note previous incidents of commercial fishing gear being damaged by survey equipment. The established practice of ORE geophysical site survey activities over the last number of years is to request the clearance of inshore fishing gear during such surveys. Our clients are significantly concerned about this disruption to established fishing practices and the displacement to adjoining highly competitive fishing grounds. The spawning grounds map clearly shows the array area crossing with shellfish spawning grounds and the cable corridor running directly through the spawning grounds.

- (b) The proposed development should have been assessed in the context of Designated Maritime Area Plans (DMAPs) which will identify suitable locations for ORE projects and is premature pending the publication of the Marine Planning Guidelines. All associated site survey works and licences should be placed on hold until the DMAP process has been completed for these waters.**

The proposed site surveys which are for the purpose of the development of the windfarm are premature pending the adoption of Designated Maritime Area Plans

(DMAPs) and the licence should be refused for that reason. Critically, these measures have yet to be put in place and do not apply to this application and the related development of the area. In addition to the absence of Marine Planning Guidelines, this means that the MARA does not have the necessary strategic guidance to consider the subject application in light of a plan-led approach.

It is important that all ORE development, including Phase One projects, are assessed within such a spatial decision-making framework which must include marine planning guidelines to direct decision making which the Government were proposing to publish in Q4 of 2023 as per the Climate Action Plan 2023; the requirement for same was reiterated in the Climate Action Plan 2024.

(c) The proposed development is not consistent with the requirements of Section 15 of the Climate Action Act 2015, as amended.

15. (1) A relevant body [which includes the MARA] shall, in so far as practicable, perform its functions in a manner consistent with—

(a) the most recent approved climate action plan,

(b) the most recent approved national long term climate action strategy,

(c) the most recent approved national adaptation framework and approved sectoral adaptation plans,

(d) the furtherance of the national climate objective, and

(e) the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State

The Climate Action Plan 2024 states at section 2.2:

*“Under the Climate Action and Low Carbon Development (Amendment) Act 2021, Ireland’s national climate objective requires the State to pursue and achieve, by no later than the end of the year 2050, the transition to a climate-resilient, **biodiversity-rich, environmentally sustainable**, and climate-neutral economy.”*

[Emphasis added]

It follows from the use of the words “*biodiversity-rich, environmentally sustainable*” that the race to secure multiple ORE projects before the new regime of Designated Maritime Area Plans (DMAPs) is implemented in accordance with Government policy, must be tempered by requirements to promote biodiversity and environmentally sustainable development, including ORE development. Site survey activities should be

permitted in areas not subject to a plan led approach as damage will occur to the marine environment in preparation for a flawed project not subject to a consent to develop.

The MARA is required to perform its functions in a manner consistent with the furtherance of the national climate objective under section 15(2)(d) which, in turn, specifically refers to a “...*biodiversity rich, environmentally sustainable...economy*”

The applicant has failed to ensure that this MUL is consistent with the furtherance of the national climate objective in so far as it failed to take into account the promotion of a biodiversity rich and environmentally sustainable economy in the context of the consideration of alternatives and the relevant site selection process.

(d) Ineffectiveness of mitigation of impact on commercial fisheries

The applicant has made no attempt to avoid, minimise or mitigate impacts on the fishing industry and has materially breached its obligations as follows:

- (i) Avoid – there has been no attempt to avoid the valuable fishing grounds. In fact, the proposed array location and associated works is right in the middle of the most valuable whelk fishing grounds in the Country, and the cable corridors will further adversely affect these grounds and fishing abilities for shellfish including crab and lobster. It is our clients’ position that the applicant has not taken into consideration all relevant factors when assessing the effect on the fishers and seafood processors. Our client has been fishing lobster and crab grounds for generations, and submits that these grounds will be permanently lost as part of the combined effect of these site surveys and the ultimate development of the windfarm.
- (ii) Minimise – For the same reasons as above, it is our clients’ position that there has been no attempt or effort to minimise the effect that these site surveys will have on the fishing industry. The array area was identified and chosen by the applicant based on a study carried out in 1999. Technology has moved on significantly since that date and as of 2023, Seagreen Offshore Wind Development off the Coast of Scotland has fixed bottom turbines in waters 58 meters deep. Our clients have operated successful fishing businesses for many years at this point in the area and are fully aware and concerned about the effect the level of site surveying and development will have on the fishing industry.
- (iii) Mitigate - The mitigation efforts in this document are minimal and ineffective. The NIS references engagement and consultation with the fishing industry. It is our clients’ position that there has been no meaningful engagement. There was no

consideration of the damage that will occur to this lucrative shellfish area as part of the site selection process resulting in the need for this MUL. Meetings that are held by the applicant notify fishermen of intended surveys and activity, but do not result in meaningful consultation where fishermen's concerns are actively considered.

