

To	Dr. Karen Creed, Director of Maritime Authorisations
From	John Payne, Licensing Caseworker
Date	20 June 2024
Application Date	09 October 2023
Applicant name and address	North Irish Sea Array Windfarm Limited, Building 3400, Cork Airport Business Park, Co Cork T12 AE76
Licence reference number	LIC230001
Proposal to issue a Minded to Determination and Proposed Licence with respect to a Maritime Usage Licence application from North Irish Sea Array Windfarm Limited.	

## Contents

<b>Section 1 Decision Sought</b> .....	2
<b>Section 2 The Application</b> .....	2
<b>Section 3 Assessment</b> .....	3
3.1 Screening for Appropriate Assessment Determination.....	3
3.2 Public Consultation and submissions.....	3
3.3 Public Body Observations .....	4
3.4 Appropriate Assessment Report and Determination .....	5
<b>Section 4 Reports</b> .....	5
4.1 Final Environmental Report .....	5
4.2 Environmental Impact Assessment Directive (2014/52/EU) .....	6
4.3 Final Engineers Report .....	6
4.4 Licence conditions.....	6
<b>Section 5 Licensing Unit Conclusion and Recommendation</b> .....	7
<b>Section 6 Specific conditions as recommended in the Final Engineering Report and Final Environmental Report (which includes the appropriate assessment mitigation measures/conditions).</b> .....	8
<b>6.1 Engineering Conditions</b> .....	8
<b>6.2 Environmental Conditions</b> .....	9

## **Section 1 Decision Sought**

Approval is sought for the issuance of a proposed licence and a notice to the North Irish Sea Array Windfarm Limited (NISA) informing them that MARA is minded to grant a Maritime Usage Licence with respect to their application and the reasons why MARA is so minded. This notice is required under Section 119 (6) (b) of the Maritime Area Planning Act 2021 ('the Act'). The licence application was submitted in accordance with Part 5, Section 117 of the Act.

## **Section 2 The Application**

This application from NISA ('the Applicant') is for a Maritime Usage Licence to conduct site investigation activities required for the development of the proposed NISA wind farm to be located approximately 12 km off the coast of counties Dublin, Meath and Louth. The objective of the NISA site investigations is to determine the environmental conditions, seafloor and subsurface geological characteristics within the Licence Area. The activity falls under Schedule 7(3) of the Maritime Area Planning Act 2021 i.e. Marine Environmental Surveys for the purposes of site investigation.

The applicant currently holds two Foreshore Licenses for site investigation activities in relation to the proposed wind farm. The first licence commenced on 1 November 2021 and runs for 5 years (reference number FS007031). The second commenced on 1 September 2022 and runs for 3 years (reference number FS007358). The current application represents a refinement of the NISA site area following on from the surveys carried out by the applicant during 2022. The project was granted a MAC on 23 December 2022.

The applicant has applied for a seven year Licence to carry out site investigation works. These surveys include geophysical, geotechnical, metocean, ecological, archaeological and water quality surveys. At its furthest extent the Maritime Usage Licence application area lies approximately 25km off the coast of counties Dublin, Meath and Louth and makes landfall near Balbriggan, County Dublin. The overall area of this Maritime Usage Licence application is approximately 125km<sup>2</sup>. The site location map is at **Tab 01**.

An application form with 5 supporting documents was submitted to MARA on 9 October 2023, as follows:

- Application Form for a Maritime Usage Licence dated 09 October 2023
- Site Location Map dated 6 October 2023.
- Supporting information for Screening for Appropriate Assessment (SISAA) Report dated 9 October 2023.
- Natura Impact Statement report dated 9 October 2023.
- Assessment of Impact of Maritime Usage Report (AIMU) dated 09 October 2023.
- Risk Assessment for Annex IV Species Report dated 9 October 2023.

As the application form and maps were incomplete, MARA requested the applicant to submit revised maps and a fully completed application form on 17 October 2023. The applicant submitted an updated Application Form and map on 19 October 2023.

On 16 November 2023, the applicant was required to revise the AIMU and Risk Assessment to Annex IV Species reports to include information on how trial pits would be excavated, and the inclusion of bats in their consideration of Annex IV species. The SISAA report was required to be updated to include

further information on disturbance to birds. The updated AIMU, Annex IV Risk Assessment and SISAA reports were received on 17 Nov 2023.

