SUSTAINABLE ENERGY AUTHORITY OF IRELAND

Rialtas na hÉireann
Government of Ireland

Tide, Wave and Other Ocean Energy

Manual of Consenting Procedures

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Sustainable Energy Authority of Ireland

SEAI is Ireland's national energy authority investing in, and delivering, appropriate, effective, and sustainable solutions to help Ireland's transition to a clean energy future. We work with the public, businesses, communities, and the Government to achieve this, through expertise, funding, educational programmes, policy advice, research and the development of new technologies.

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Contents

Abbreviations

Abbreviation	Meaning of Abbreviation
A	Amps
AA	Appropriate Assessment
AIMU	Assessment of Impact on the Maritime Usage
BCA	Building Control Authority
BCMS	Building Control Management System
CEG	Clean Export Guarantee
CEP	Clean Export Premium
CHP	Combined Heat and Power
CIÉ	Córas Iompair Éireann
CPA	Coastal Planning Authority
CRM	Certified Reference Materials
CRU	Commission for Regulation of Utilities
DAFM	Department of Agriculture, Food and the Marine
DaS	Dumping at Sea
DCCAE	Department of Communications, Climate Action and Environment
DECC	Department of Environment, Climate and Communications
DMAP	Designated Marine Area Plan
DSO	Distribution System Operator
DUoS	Distribution Use of System Agreement
EC	European Commission
ECP	Enduring Connection Policy
EIA	Environmental Impact Assessment
EIAR	Environmental Impact Assessment Report
ELS	Export Limiting Scheme
EPA	Environmental Protection Agency
ESB	Electricity Supply Board
ETS	Emissions Trading Scheme
GWh	Gigawatt hours
IEL	Industrial Emissions Licence
IPC	Integrated Pollution Control
kVA	Kilo-volt-amperes
kW	Kilowatt (i.e. one thousand watts)
LV	Low Voltage
m	Meters

Abbreviation	Meaning of Abbreviation
MAC	Maritime Area Consent
MAP	Maritime Area Planning
MAPA	Maritime Area Planning Act
MARA	Maritime Area Regulatory Authority
MEC	Maximum Export Capacity
MIC	Maximum Import Capacity
MRL	Map Roadworks Licencing
MSS	Micro-Generation Support Scheme
MU	Maritime Usage
MV	Medium Voltage
MW	Megawatt (i.e. one million watts)
NC	New Connection (application form)
NIS	Natura Impact Statement
NM	Nautical Mile
NPWS	National Parks and Wildlife Service
O&M	Operations and Maintenance
ORE	Offshore Renewable Energy
ORESS	Offshore Renewable Electricity Support Scheme
pSAC	proposed Special Area of Conservation
pSPA	proposed Special Protected Area
REFIT	Renewable Energy Feed-In Tariff
RESS	Renewable Energy Support Scheme
SAC	Special Area of Conservation
SEAI	Sustainable Energy Authority Ireland
SEM	Single Electricity Market
SI	Statutory Instrument
SID	Strategic Infrastructure Development
SPA	Special Protected Area
TSO	Transmission System Operator
TUoS	Transmission Use of System Agreement
V	Volts
W	Watt

1 Introduction

1.1 Purpose of Manual

SEAI is the single Point of Contact for guidance on the licensing and permitting requirements for renewable energy projects in Ireland. The initiative aims to simplify the process of identifying the necessary licenses and permits required for each phase of renewable energy project developments.

As part of this initiative, SEAI has produced an online tool. The online Licence and Permit finder tool is located at Renewable Energy Consenting | Single Point of Contact | SEAI. It allows you to search for licences and permits that may be required for a project at relevant stages of development. Supplemental to this are a suite of technology specific consent manuals that outline the consenting process relevant to each renewable energy technology.

It is important to note that SEAI has no decision-making role within the consenting process itself but are available to provide guidance and support in navigating and understanding the consenting process.

1.2 An Introduction to Tidal, Wave and Other Ocean Energy

Tide, wave, and other ocean energy are the main forms of renewable energy derived from the sea. Some examples of technology types are described below.

1.2.1 Tidal Energy

Tidal energy comes in two forms, both of which generate electricity:

- Tidal range technologies harness the potential energy created by the difference in water levels between high and low tides. Barrages (dams) are used to capture tidal energy from varying tidal ranges; and
- Tidal stream (or current) technologies capture the kinetic energy of currents flowing in and out of tidal areas. Tidal stream devices operate in arrays, similar to wind turbines.