The references to surveys are worryingly out of date. It is known that both fish and seabirds change migratory patterns, current activities have not been adequately assessed by the applicant.

The applicant states that the potential for the geotechnical survey to displace fishing activity is low due to the minimal area of seabed that will be occupied and the short duration of the proposed Activities. Our clients reject both of these statements. The geotechnical drilling of up to 271 boreholes will displace fishing activity both in the footprint of the drilling and the surrounding areas. During previous geotechnical drilling on the East Coast, the whelk fishing all but disappeared and has not recovered to pre-survey levels. Whelk is a commercial fished sea snail, living primarily on sandy or gravel seabeds. The seabed habitat is disturbed both in the footprint of the drilling, and in the surrounding areas due to the sediment plumes. Whelk is sensitive to motion and possess a sensory organ vulnerable to vibration. Our clients have fished the proposed license area for generations and are witnessing the reduction in whelk fishing on the East Coast of Ireland since site survey activity increased over recent years, this reduction is felt across the industry and is creating instability and job uncertainty along the supply chain. The durations referenced in the application are not considered short and temporary. Damage and displacement to the fishing over consecutive seasons for periods of up to 8 months at a time are not short in duration and represent most of the fishing year.

The applicants note the risk of entanglement of static fishing gear and risk to vessels as a result of static survey equipment on the seafloor. Inshore fishing is a dangerous way to earn a livelihood. If static gear becomes entangled in survey equipment, it becomes extremely dangerous to haul and significantly increases the risk of both an accident on the fishing vessel or a man overboard situation. Our clients suffer significant stress and operational difficulties when survey vessels and survey equipment operate in their well-established fishing areas. It is entirely rejected that extensive alternative fishing grounds are available, thus resulting in the reduction of fishing grounds being considered negligible. This statement arises from a lack of research and meaningful engagement by the applicant, who should be aware that the East Coast is competitively fished. The applicant references "*clearance and compensation*" will be requested prior to geophysical surveys with no further detail or commitments in this regard. In the event that the MARA are to grant this license, consideration should be given to implementing a condition that no geophysical/geotechnical surveying can take place in areas with

static fishing gear unless full losses and expenses incurred for moving out of established fishing grounds and resulting losses for damage to the fishing grounds is provided.

(e) Cumulative/ In-combination Impacts

Our clients refers the MARA to the recent study on Fisheries and Offshore Wind Interactions and would request the MARA to review it carefully¹.

The applicant has not adequately considered all relevant plans and projects in the in-combination assessment carried out in this application, nor has it carried out sufficient assessments relating to the in-combination effect of its own activities. As such, the possibility that the proposed project, either on its own or in combination with other plans or projects will have an adverse effect on any European Site cannot be excluded beyond a reasonable doubt. In breach of the precautionary principle, the applicant has not examined the likelihood that there will be in combination effects on the whelk and fishing industry when the full impacts of the Phase One projects and associated works on the East Coast will take place, some of which are accepted to overlap. There is a significant level of development planned in the vicinity of this proposed location, with a number of Phase One Projects seeking planning permission and operating under similar deadlines to carry out site investigations, construct, obtain grid connection and become operational, all without a proper site selection process and marine spatial mapping.

Food security issues and impacts on small-scale fisheries and environmental justice have been acknowledged to be three of the top ten concerns related to novel developments at sea². There is a serious impending spatial squeeze and occurring arising out of the sheer number of developments and site investigations being considered in the vicinity of this proposed development which has not been adequately and properly considered by the applicant.

The Short Background Study carried out on behalf of the European Commission³ on Recommendations for positive interactions between offshore wind farms and fisheries notes that spatial exclusion for fisheries can be common practice, including buffer zones. The Study states that:

¹ In Hogan, F., Hooker, B., Jensen, B., Johnston, L., Lipsky, A., Methratta, E., Silva, A., and Hawkins, J. 2023. Fisheries and Offshore Wind Interactions: Synthesis of Science. NOAA Technical Memorandum NMFS-NE-291. 378 pages + Annexes <https://repository.library.noaa.gov/view/noaa/49151>.