NISA then submitted further updates to their AIMU, SISAA and NIS reports on 22 December 2023, 26 January 2024 (subsequently withdrawn) and final versions on 7 February 2024. The amendments primarily relate to an update to NISA's approach to in-combination screening for cumulative effects. Most of these changes are in the SISAA section 5.6, with the updates here, carried through to the NIS and AIMU where relevant.

### **Section 3 Assessment**

#### **3.1 Screening for Appropriate Assessment Determination.**

On 21 February 2024 following screening by MARA (ARD Team) under regulation 42 of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. 477 of 2011), a determination was made that the proposed maritime usage referred to above required an appropriate assessment. MARA published the Appropriate Assessment (AA) Screening Report (**Tab 02**), the AA Screening Determination (**Tab 03**) and a public notice of the AA screening determination on the MARA website on 22 February 2024.

#### **3.2 Public Consultation and submissions**

A public consultation, in accordance with Section 117(6) (b) of the Act was held between 27 February and 1 April 2024. The applicant published notices advertising the public consultation in three local newspapers, The Drogheda Leader, The Meath Chronicle, and the Dublin Gazette. A national newspaper, the Irish Examiner also carried the notice. MARA published a public notice of public consultation on the MARA website on 27 February 2024.

Following a request from NISA the period of public consultation was extended for another fourteen days until the 15 April 2024. The extension was notified to the public in the same publications as mentioned between the 28 March 2024 and 6 April 2024 and was also published on MARA's website on 27 March 2024.

Two submissions from the public were received and these were considered by the MARA's marine advisors (ARD team) when completing the appropriate assessment.

<b>Submissions Received</b>		
Submission 1	Brendan Regan	Concerns raised regarding the lack of engagement between NISA and the public.
Submission 2	Sharon Burke	Concerns raised in relation to archaeological and environmental impacts and the extent of public consultation.

### 3.3 Public Body Observations

During the period of the public consultation, observations were also sought from a number of public bodies, listed below.

<b>Relevant Public Bodies Consultation</b>	
Bord Iascaigh Mhara	Marine Institute
Commissioners of Irish Lights	Marine Survey Office
Department of the Environment Climate & Communications	NPWS
Department of Agriculture Food and Marine	Underwater Archaeology Unit of National Monuments Service
Environmental Protection Agency	Sea-Fisheries Protection Authority
Inland Fisheries Organisation	

Observations were received from two of the public bodies contacted and their observations and recommended conditions were considered in the Final Environmental Report. The submissions are summarised below.

<b>Submissions Received</b>		
Submission 1	Commissioners of Irish Lights	In support with recommended conditions
Submission 2	Marine Institute	The MI submitted a number of comments in relation to the application and provided information on fishing activity and aquaculture sites in the vicinity of the application area. The MI advised MARA to consider cumulative impacts of the activities and co-ordination of similar data gathering surveys.

A document showing the consolidated submissions can be found at **Tab 04**.

### 3.4 Appropriate Assessment Report and Determination

MARA's Senior Marine Advisor (ARD team) conducted an appropriate assessment of the maritime usage activities on 10 May 2024 and issued an appropriate assessment report and determination to the licensing unit on 15 May 2024. The licensing unit requested clarity on the mitigation measures in the appropriate assessment report on 27 May 2024 and a response was received from the Senior Marine Advisor (ARD team) on 28 May 2024 clarifying the issues. On 29 May 2024 the Senior Marine Advisor issued a revised appropriate assessment report to the Licensing unit. On 11<sup>th</sup> June 2024 the ARD team issued signed AA Determination to the licensing team (this determination was signed by the ARD Decision Maker on 10<sup>th</sup> June 2024) (**Tab 05**).

The appropriate assessment conclusion and determination stated:

*"Therefore, having considered the documents submitted by NISA and the observations received from the public consultation on the application, along with my own assessment in this report, it can be concluded, and I conclude, beyond reasonable scientific doubt, for the purposes of Article 6(3) of the Habitats Directive and Regulation 42(11) of the Birds and Natural Habitats Regulations, that the proposed site investigation activities for Marine Usage Licence application LIC230001 (either individually or in combination with any other plans or projects) will not adversely affect the integrity of any European sites, in view of the sites' conservation objectives, subject to the implementation of the mitigation measures adopted and outlined in Section 4.7 of this report which must be included as conditions to any consent that may be granted in respect of Maritime Usage Licence application LIC230001."*

Section 4.7 of the appropriate assessment report includes three mitigation measures which the Senior Marine Advisor has noted must be included as conditions in the proposed licence. These are shown in Section 6 of this report along with other specific conditions recommended in the Final Environmental Report.