Tidal energy outputs are predictable and constant thanks to the gravitational pull of the moon, earth, and sun. Tidal streams are generated by the constantly changing gravitational forces of the moon and sun on the Earth's oceans. Tides never stop, with water moving first one way, then the other, the world over. Tidal stream technologies capture the kinetic energy of these tidal currents. Since the relative positions of the sun and moon can be accurately predicted, so can the resulting tides. It is this predictability that makes tidal energy such a valuable resource.

The highest (spring) tidal ranges occur when the sun, moon, and Earth are in alignment. Water flows in greater volumes when attracted by this combined gravitational pull. The lowest (neap) tidal ranges occur when the sun, moon, and Earth form a right angle. The split gravitational pull causes water to flow in lesser volumes. Tidal energy turbines function similarly to wind turbines, with tidal currents driving the rotors instead of wind.

Tidal stream resources are generally more abundant in areas with a significant tidal range, where the current speeds are intensified by the shape of the local coastline and seabed, such as narrow straits, inlets, around headlands, and in channels between islands. Bays and inlets amplify the height of the tide, in order to be practical for tidal energy production on a commercial scale the height difference needs to be a minimum of 5m[1].

The European Marine Energy Centre recognizes six principal types of tidal energy converter. They include (but are not limited to), horizontal axis turbines, vertical axis turbines, oscillating hydrofoils, venturi devices, Archimedes screws and tidal kites.

Currently there are three technologies that are used to harness tidal power:

[1] Shetty, C. and Priyam, A. 2022, A review on tidal energy technologies. Materials Today: Proceedings, Volume 56, Part5 Pages 2774-2779, ISSN 2214-7853, https://doi.org/10.1016/j.matpr.2021.10.020.

- Barrage or dam:
    - Sluice
    - Turbine
    - Generator.
- Tidal Fence; and
- Tidal Turbine.

1.2.2 Wave Energy

Waves are formed by a number of forces, including wind, gravitational pull from the sun and moon, changes in atmospheric pressure, and earthquakes. Waves generated by wind blowing over the surface of the sea are the most common. The size of the waves generated depends on the wind speed, its duration, the distance of water over which it blows (known as the fetch), the bathymetry of the seafloor (which can focus or disperse wave energy), and ocean currents. The resulting movement of water carries kinetic energy that can be harnessed by wave energy devices. Wave energy harnesses the dynamic force of waves to generate electricity.

The best wave resources are found in areas where strong winds have travelled over long distances. In Europe, the most favourable wave resources are typically along the western coasts, where there is a long fetch extending across the Atlantic Ocean. Closer to the coastline, wave energy diminishes due to friction with the seabed. Therefore, waves in deeper, well-exposed waters offshore have the highest energy potential. Wave energy is an irregular and oscillating low-frequency energy source that must be converted to a 60 hertz (Hz) frequency before it can be integrated into the electrical grid. There are three main categories of wave energy converters:

1. Oscillating water columns that use trapped air pockets in a water column to drive a turbine.
2. Oscillating body converters, which are floating or submerged devices that utilize wave motion in multiple directions (up/down, forwards/backwards, side to side) to generate electricity; and
3. Overtopping converters that employ reservoirs to create a head of water, subsequently driving turbines.

1.2.3 Ocean Thermal Energy

Ocean thermal energy is generated by converting the temperature difference between the ocean's surface water and deeper water into energy. Ocean Thermal Energy Conversion (OTEC) plants can be land-based, floating, or even floating offshore. These technologies aim to utilize a temperature differential of around 20°C or more between cold and warm water. While OTEC prototypes are often land-based, floating prototypes are also under development, offering mobility and flexibility to operate in different locations. Commercial ocean thermal energy conversion facilities can be built in various locations:

- On land or near the shore.
- On platforms attached to the continental shelf.

Using moorings or free-floating facilities in deep ocean water

1.3 Project Stages

The life cycle of a project can be divided into several phases.

During the feasibility phase, initial assessments are carried out to determine the viability of the project. This can also provide insight into which permits/licences will be required as these can vary based on project type and specific location. The planning and permitting phases as well as the pre-construction phase are where licences/permits and any relevant advance requirements are determined for the project. These phases can overlap and occur simultaneously. Successful construction of the project is followed by commissioning where final tests are conducted to determine successful installation of the turbines.

Licences or permits may be required during the operation of the project to ensure that continuous operations and maintenance are permitted to be carried out. Finally, the end phase of a project will also

require licencing/permitting dependent on whether the project will be decommissioned, extended, or replaced.