² <https://www.sciencedirect.com/science/article/abs/pii/S0308597X20310381>

³ Written by Clément DUPONT, Frédéric HERPERS and Christophe LE VISAGE May 2020 https://maritime-spatial-planning.ec.europa.eu/sites/default/files/recommendations_for_positive_interactions_between_offshore_wind_farms_and_fisheries.pdf

“Fishing vessels, on the other hand, move in more unpredictable ways. Consequently, with even more reason, in terms of safety, fishing activities whether active or passive are in most cases forbidden within the vicinity of OWF and their associated subsea cables.”

We would ask the MARA to consider this study and to note that the applicant’s documentation is deficient with respect to key elements that should be considered for this site survey activity and project.

In addition, when Scottish waters have been evaluated⁴ as part of marine spatial planning (MSP), it is noted that MSP relies on robust data on human uses of the sea to minimise spatial conflicts and account for the cumulative effects of multiple activities in decision making. This application and site selection process is deficient in relation to this data, both with respect to our client’s fishing activities, landings, fishing grounds, and in relation to the cumulative effect that the development will have on our clients’ activities, in combination with other plans or projects, along with the designation of marine protected areas.

Ireland has committed to designating 30% of its waters as Marine Protected Areas by 2030. It is our clients’ position that this intention and plan should be considered by the applicant as part of the incombination effect on the commercial fishing industry noting the areas of waters that will have limitations on fishing. It is also concerning that significant areas of our waters will be intensively surveyed and developed prior to the designation of the MPAs.

(h) Failure to publish all of the documentation.

Information has been omitted from the MARA website in relation to the application. For example, an FI requested is referenced as issuing in June 2024, and the response listed as being attached. Whilst the emails attaching the documentation have been published, the documentation has been omitted.

CONCLUSION

The MARA is requested to refuse this licence for the site survey activity. The ultimate development of this project is proposed to be located in lucrative fishing grounds, with no economic evaluation or proper consideration of the determinantal affect it will have on already struggling commercial inshore fishing operators, an industry steeped in Irish culture and history. Development of our precious marine resources should be plan led; this site survey licence will result in further damage to the marine environment for a developer led project that is flawed from the outset.

Yours Faithfully,

⁴<http://marine.gov.scot/datafiles/misc/MREP/10/Documents/ICES%20selected%20presentations/Kafas%20et%20al%20VMS.pdf>

Submitted by Clare-Ann Temple, Benville Robinson LLP, with contributions from Marie Louise Heffernan.

The address to which correspondence should be sent relating to this application is:

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Additional References

Hogan, F., Hooker, B., Jensen, B., Johnston, L., Lipsky, A., Methratta, E., Silva, A., and Hawkins, J. 2023. Fisheries and Offshore Wind Interactions: Synthesis of Science. NOAA Technical Memorandum NMFS-NE-291. 378 pages + Annexes

<https://repository.library.noaa.gov/view/noaa/49151>

<http://hdl.handle.net/10793/985>

[Clement Dupont, Frederick Herpers, Christophe Le Visage, 2020, Recommendations for positive interactions between offshore wind farms and fisheries, Study for the EU Commission..](#)

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Clare-Ann Temple.
Benville Robinson LLP.

* Please reply to our Bray Office



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

Date Wednesday, 17 December 2025

From:

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

To:

Maritime Area Regulatory Authority (MARA)

1.0 Proposal

The proposal seeks consent for a large scale programme of marine site investigation works to support the Codling Wind Park offshore wind project. The application is for a Maritime Usage Licence to undertake extensive offshore surveys and intrusive seabed investigations over a period of up to five years.

The licence area extends along the east coast of Ireland from Poolbeg in Dublin Bay to Wicklow Town and covers approximately 477 square kilometres. This area includes the offshore wind farm array, the proposed export cable corridor, a potential operations and maintenance base at Wicklow Harbour, and areas associated with the proposed onshore substation.

The proposed works comprise multiple survey types, many of which are long duration and will occur repeatedly over the licence period. Metocean monitoring is proposed for periods of between 12 and 36 months. Marine mammal passive acoustic monitoring is also proposed for periods of between 12 and 36 months. Fish and shellfish surveys are proposed annually, with up to four weeks of survey effort per year over the five year licence period. Benthic and intertidal surveys are proposed on a recurring basis throughout the licence period. Intertidal archaeological walkover surveys are proposed annually, with approximately one week of survey effort per year over five years.