In accordance with Section 117(7) (b) of the Act, MARA must comply with the determination of the appropriate assessment when determining the licence application. Therefore, all of the mitigation measures in the appropriate assessment have been included in the proposed licence.

## Section 4 Reports

### 4.1 Final Environmental Report

On completion of the appropriate assessment determination, a Final Environmental Report – Revised was completed by MARA's Marine Advisor (ARD team) and issued to the Licensing Team on 29 May 2024. (**Tab 06**) The Final Environmental Report took into account the following:

- i) Marine Strategy Framework Directive,
- ii) Water Framework Directive,
- iii) Environmental Impact Assessment Directive,
- iv) Birds Directive, Habitats Directives
- v) National Marine Planning Framework.

The Final Environmental Report also considered the Assessment of Impacts of the Maritime Usage Report (AIMU) report submitted with the application.

The Final Environmental Report addressed the public body consultation responses and the submissions from the public received during the public consultation. The report included 11 No. of site specific conditions (see Section 6 of this report) including the conditions recommended in the appropriate assessment report.

#### 4.2 Environmental Impact Assessment Directive (2014/52/EU)

The Final Environmental Report included an assessment for EIA requirement. This concluded that the project does not fall within the scope of the EIA Directive and therefore an EIA is not required.

Having considered the AIMU report the Marine Advisor concluded that *“there is no likelihood of significant effects on the receiving marine environment subject to the recommended licence conditions”*.

The Marine advisor in finalising the report took into account, the Marine Strategy Framework Directive, was satisfied that *“no implication shall arise from this project which would adversely affect MARA’s obligations under the MFSD”*.

#### 4.3 Final Engineers Report

A final engineering report (**Tab 07**) was received from the ARD team on 11 March 2024. After the public consultation closed I asked if an update was required to the report in light of the observations and submissions received. Confirmation that nothing further was required in the engineer’s report was received on the 7 May 2024.

In compiling the Engineering Report, the application form, drawings, maps, SISAA, AIMU, and NIS reports were considered. Also taken into consideration were possible impacts on:

- Coastal and Seabed Morphology and Sediment Transportation Processes
- Sea Fishing and Aquaculture
- Navigation
- Cultural and Heritage
- Water Framework Directive (WFD)
- National Marine Planning Framework (NMPF)
- Licence Term

Where any possible risk of impact was identified, mitigating measures were proposed and included in a list of site specific conditions.

The engineers report concluded that the maritime area which is the subject of this application is state owned, there are no significant conflicts with existing leases, licences, MACs, MULs or applications on hand.

The works if completed as proposed will not have significant adverse impacts on the public use of, access to and enjoyment of the maritime area, to navigation or to sea fishing or aquaculture. The works are in alignment with ORE Policies 1, 2 and 4 of the NMPF.

#### 4.4 Licence conditions

All of the specific conditions that were recommended by the ARD team are listed in Section 6 below. Some of the specific conditions are already contained within the general conditions of the licence and therefore have not been transposed into the licence. There was some duplication in the conditions

recommended in the engineering and environmental reports and in those cases, only one of the conditions is transposed into the specific conditions. Where the specific conditions refer to 'activity' I have replaced this with Permitted Maritime Usage, for consistency throughout the licence.

The engineering and environmental reports did not specify the permitted maritime usage in their specific conditions. To ensure that there is no ambiguity in the licence we have included the following condition as Specific Condition 1 in the licence, as follows:

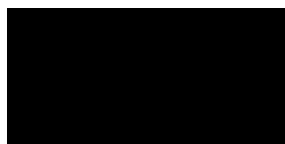
**The Permitted Maritime Usage shall be carried out in accordance with the plans and particulars submitted in support of the application for this Licence.**

#### **Section 5 Licensing Unit Conclusion and Recommendation**

Following a detailed assessment of the application, it is considered that applicant has complied with all of the requirements of Section 117 of the Act (*Application for grant of a licence*). I recommend issuing the Minded to Notice to grant a Maritime Usage Licence to the Applicant subject to the conditions of the licence. I recommend allowing the applicant 21 days from the date of issue of the Minded to Notice to submit supplementary material in relation to the reasons for the conditions as per Section 119(6)(b).