The following sections of this manual will outline each phase of the life cycle and relevant permits, licences, regulatory requirements, and schemes relating to each.

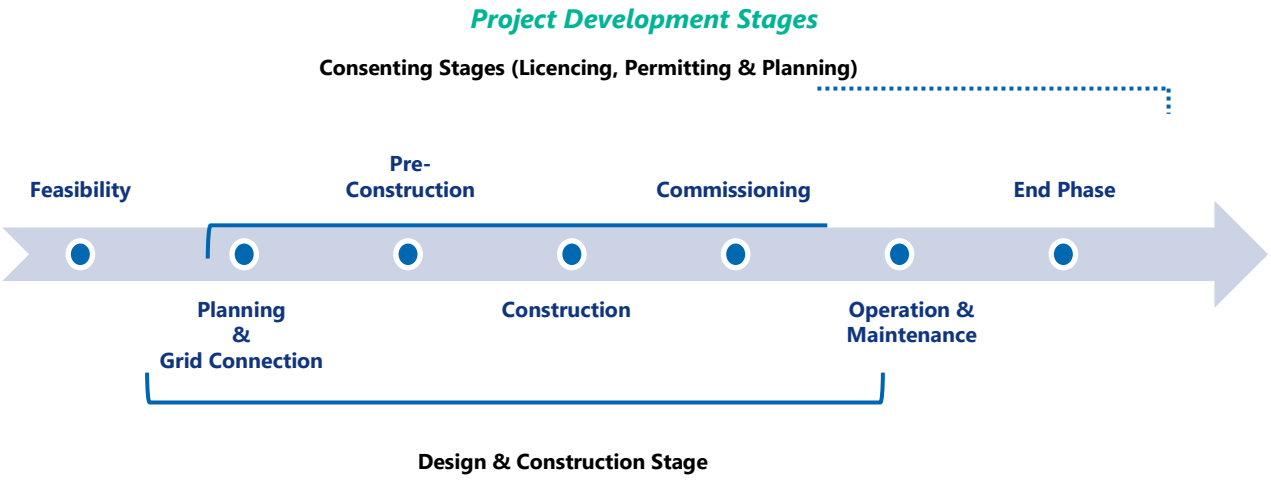

Figure 1-1 Project Development Stages

2 Design and Construction Stage

The design and construction stage in these manuals covers everything from project concept to energisation. A project generally starts by developing an early concept for your project. This will need to be done with regard to the latest government policy in relation to offshore renewable energy and the potential timing of your project. Significant changes have occurred in recent times in offshore renewable energy policy, with the government opting for a 'Plan-led' approach to development of renewable projects. This will be done through the publishing of Designated Maritime Area Plans (DMAPs) for particular maritime areas where new projects may be developed. This replaces of the 'developer-led' approach which was the norm until March 2023 where the developer proposed where they would like to pursue a project.

2.1 Feasibility and Design Phase

2.1.1 Feasibility Studies

The feasibility of an offshore renewable energy project is vital, as this will determine if the project should be pursued or not, regardless of whether it is a commercial or community-based endeavour. Financial viability assessments are likely to take place initially in order to assess the investment potential of the project. These studies may be used as a basis to gain the additional funding to carry out any early engineering or environmental surveys that may assist in understanding the technical and environmental feasibility of the project.

A feasibility study will involve looking at various aspects of the project, such as:

- Site potential,
- Capital expenditure,
- Operational expenditure,
- Potential revenue generation,
- Available funding,
- Access to infrastructure such as ports, grid connections, appropriate roads, staging areas, etc.; and,
- Key risks, including consenting risks.

This will require specialist input to ensure the investment is fully understood. The project's commercial feasibility will need to be reassessed as the design progresses.

2.1.2 Site Selection

Potential sites will need to be identified. When choosing a site for a project, consideration should be given to the Designated Maritime Area Plans (DMAPs) for the region. Developers will need to consider matters such as maritime planning restrictions, proximity to appropriate grid infrastructure, opportunities to land cables, existing infrastructure including adequate port access and infrastructure for the construction and operations phase.

The following items should be considered when examining the feasibility of an identified site:

- Site area,
- Potential tidal stream(s) / waves / temperature difference,
- Commercial and recreation fishing grounds,

- Existing and future grid infrastructure / Onshore infrastructure,
- Community acceptance and buy-in,
- Available ports for equipment transport,
- Existing and planned tidal / wave / other ocean energy projects in the area, and
- Proximity to sites sensitive to development (SPAs, SAC, etc.).

Generally, a multi-disciplined team will be best placed to guide the feasibility studies, across fields such as planning, engineering, financial, technical, and environmental constraints.