A major component of the proposal is the geotechnical investigation programme. The application provides for up to 271 geotechnical investigation locations across the licence area. Within the offshore array area alone, provision is made for up to 125 boreholes, with additional boreholes proposed within the export cable corridor, the operations and maintenance base and the onshore substation area. In total, the proposal allows for approximately 145 boreholes across the project area, in addition to a large number of cone penetration tests and vibrocore samples.

Geotechnical surveys are proposed to take place over periods of between two and eight months per mobilisation, with the potential for multiple mobilisations over the five year duration of the licence.

In addition, extensive geophysical and unexploded ordnance surveys are proposed across the array area, export cable corridor and associated infrastructure areas. These surveys are proposed to take place over repeated campaigns, each lasting several weeks to months, depending on mobilisation and survey scope.

Taken together, the proposal represents a substantial, long duration and spatially extensive programme of marine investigation works, involving a high number of intrusive seabed investigations across a very large area, carried out repeatedly over a five year period.

2.0 Introduction to Objection Categories

The proposed survey licence for the Codling Wind Park development encompasses a very large marine area (477 km²) stretching from Poolbeg, Dublin to Wicklow, with multiple survey types planned over a five-year period. While survey work may be presented as low-impact, the scale, duration and intensity of activity proposed is significant, and the works take place within ecologically sensitive waters that support protected habitats, Annex IV species, seabirds, fish spawning grounds, commercial fisheries, and key migration routes.

Under the Maritime Area Planning Act 2021, the Birds and Habitats Directives, and environmental assessment legislation, the applicant must demonstrate that the proposed activities can proceed without adverse effects on protected habitats, species or marine users. Based on the information provided, there are several areas of concern that warrant objection, require further assessment, or justify conditioning or refusal of this Marine Usage Licence.

The following objection categories outline the key risks and shortcomings associated with the application as currently presented. Each category represents a material planning and environmental issue that requires robust scrutiny and, where outstanding, should prevent the granting of a licence until satisfactorily addressed:

- Inadequate Appropriate Assessment and Natura Impact analysis, including failure to meet Article 6(3) evidential standards
- Failure to assess cumulative and in-combination impacts at appropriate spatial and temporal scales
- Disturbance to Annex IV marine mammals, particularly harbour porpoise, including noise, displacement, injury risk and failure to account for declining conservation status
- Impacts on seabirds, including inadequate assessment of foraging habitat use, displacement risk and reliance on outdated baseline data

- Damage to benthic habitats, food webs and forage fish, with knock-on effects for marine mammals, seabirds and commercial fisheries
- Pollution, vessel activity and hydrocarbon risk, including absence of project-specific risk assessment and contingency planning
- Invasive non-native species risk, including absence of a Biosecurity Management Plan

These grounds, individually and cumulatively, demonstrate that the proposed works pose potential risk to the ecological integrity of the area, the functioning of the marine ecosystem, and the sustainable use of the sea by existing users. Until such concerns are resolved, the licence should not be granted.

3. Disturbance to Marine Mammals

Impacts on Harbour Porpoise – Significant Risk and Basis for Refusal

Harbour porpoise (*Phocoena phocoena*) is an Annex II and Annex IV strictly protected species, highly sensitive to underwater noise. The application area lies adjacent to and functionally connected with the Rockabill to Dalkey Island SAC, designated specifically for harbour porpoise. The project proposes sustained high-intensity acoustic surveys, geophysical campaigns, UXO surveys, and long-term vessel presence over a five-year period, all of which pose well-recognised risks including disturbance, displacement, foraging disruption, auditory injury, and masking of echolocation signals critical for feeding and navigation. Given the scale (477 km²), duration, and overlap with known foraging habitat, the potential for long-term energetic stress and population-level consequences cannot be excluded.

3.1 Reliance on outdated mitigation guidance

The NIS relies on DAHG/NPWS (2014) Marine Mammal Mitigation Guidance, which NPWS has since deemed obsolete. In 2023 NPWS issued a tender to replace this framework, explicitly citing the need for updated cumulative exposure assessment, modern risk-based thresholds and population-level modelling. Basing conclusions on guidance acknowledged by its authors as outdated is inappropriate and scientifically unsound.