Once a final decision is made by MARA to grant or not to grant a Licence, the applicant will be notified and MARA will publish a notice on its website as soon as practicable thereafter.

**Signed:**



John Fayne, Licensing Caseworker

**Licence Unit**

**20/06/2024**

**Section 6 Specific conditions as recommended in the Final Engineering Report and Final Environmental Report (which includes the appropriate assessment mitigation measures/conditions).**

**6.1 Engineering Conditions**

1. The Holder shall use that part of the maritime area as shown lined red on the attached drawing titled: *Maritime Usage Licence Map 1 of 1, LIC230001*, the subject matter of this licence, for the purposes as outlined in the application and for no other purposes whatsoever.

**Reason:** In the interest of clarity.

**Licensing comment: This condition will not be included in the proposed licence as it is already covered within the general conditions of the licence.**

2. The Holder shall notify the Grantor 14 days prior to the commencement of the Permitted maritime usage or any subsequent part or phase of the Permitted maritime usage. This notification shall include an up to date Programme of Works for the completion of the Permitted maritime usage.

**Reason:** To ensure the orderly undertaking of the proposed maritime usage.

**Licensing comment: This condition will not be included in the proposed licence as it is already part of General Condition 4.1. The Programme of Works requirement will be added to Condition 4.1.**

3. Prior to the commencement of the Permitted Maritime Usage the Holder shall consult and comply with the requirements of the Underwater Archaeology Unit of the Department of Housing Local Government and Heritage. National Monuments Service, G37, Custom House, Custom House Quay, Dublin 1, D01 W6X0

**Reason:** To ensure the continued preservation of objects of archaeological interest.

4. Prior to the commencement of the Permitted Maritime Usage the Holder shall, through consultation and agreement with the Department of Transport, Marine Survey Office and Commissioners of Irish Lights, arrange for the publication of a Marine Notice through the Maritime Safety Policy Division. Navtext and radio broadcast warnings frequency to be agreed with the Irish Coast Guard.

**Reason:** In the interest of navigational safety.

5. Prior to the commencement of the Permitted Maritime Usage, the Holder shall employ a Fisheries Liaison Officer (FLO) to consult with relevant fishers and fisher's representative organisations in order that interactions with ongoing fishing activities in the area are minimised during the course of the Permitted maritime usage.

**Reason:** To minimise disruption of other legitimate users of the maritime area and to ensure the orderly undertaking of the proposed maritime usage.

**Licensing comment: This condition will not be included in the proposed licence as it is duplicated in the environmental conditions.**

6. The licence shall be for a maximum duration of 7 years from the Commencement Date.

**Reason:** To ensure the orderly administration of licenced usages in the maritime area.

**Licensing comment: This condition will not be included in the proposed licence as it is contained within the Particulars Schedule of the proposed licence.**

7. During the course of the intertidal trial pit operations the holder shall ensure that existing public access arrangements are maintained, where possible, and all necessary precautions are put in place to protect the public in accordance with relevant Health and Safety Legislation.

**Reason:** To ensure the orderly undertaking of the proposed maritime usage.

8. The maritime area shall be restored to its natural condition on completion of the Site Investigation works to the satisfaction of MARA.

**Reason:** To ensure the orderly undertaking of the proposed maritime usage.

**Licensing comment: This condition will not be included in the proposed licence as this obligation is contained in general condition 10.**

9. The holder shall ensure that contractors, and their subcontractors, are made aware of all conditions and project specific requirements and they are required to have briefings on these to ensure all parties are fully aware of these requirements.

**Reason:** To ensure the orderly undertaking of the proposed maritime usage.

**Licensing comment: This condition will not be included in the proposed licence as this obligation is contained in general condition 5.2.**

## 6.2 Environmental Conditions

10. This licence is for the purposes of licensing under the Act and nothing in this licence shall be construed as negating the Holders statutory obligations or requirements under any other enactments or regulations.

**Reason:** *To clarify the scope of this licence.*

11. The Holder shall ensure that the survey activities are carried out and completed in accordance with the conditions of this licence.

**Reason:** *To clarify the scope of this licence.*

**Licensing comment: This condition will not be included in the proposed licence as this is covered in the general conditions.**

12. Prior to the commencement of the activity the Holder shall consult with the Marine Survey Office to ensure that all vessels engaged in this activity conform to Irish Certification standards.