2.1.3 Constraints Identification

A constraints identification and mapping exercise is a useful way to identify and visually present constraints that may exist for a certain site. This can show existing infrastructure and features, such as pipelines and cables, shipwrecks, shipping lanes, fishing grounds, protected areas, etc. This will allow an offshore renewable energy developer to visually see where specific constraints exist, rank them, and allow for better siting of project infrastructure.

It is then important to develop a project plan that maps out all the stages needed to realise your project moving toward design. A consent plan will be an important tool in understanding the potential timelines and stages whereby permissions are required to proceed with elements of a project and allow you to plan accordingly.

2.1.4 Enabling Tasks

After a potential project and site passes feasibility screening, enabling tasks must be undertaken to transition toward the planning and pre-construction phases. These tasks include:

- Land lease options / Purchasing (landing site for onshore aspects),
- Options to access the site, and
- Community engagement.

Some of these may take place in conjunction with the planning phase also.

2.1.5 Community engagement

It is important to consider the need for quality community engagement early in the process once the relevant host community has been identified. New developments, especially in proximity to important fishing grounds or scenic views, frequently encounter concerns from users and residents for a number of reasons, including concerns about the impact on visual amenity, impacts to the marine environment, noise, access to fishing grounds and impacts to fishers' livelihoods. There may be valid concerns from communities, and it is recommended that these be addressed early in the process as this can help to avoid negative community interaction later in the process, as well as fostering community acceptance and including the community in the process before any statutory requirements are progressed. Identifying key public stakeholders and community leaders is an important task to undertake as early as practicable. This early engagement has been shown to improve the acceptance of offshore renewable energy projects.

2.1.6 Community Tidal, Wave and Other Ocean Energy Projects

Community groups can come together to enter the tidal, wave, or other ocean energy market, alongside commercial entities. The process for getting a project constructed is similar to a commercial venture, in terms of ensuring an appropriate site is selected and moving forward to navigate the planning system, however, there are some additional points to note about community offshore renewable energy projects.

Governance of a community renewable energy project has a defined structure, which will assist in ensuring a successful delivery of the project, and securing available government supports. Please consult resources

published by the SEAI in relation to community renewable energy projects, which are available here. The toolkit provides helpful advice in navigating the process as a community group. A key difference to note between community projects versus commercial ventures relates to an upper limit for capacity placed on community led projects of 5 Megawatts (MW), with regard to participating in the Offshore Renewable Energy Support Scheme (ORESS). Typically, community renewable energy projects are located onshore, as the development process is less complicated compared to offshore developments.

2.1.7 Routes to Market for the Sale of Electricity

Offshore Renewable Electricity Support Scheme

The Offshore Renewable Electricity Support Scheme (ORESS) is a government initiative administered by the Department of Environment, Climate and Communications (DECC). Its primary goal is to promote the generation of renewable energy, such as wind and solar power, to help Ireland meet its domestic and European Union carbon reduction targets by the year 2030 and beyond.

The scheme aims to create a more favourable environment for renewable energy projects and incentivise their development. It operates through a competitive auction system where companies involved in various renewable industries, such as wind and solar power, can participate.

The ORESS provides solid financial stability to a renewable energy project, allowing for more solid private investment, by guaranteeing a financial return on investment, while simultaneously working to achieve better value for Irish electricity consumers.

To participate in ORESS, developers must be eligible for a Maritime Area Consent (MAC). Currently there are no ORESS auctions open for Tidal, Wave and Other Ocean.

Corporate Power Purchase Agreements (CPPA)

Another potential market route is through a Corporate Power Purchase Agreement (CPPA). This is an arrangement where a corporate entity, such as a company, procures renewable electricity directly from a generator through a contractual agreement. It serves as an alternative for projects excluded from ORESS, unsuccessful in ORESS, or where the ORESS terms and conditions are not commercially viable. Further information can be found using the below link.
https://www.gov.ie/en/publication/a0d2e-renewable-electricity-corporate-power-purchase-agreements-roadmap/

Merchant Market

The 'merchant' market or open market pricing is another option for sale of electricity generated. However, the relatively lower price, volatility and associated risk is not a desirable source of income for early-stage renewable projects seeking financing. Ultimately, after government supports or CPPA contracts expire, most project will likely end up operating in the merchant market.