3.2 Declining conservation status ignored

The conservation objectives for the Rockabill to Dalkey Island SAC date to 2013, based largely on pre-2011 baseline data. More recent studies (Berrow et al., 2021) report a 46% decline in harbour porpoise density between 2016 and 2021, indicating deterioration in status. There is no evidence in the assessment that the documented decline in harbour porpoise within the Rockabill to Dalkey Island SAC has been taken into account when evaluating potential effects of the proposed activities.

The assessment treats harbour porpoise largely as a generic, wide ranging species assessed at the scale of the Celtic and Irish Seas Management Unit, rather than as a site specific qualifying interest with known conservation concerns. The current conservation status and negative population trends within the SAC are not reflected in the evaluation of sensitivity, vulnerability or risk.

In particular, there is no indication that the declining nature of the SAC population has informed:

- the assessment of behavioural disturbance risk
- the consideration of displacement or habitat avoidance
- the treatment of uncertainty
- the evaluation of cumulative or repeated disturbance over the five year licence period

This is a significant omission. Where a qualifying interest is already in decline, even low level or temporary disturbance may have disproportionate consequences for site integrity. Appropriate Assessment requires that effects be considered in light of the conservation objectives and conservation status of the site features, not assessed in isolation from known population trends.

By failing to integrate the declining status of harbour porpoise within the Rockabill to Dalkey Island SAC, the assessment does not adequately characterise vulnerability or risk, and therefore cannot support a conclusion of no adverse effect on site integrity beyond reasonable scientific doubt.

The NIS does not adequately assess this decline, nor does it apply a precautionary approach as required under Article 6(3).

3.3 Spatial and temporal scope is inadequate

The assessment applies a 5 km disturbance zone for survey acoustics and 26 km for piling, neither of which reflects realistic ecological ranges. Harbour porpoise routinely forage and move over 100–200 km.

Specifically, as an example, the conclusion that no behavioural effects will occur within SAC boundaries because designated sites are located more than 5 km from the licence area is not supported by the best available scientific evidence and is not precautionary.

Behavioural responses to disturbance, particularly underwater noise and vessel activity, are not spatially constrained to fixed buffers or arbitrary distances. Harbour porpoise are known to exhibit behavioural changes, including avoidance, altered movement patterns and reduced foraging efficiency, at distances well in excess of 5 km, depending on source characteristics, duration, repetition and prevailing environmental conditions. The absence of site specific noise

propagation modelling means that the actual spatial extent of disturbance cannot be reliably predicted, and behavioural effects therefore remain uncertain both within and beyond SAC boundaries.

The assertion that individuals affected outside SACs have extensive alternative habitat available is also overly simplistic. For mobile marine species, habitat is not uniformly interchangeable. Areas used for foraging, transit or seasonal aggregation may be functionally important even if they lie outside designated site boundaries. Displacement from such areas may result in energetic costs, reduced foraging success or increased exposure to other pressures. These effects are not addressed by reference to overall habitat availability at broad spatial scales.

The reliance on the proportion of the Celtic and Irish Seas harbour porpoise Management Unit affected by the survey area is particularly problematic. Management Units, as defined by the Inter Agency Marine Mammal Working Group, are population scale constructs intended for high level population assessment and management, not for assessing localised or site related disturbance effects. Using the extremely large Celtic and Irish Seas Management Unit as the spatial context for impact assessment masks local and regional scale effects and is not appropriate for Appropriate Assessment under Article 6 of the Habitats Directive, which requires effects to be assessed in relation to specific sites, conservation objectives and functional habitat use.

Comparing the estimated disturbance range to a small percentage of a very large Management Unit does not provide meaningful information on the likelihood or significance of behavioural disturbance at the site level. Nor does it address the potential for repeated or prolonged disturbance over the five year licence period to result in cumulative or chronic behavioural effects.

In the absence of site specific noise modelling, clearly defined zones of influence and an assessment grounded in the spatial ecology of harbour porpoise at the local and regional scale, it cannot be concluded beyond reasonable scientific doubt that behavioural effects will not occur, either within SACs or in functionally important habitat used by SAC populations.

Accordingly, the conclusions presented underestimate uncertainty and do not meet the precautionary and evidential standards required for Appropriate Assessment.

3.4 Lack of quantitative sound and population modelling

No sound propagation mapping, cumulative acoustic modelling or PCOD (Population Consequences of Disturbance) analysis is presented. Assertions that animals will "return within 3–4 hours" lacks empirical evidence and fail to consider chronic displacement, energetic deficit, calf dependency, or long-term reproductive impacts. Without modelling, adverse effects cannot be ruled out beyond reasonable scientific doubt, as required by case law.