**Reason:** *To ensure protection of the marine environment.*

13. On completion of the activity the Holder shall provide the United Kingdom Hydrographic Office (UKHO) at [hdc@hdc.hydro.gov.uk](mailto:hdc@hdc.hydro.gov.uk) with the latest bathymetry data so that the appropriate charts can be updated.

**Reason:** *To ensure protection of the marine environment through availability of monitoring data.*

14. The Holder is required to submit details of all acoustic surveys undertaken in accordance with this licence to Marine Environment, Department of Housing, Local Government and Heritage. This data shall be provided in the reporting format of the OSPAR Impulsive Noise registry.

**Reason:** *To ensure protection of the marine environment through availability of monitoring data.*

15. Marine Mammals

i. The Holder shall appoint a Marine Mammal Observer for the purposes of overseeing the activity. The Marine Mammal Observer shall satisfy the requirements of the National Parks and Wildlife Service.

ii. The Holder shall implement risk control and mitigation measures for marine mammals in accordance with National Parks and Wildlife Service *Guidance to Manage the Risk to Marine Mammals from Man-made Sound Sources in Irish Waters*.

**Reason:** *To ensure the protection of the marine environment.*

**Licensing comment:** *This condition is listed as a mitigation measure in the appropriate assessment report and determination.*

16. Birds

i. The movement of tracked vehicles in the intertidal area will be restricted to minimum access tracks necessary to achieve completion of the site investigation activity.

ii. Any trial pits excavated for the purposes of the site investigations will be refilled as soon as practicable.

iii. Where the Holder observes significant clusters of birds, actively fishing and/or diving, within 500m of the vessel, the survey route shall be altered to maintain a 500m buffer from the birds. Records of same must be kept by the Licence holder.

**Reason:** *To ensure protection of the marine environment.*

**Licensing comment:** *This condition is listed as a mitigation measure in the appropriate assessment report and determination.*

17. Accidental events

The Holder shall ensure that there is a Shipboard Oil Pollution Emergency Plan on-board ship. This plan should specify:

- i. Information on the location and detail of spill response resources on-board ship;
- ii. Information on crew training in relation to oil pollution response;
- iii. How ship crew will interface with other site investigation operators, where applicable.

**Reason:** *To ensure protection of the marine environment.*

18. Prior to commencement of the activity the Holder shall engage a Fisheries Liaison Officer to consult with relevant fishers and fisher's representative organisations in order that interactions with ongoing fishing activities in the area are minimised during the course of the activity.

**Reason:** *To ensure orderly undertaking of the proposed maritime usage.*

19. The Holder shall coordinate with other licence holders within a 24km radius of the site boundary to ensure that no temporal overlap occurs between projects in respect of geophysical, seismic and geotechnical activities. Where necessary, the Grantor will determine the timing of activities to ensure that there is no temporal overlap.

**Reason:** *To ensure the protection of the marine environment.*

**Licensing comment:** **This condition is listed as a mitigation measure in the appropriate assessment report and determination.**

20. The Holder shall ensure that all vessels used in this activity are free of invasive marine species on their hulls and in their ballast water.

**Reason:** *To ensure the protection of the marine environment.*

21. The Holder shall as a minimum keep the following documents together and available for inspection by the MARA:

- i. a copy of the licence related to this maritime usage;
- ii. all correspondence with the MARA;
- iii. up to date drawings, plans and maps relating to the maritime usage;
- iv. documents and photographs to provide evidence of compliance with licence conditions;
- v. marine positional log; and,
- vi. any elements of the licence application and associated documentation referenced in this licence.

**Reason:** *to allow MARA to enforce the above conditions, to ensure the protection of the marine environment.*

**Licensing comment:** **In the proposed licence the term 'as a minimum' to ensure enforceability of this condition. 'MARA' has been replaced by 'the Grantor' for consistency with the rest of the licence. For clarity and to ensure enforceability of the licence, 'to provide evidence of compliance with licence conditions' has been replaced with 'as may be reasonably requested by the Grantor from time to time'.**

**Annex 1 – List of Tabs to this Submission**

- **Tab 01** - Site location Map.
- **Tab 02** - Screening for Appropriate Assessment Report.
- **Tab 03** - Screening for Appropriate Assessment Determination.
- **Tab 04** – Consolidated Submissions and Observations
- **Tab 05** - Appropriate Assessment Report and Determination.
- **Tab 06** - Final Environmental Report
- **Tab 07** - Final Engineers Report