2.1.8 Project Financing

Provided a project has achieved planning permission, a grid connection offer, and a commercial offer to sell electricity to the national grid, financing will need to be secured. There are various ways that a renewable energy project can be funded, such as equity funding, grants and bank loans, or a combination. Typically, loans are required to be repaid prior to the end of the ORESS fixed price, as this provides certainty for the lender, which helps to reduce the cost of borrowing through the reduced risk on investment. The European Union offers various funding programs to support offshore renewable energy projects, such as Horizon Europe, the European Innovation Council, and the LIFE Clean Energy Transition sub-programme. These programs provide grants, loans, and equity financing to help develop and deploy renewable energy technologies. Further information can be found by clicking on the link below.
https://energy.ec.europa.eu/topics/renewable-energy/financing/eu-funding-offshore-renewables_en

2.1.9 Concept Development

After a potential project and site passes feasibility screening, enabling tasks must be undertaken to transition toward the planning and pre-construction phases. These tasks may include:

- Exploring options to access the site/ports,
- Further community engagement,
- On-site, monitoring, e.g. wave / tidal, and
- Long lead surveys, such as geophysical and geotechnical surveys and environmental surveys.

Some of these activities may take place in conjunction with the pre-planning phase. It should also be noted that some surveying activity will require a Maritime Usage Licence (please see **Section 2.3.3** for more information).

2.1.10 Project Design Phase

In order to inform the design process, it may be necessary to conduct certain offshore surveys (and intertidal / onshore surveys depending on project specific circumstances). Survey information will be used for early engineering and environment baseline studies. Sometimes these surveys or scaled down surveys are initiated in advance of a final decision on the project to better understand the area and risks. Large Offshore Renewable projects such as tidal and wave energy will almost certainly require an Environmental Impact Assessment (EIA) and Appropriate Assessment (AA) that is informed by surveys. These surveys may be undertaken in advance of commitment to carry out an EIA/AA or maybe undertaken as part of an EIA/AA. Further discussion on EIA is included in Section 2.2.2 and further discussion on AA is included in Section 2.2.3. Prior to undertaking offshore surveys, you will need to apply for a Maritime Usage Licence.

In terms of project design, it should be noted that there is a certain degree of design flexibility that can be applied for when it comes to securing development permission later in the process. The Maritime Area Planning Act 2021 (which has amended the Planning and Development Act 2000, as amended) allows some flexibility in terms of what details, or groups of details, need to be confirmed before applying for development permission. This arises from the understanding that some design details cannot not be confirmed until closer to construction, owing to the complexity of the process and changing technology. Prior to construction, details are required to be confirmed as agreed with the consenting authority (Coastal Planning Authority or An Bord Pleanála).

2.1.11 Policy and Legislation

A crucial aspect of any renewable energy project is to understand the relevant EU, national, regional, and local planning policies, and legislation that underpin a project's development. Some of the key policy and legislation documents that will need to be considered are set out below.

European Legislation and Policy:
European Maritime Spatial Planning Directive
2030 EU Climate and Energy Framework
European Green Deal
Renewable Energy Directive 2018/2001/EU
EU Fit for 55 Package

National Legislation
Maritime Jurisdiction Act 2021
Maritime Area Planning Act 2021
Planning and Development Act 2000, as amended.

National Planning and Development Policy

National Marine Planning Framework (NMPF)
Climate Action Plans

Relevant Regional and Local Planning and Development Policies and Strategies
Regional Spatial and Economic Strategies
County Development Plans

It is crucial to clearly demonstrate how a proposed project aligns with the relevant policies. Your planning and environmental advisors can provide guidance on all applicable legislation and policies relevant to your project.

2.2 Environmental Assessments for Projects

2.2.1 Environmental Baseline Surveys

Large scale projects such as offshore renewable energy developments will require several assessments to be carried out to support their statutory permit applications. The requirement for these assessments can be discussed with your design consultant. Environmental baseline surveys will need to be undertaken as part of the assessment process. Data gathered during surveys will allow computation modelling of impacts to be undertaken. These surveys provide vital information for the development of a project. In some cases, two years of surveys data may be required, and permits will be required for certain offshore surveys. This will need to be considered when planning your project. Environmental assessments are generally carried out in tandem with the design process. This allows for iteration of the design, such as locating of infrastructure to avoid more sensitive areas or micro-siting of cables and facilities to avoid seabed features. The following sections give a summary of the assessment likely to be required.

2.2.2 Environmental Impact Assessment (EIA)

2.2.2.1 Overview

In accordance with Directive 2011/92/EU, as amended by Directive 2014/52/EU projects that are likely to have significant effects on the environment by virtue of their nature, size, or location, must be subject to an EIA. EIA stands for the process of carrying out an Environmental Impact Assessment. The Environmental Impact Assessment Report (EIAR) is the principal document that the EIA process is based on, which is prepared by the developer.