3.5 Pollution, vessel noise and functional linkages overlooked

The assessment fails to consider vessel noise, hydrocarbon pollution risk, prey displacement, or functional linkages between the project area and SAC populations. Under the Holohan judgment (C-461/17), all impacts on features of interest and their supporting habitats must be assessed. This has not been achieved.

3.6 Cumulative noise oversight

There is no evidence of Article 10 monitoring, no framework for cumulative noise tracking within the Irish Sea, and no mechanism to ensure population-level disturbance thresholds are not exceeded. With multiple derogation and survey licences already active, this constitutes a systemic failure to comply with the monitoring obligations of the Directive.

3.7 Single Management Unit and cumulative assessment

The assessment treats harbour porpoise in the Irish Sea as a single population management unit, the Celtic and Irish Seas Management Unit, which is consistent with current scientific understanding. However, having adopted this population scale framework, the assessment fails to apply it coherently when considering cumulative effects.

If harbour porpoise are assessed at management unit level, cumulative assessment must consider the combined disturbance, noise and activity occurring across ALL the waters used by that unit, insofar as these pressures may affect individuals contributing to the conservation objectives of the relevant SAC. Article 6(3) requires assessment of in combination effects, and this requirement cannot be met by selectively narrowing the spatial scope of assessment once a population scale unit has been invoked.

In this case, cumulative effects are assessed using fixed effect distance ranges of 5 km for survey noise and 26 km for piling noise, resulting in a localised buffer based assessment. At the same time, the Celtic and Irish Seas Management Unit is used to argue that the affected area represents only a negligible proportion of the overall population range. This inconsistent use of scale serves to downplay potential impacts without providing a meaningful cumulative assessment.

By limiting the spatial extent of assessment in this way, the analysis fails to account for repeated or overlapping disturbance experienced by a highly mobile species across the Irish Sea. The cumulative burden of noise and displacement is therefore not adequately characterised.

Accordingly, the assessment does not meet the requirements of Article 6(3) of the Habitats Directive. By failing to align the spatial scale of cumulative assessment with the management unit framework it relies upon, it does not allow adverse effects on site integrity or Annex IV conservation status to be ruled out beyond reasonable scientific doubt.

3.8 Conclusion – Harbour Porpoise grounds for refusal

Given that:

- The assessment relies on obsolete 2014 guidance,
- Conservation status is declining,
- No quantitative acoustic or cumulative analysis is provided,
- Functional links to the SAC are ignored,

the NIS cannot lawfully conclude no adverse effect on site integrity, nor demonstrate protection of Annex IV species in accordance with the Habitats Directive.

4.0 Food Web considerations

The Natura Impact Statement fails to recognise or assess the ecological system that underpins the biodiversity value of Codling Bank. The name “Codling” refers to juvenile cod, reflecting the long-recognised importance of this area as nursery and feeding habitat. Yet key species such as cod, lobster, whelk, sandeel and sprat are not addressed in the NIS, despite forming the prey base that supports seabirds, marine mammals and commercial fisheries.

This omission represents a serious deficiency. Intrusive survey activities, including borehole drilling, geotechnical and geophysical surveys, have clear potential to disturb benthic habitats, resuspend sediments and alter prey availability. The NIS does not assess these pathways or the consequences for the food web, despite their relevance to protected species and human food resources.

Although the effects of underwater noise on many commercial species remain poorly studied, available evidence demonstrates that anthropogenic sound can affect fish physiology and reproduction. Sierra-Flores et al. (2015) showed that exposure to artificial noise in the 100–1000 Hz range caused stress responses in Atlantic cod and reduced viable embryo production by more than 50 percent when applied during spawning. This confirms that noise associated with survey activity can materially affect reproduction in a key commercial species.

By contrast, there are no equivalent studies for whelk, crab or other benthic shellfish, meaning impacts from noise, vibration and vessel disturbance remain unknown. Local evidence from east coast fishers indicates that whelk landings have declined by approximately 50 percent since site investigation activity commenced. While causation has not been established, such patterns should be treated as warning signals rather than dismissed.

Under Article 6(3) of the Habitats Directive and the precautionary principle, lack of data does not equate to lack of impact. Where reproductive disruption is demonstrated in one species and untested in others, the competent authority cannot assume safety. Further assessment or refusal is therefore required until impacts on benthic habitats, commercial stocks and the wider food web are adequately assessed.