The EIAR must identify, describe, and assess likely significant effects both direct and indirect of the project on the environment. It is important to note that the EIA is an iterative process and should be integrated into the design process. Through considered design and site selection it may be possible to avoid, prevent or reduce adverse impacts on the environment and this is a key requirement of the EIA process.

For a planning application, it is the responsibility of An Bord Pleanála to carry out an assessment of the information provided in the EIAR and come to a reasoned conclusion on the project impacts on the environment. For a Dumping at Sea application, it is the responsibility of the Environmental Protection Agency (EPA) to carry out an assessment of the information provided in the EIAR and come to a reasoned conclusion on the project impacts on the environment.

Tidal, Wave and Other Ocean renewable energy projects are not explicitly covered in the EIA legislation. Therefore, a screening process will need to be carried out to determine whether an EIA is required for these project types.

For further information in relation to EIAR, please refer to the following documents:

- Guidelines on the information to be contained in Environmental Impact Assessment Reports May 2022

- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment (August 2018)

- Guidance on EIS and NIS Preparation for Offshore Renewable Energy Projects April 2017

2.2.2.2 EIA Screening - Mandatory EIA Thresholds

EIA Screening is the process of deciding whether a development requires an EIA to be carried out. The EIA Screening exercise first assesses the development to ascertain if it is subject to Mandatory EIA, using classifications defined in the EIA Directive (projects listed in Annex I of the EIA Directive are subject to an EIA). If the project is not listed in Annex I, and no mandatory EIA is required, the EIA Screening process progresses to consider projects listed under Annex II of the EIA Directive. Projects listed in Annex II of the EIA Directive are subject to an EIA if (i) they exceed certain thresholds (set out in Annex II and by each Member State); or (ii) if they do not meet or exceed the threshold, but where the project is deemed likely to have significant environmental effects, with regards to the project's scale, nature, location, and context.

2.2.2.3 EIA Screening - Sub-threshold EIA

Proposed renewable energy developments below the mandatory thresholds but which may be likely to have significant effects on the environment may also require and EIA and should therefore be screened for EIA to determine whether the project is likely to have a significant effect on the environment. These projects may be referred to as **"sub-threshold"** projects. In the case of sub-threshold development, it is advisable that Developers consult with the planning authority regarding the possible need for an EIAR. Useful guidance can be found in the below document:

Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development Aug 2003.

2.2.2.4 EIA Scoping

Scoping is an important stage that takes place early in the EIA process. It provides an opportunity for both Developers and the Competent Authority to determine those key environmental impacts and issues of concern that are likely to be of the utmost importance to the Project proposal's decision-making and eliminates those that are less of a concern. In other words, Scoping defines the EIA Report's content and ensures that the environmental assessment is focused on the Project's most significant effects on the factors listed in Article 3 of the Directive, and that time and money are not spent on unnecessary examinations. It also reduces the likelihood that competent authorities will need to request additional information from Developers after the Environmental Impact Assessment Report has been prepared and submitted.

The EIA scoping exercise should assist in identifying relevant data gaps which need to be filled by further field surveys. In marine environments, surveys over a prolonged period (e.g. in some cases for periods of up to 3 years) may be required to inform some of the relevant baseline elements. This has implications for the timeframe within which the application for consent can be submitted.

The Developer can request a written scoping opinion from the Planning Authority on the information to be contained in the EIAR if EIA is required. This is an opportunity for the Planning Authority, the Developer and the Developer's technical advisers to discuss the scope and level of detail of the environmental information to be submitted in the EIAR.

2.2.2.5 Public Consultation

Public consultation is a key consideration for development projects, and it is important that stakeholders are brought into the process at an early stage. Public concerns raised though the consultation process may be brought into the EIA scoping and be addressed in the EIAR as applicable. Public Information events may be held, where the project may present the plans and invite feedback from the local community. It will be necessary to set up a system to record such feedback or a website where key project documents may be viewed such as Scoping Reports, the EIAR, maps and application documents. As part of the EIA process, it is

necessary to place public notices informing the public when an application and EIAR have been submitted to the competent authorities.

2.2.2.6 Consultation with Prescribed Bodies

Prior to the submission of a planning application for an offshore renewable energy project, there is a requirement for the Developer to notify a specified list of Prescribed Bodies about the proposal. Upon receipt of an application that is accompanied by an EIAR, there is a requirement for competent authorities to consult with authorities likely to be concerned by the project by reason of their specific environmental responsibilities or local and regional competences and to give them an opportunity to make submissions/observations on the information supplied by the developer and on the request for development consent.

2.2.2.7 EIA Assessment and Determination

Once the EIAR has been completed and the application documentation prepared, the application is submitted to the Competent Authority for assessment and determination. The applicant and the Competent Authority must comply with relevant statutory provisions that may apply in relation to documentation, public notices, consultation, and processing of the application. If, during the assessment, the Competent Authority determines that the information presented in an EIAR is not sufficient for it to make a determination, then the Developer may be asked to provide further information.

2.2.3 Appropriate Assessment (AA) under the Habitats and Birds Directives

The Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC) seek to maintain, and where necessary, restore the favourable conservation status of designated natural habitats and species throughout member states. Designated Special Areas of Conservation (SAC), Special Protection Areas (SPA), candidate Special Areas of Conservation (cSAC) and proposed Special Protection Areas (pSPA) are collectively known as European Sites. The most important ecological sites are designated as European Sites under provisions of Irish legislation transposing these Directives. Together, these sites form part of the Natura 2000 network of comparable sites throughout Ireland and other European Member States.

Article 6(3) of the Habitats Directive requires an AA of plans and projects that are likely to have significant effects on any European Site. A Competent Authority cannot agree to the plan or project until it has ascertained that it will not adversely affect the integrity of the site concerned.

2.2.3.1 Screening for Appropriate Assessment (Stage 1)

Under the Habitats Directive, it is the Competent Authority's responsibility to complete the Screening for AA and issue its determination whether an AA is required. To support this the applicant must submit a Screening for AA Report. The report should include all supporting information necessary for the Competent Authority to reach a 'Screening for AA Determination' including the applicant's own conclusion/determination in relation to screening.

The Report should be completed to meet the requirements of the Habitats Directive, EU and National guidance documents, transposing legislation, and relevant domestic and European case law.
The Competent Authority will publish a Screening for AA Determination. Which will either inform the applicant that their application has been 'screened-in' for AA or it will inform the applicant that the application has been 'screened-out' and does not require and AA to be carried.

2.2.3.2 Appropriate Assessment (Stage 2)

If likely significant effects cannot be ruled out at the screening stage, the Competent Authority is required to carry out an AA. The Applicant will have to prepare a Natura Impact Statement (NIS) on foot of the Competent Authority's Determination. If the Applicant has already determined to their satisfaction that likely Stage 2 AA will be required and have prepared an NIS in anticipation of being requested to do so, they may

submit it at initial application stage.

2.2.3.3 Public Consultation

As part of the assessment process, all applications and supporting documentation will be made available to the public consultation. An applicant will be required to make the public aware, in a manner specified by the Competent Authority. The public will have a minimum of 30 days from the date of publication of the notice to make a submission to the Competent Authority. During this period, the Competent Authority may also consult with relevant public authorities which they believe might have appropriate observations to make on the application.

2.2.3.4 Imperative Reasons of Overriding Public Interest (IROPI)

If the AA concludes that adverse impacts upon the integrity of a European Site cannot be ruled out, or that the integrity of such a European site will be adversely affected and where it has been demonstrated that there are no alternative solutions, Article 6(4) of the Habitats Directive allows for derogation for 'Imperative Reasons of Overriding Public Interest' (IROPI). There are limitations on the reasons applicable where priority habitats, as defined in the Directive, are affected.

IROPI is complex processes where it must be shown that public interest clearly outweighs the long-term conservation interests of the protected site. These have only been sought and granted in very rare instances in Ireland and are only considered as a very last resort. Where it is considered that IROPI applies to an infrastructural project, a statement of case is prepared by the competent authority and referred to the Minister for his/her consideration. The Minister will consider whether the compensatory measures proposed as part of the development are sufficient to ensure that the overall coherence of the Natura 2000 network is protected, and this may involve consultation with the European Commission. Once the Minister issues a notice to the competent authority with respect to whether compensatory measures are sufficient or not, the competent authority will then determine the planning application.

2.2.4 Risk Assessment for Annex IV Species

Under Article 12 of the Habitats Directive, Annex IV species are protected wherever they occur. If they occur within the Zone of Influence of the plan or project, a risk assessment of the effects of the project on the Annex IV species must be completed. Where man-made noise is induced to the marine environment, a risk assessment for all cetaceans is required. Official guidelines and codes of practice can be found here.