5. Seabirds – Inconsistent and Incomplete Assessment

Recent data from the east Irish Sea indicate that use of offshore sandbanks by auks has increased substantially over recent decades. At Kesh Bank, seabird counts have risen from approximately 20,000 birds in 2002 and 2011 (BWI, 2012) to around 60,000 birds during RWE survey work undertaken in 2022–2023. This increase demonstrates that Irish Sea sandbanks function as important aggregation and foraging areas for guillemots and razorbills.

In a wider regional context of intensified offshore development pressure in UK waters, where more than 2,800 offshore wind turbines have been constructed, largely within the past decade, remaining undeveloped sandbank systems in the Irish Sea are likely to be of increased ecological importance as foraging habitat. While causal relationships cannot be assumed, this regional change heightens the need for current, site-specific assessment of seabird use of Codling Bank. The assessment does not acknowledge this context or consider the likelihood that use of Codling may now be significantly greater than that recorded in the 2013–2014 surveys on which it relies.

In relation to for example guillemots and razorbills, the assessment correctly notes that these species forage by prolonged pursuit diving within the water column and may therefore be exposed to underwater noise. However, it then concludes that impacts are negligible based on assumptions of limited spatial footprint, short duration of disturbance and an asserted ability of birds to avoid exposure. This conclusion is not supported by evidence and fails to reflect the ecological reality of the Codling area. Survey data cited within the Codling Wind Park EIAR (see appendix 1) assessment record peak counts of 7,534 guillemots and 4,203 razorbills using the Codling Array area footprint. This represents intensive use of the area by species whose foraging behaviour places them directly within the zone of underwater acoustic disturbance. Despite this, the assessment provides no modelling of displacement, no assessment of energetic cost, and no consideration of repeated or cumulative disturbance over the five-year survey period. Such an approach might be arguable in an area of marginal use, but in a high-use context such as Codling it represents a serious evidential deficiency that prevents adverse effects on site integrity from being ruled out beyond reasonable scientific doubt. The impacts on Lambay Island SPA , for which Guillemots and Razorbills are an SCI Species are not adequately assessed leading to a conclusion of an inadequate NIS incompatible with Habitats Directive.

6.0 Pollution and Hydrocarbon Risk

In the assessment, pollution and litter are addressed briefly and are largely dismissed on the basis that vessels will operate in compliance with MARPOL and standard maritime best practice. This treatment is high level and precautionary only in appearance. It does not constitute a project specific assessment of pollution risk.

There is no detailed consideration of chronic or low level pollution pathways associated with multi year survey operations, including fuel leaks, bilge discharges, deck runoff, refuelling incidents or the repeated presence of multiple vessels over an extended period. These pressures are assumed to be negligible rather than assessed.

The assessment does not include a hydrocarbon risk assessment, does not quantify likely sources or volumes of potential discharges, and does not provide a project specific contingency or spill response framework within the Natura Impact Statement. Reliance is instead placed on compliance with existing regulations and generic best practice measures.

While it is correct that MARPOL compliance reduces the risk of major pollution events, compliance alone does not remove the potential for chronic or accidental releases, nor does it address the ecological sensitivity of nearby receptors. Even low level hydrocarbon contamination can have ecological effects, particularly in productive marine waters and in areas used by seabirds and marine mammals. These pathways are not examined in any depth.

As a result, the assessment proceeds on the implicit assumption that adherence to best practice equates to no significant effect. This assumption is not supported by evidence and does not meet the Article 6(3) requirement for a complete, precise and definitive assessment based on the best scientific knowledge available.

Accordingly, the conclusion that pollution effects can be dismissed as negligible is not robust, and adverse effects cannot be ruled out beyond reasonable scientific doubt on the basis of the information provided.

7.0 Invasive Species

The assessment does not include a project specific Biosecurity Management Plan and does not undertake a structured assessment of the risk of introduction or spread of invasive non native species arising from the proposed activities. The analysis relies on general statements of regulatory compliance and best practice, without identifying high risk pathways associated with repeated vessel mobilisation, long term deployment of equipment, seabed contact or multi year survey operations.

Article 6(3) of the Habitats Directive requires that a plan or project be subject to a complete, precise and definitive assessment of its implications for the conservation objectives of European sites. In the absence of a biosecurity risk assessment and defined preventative and contingency measures, it is not possible to evaluate the potential for invasive species to affect the structure and function of nearby SACs or SPAs.

Accordingly, the assessment does not allow adverse effects on site integrity to be ruled out beyond reasonable scientific doubt, and therefore does not meet the requirements of the Habitats Directive.

8.0 Legal conclusion – Article 6(3) non-compliance

Taken as a whole, the Natura Impact Statement does not meet the legal requirements of Article 6(3) of the Habitats Directive. The assessment relies on outdated baseline data, applies inconsistent and unsupported assumptions across receptor groups, and fails to provide quantitative analysis of disturbance, displacement, cumulative exposure or population-level consequences for protected species. Key impact pathways are dismissed without evidence, uncertainty is treated as absence of effect, and the spatial and temporal scales of assessment are misaligned with the ecology of the qualifying interests concerned. In these circumstances, the competent authority cannot be satisfied, beyond reasonable scientific doubt, that the proposed activities will not adversely affect the integrity of European sites or the conservation status of Annex IV species. In accordance with the precautionary principle and the standards established in Waddenzee (C-127/02), Sweetman (C-258/11) and Holohan (C-461/17), consent cannot lawfully be granted. The appropriate legal outcome is refusal, or at minimum the requirement for substantial further assessment before any determination is made.

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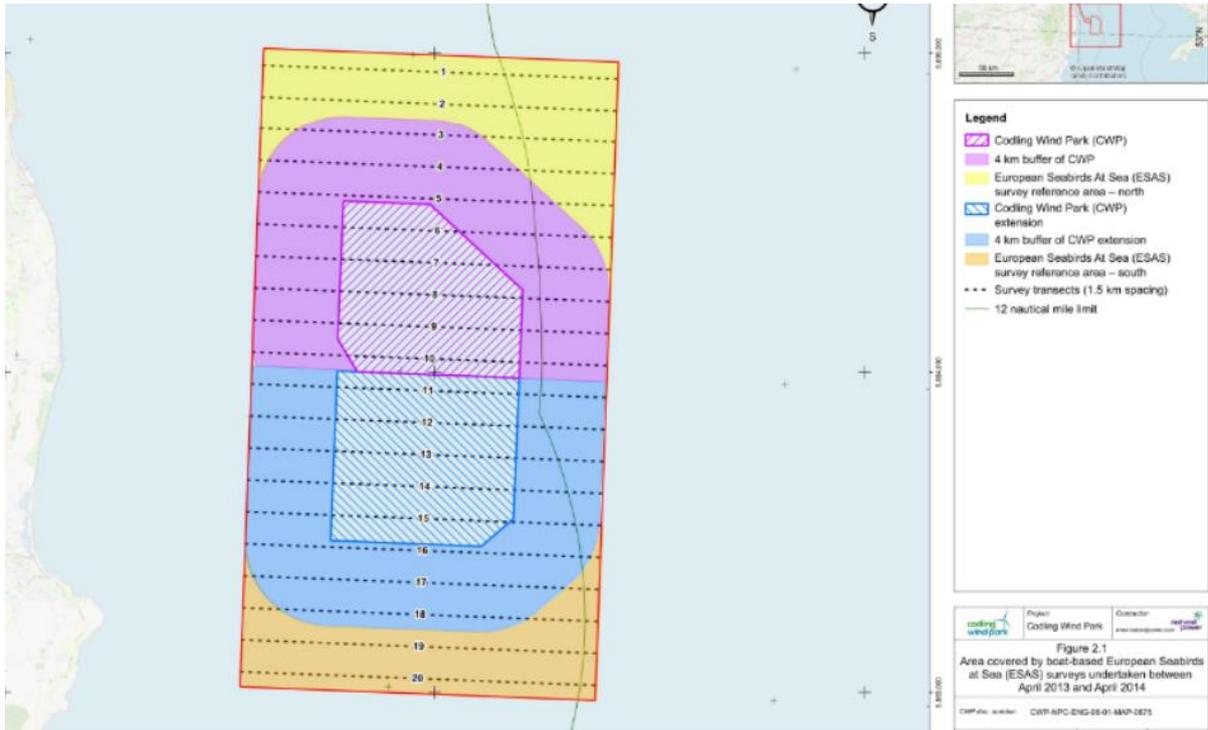
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DATA from EIAR - Volume 4 - Appendix 10.5 - Offshore Ornithology Baseline Characterisation Report

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
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