2.2.5 Water Framework Directive (WFD)

Since 2000, the Water Framework Directive (WFD) [Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 Establishing a Framework for Community Action in the Field of Water Policy] has been the main law for water protection in Europe. It applies to inland, transitional, and coastal waters in addition to groundwaters. An objective of the WFD is to achieve the protection of aquatic ecology and habitats, drinking resources and bathing waters through river basin management planning and monitoring. This objective is summarised as Good Ecological Status (GES) and Good Ecological Potential (GEP) for artificial or heavily modified water bodies.

An assessment of how the offshore renewable energy project may impact upon relevant water bodies will need to be carried out prior to the submission of a planning application and a WFD Report should also accompany the application.

2.3 Pre-Planning Licences / Consents

2.3.1 Offshore Surveys

If a decision has been made to pursue a project, the Developer will need to gather additional data to assist in informing the design and engineering process and to support the environmental impact assessments. This will involve making a licence application through the Maritime Area Regulatory Authority.

2.3.2 Maritime Area Regulatory Authority (MARA)

The Maritime Area Regulatory Authority, or MARA, is a relatively new state agency that was established on 17 July 2023. The Maritime Area Planning Act 2021 established a new marine planning system consisting of a new licensing and development management regime from the high-water mark to the outer limit of the State's continental shelf, administered by An Bord Pleanála, the Coastal Planning Authorities and MARA. The primary functions of the MARA are:

- Assessing MAC applications for the maritime area, which are required by Developers before development permission can be granted,
- Granting marine licencing for specified activities,
- Compliance and enforcement of MACs, licences, and offshore development consents,
- Investigations and prosecutions,
- Administration of the existing Foreshore consent portfolio, and
- Fostering and promoting co-operation between regulators of the maritime area.

MARA administer both the Maritime Area Consents (MACs) and Maritime Usage (MU) Licences.

2.3.3 Maritime Usage (MU) Licences

A Maritime Usage (MU) Licence is required for activities that are typically temporary in nature, that are undertaken in the maritime environment, such as marine and intertidal surveys. Activities that require a MU Licence are:

- Navigational and Maintenance Dredging,
- Marine environmental surveys for the purpose of scientific discovery, research, site investigations or investigations undertaken to support of an application for maritime development in the maritime area,
- Installation or placement of navigational markers or aids to navigation not undertaken or authorised by the Commissioners of Irish Lights,
- Installation of non-permanent platforms or pontoons,
- Depositing of any substance or object on or in the sea or seabed,
- Removal of any substance or object from the sea or seabed,
- Use of explosives,
- Maintenance of any cable, pipeline, oil, gas, or carbon storage facility/structure not provided for under any other statutory approval,
- The harvesting, disturbance, or removal of seaweed,
- The laying or installation of telecommunication cables or ducting which do not land in the State, and
- Any other activity that the relevant Minister may determine by regulation.

An offshore survey may involve the following:

- Marine Geophysical Surveys (including but not limited to: Multibeam Echo Sounder, Side Scan Sonar (SSS), Sub-bottom Profiling, Magnetometer).
- Marine Geotechnical Investigations (including but not limited to: Boreholes, Vibro-core sampling, Cone Penetration Tests).
- Environmental/Ecological Surveys (including but not limited to: Benthic grab sampling, Drop Down Video, Marine Mammal and other Megafauna observations, Ornithological Surveys, Shipping and Navigation Surveys, Marine Archaeology Surveys, Marine Habitat Surveys).

It should be noted that a MU Licence may be required for different stages of your project depending on your proposed activity, such as maintenance surveys, or depositing dredged material.

2.3.4 Pre-application Meeting for a MU Licence

It is strongly recommended that a licence applicant should seek a pre-application meeting with MARA. A link to the application form for a pre-application meeting is available here.

An application for a MU Licence will require the following:

- Application form including detailed description and maps,
- Supporting Information for Screening for Appropriate Assessment Screening (SISAA) report,
- if an AA screens in, then a Natura Impact Assessment,
- Risk Assessment for Annex IV Species; and,
- An assessment of Impact on the Maritime Usage Report (please refer to the application technical guidance).

Further details are contained in the Applicant Technical Guidance Note prepared by MARA. It should be noted that MARA cannot issue a licence for a maritime usage for which an EIA is required. If an EIA is required, an applicant must apply for a MAC. For a licence application, MARA is required to carry out a screening for EIA.

In general, geotechnical, geophysical, and environmental surveys do not require an EIA; however, project promoters will need to consider this when making an application for a MU Licence.

2.3.5 MU Licence Determination Period

MARA will, where practicable, determine a licence application within 30 days after the applicant has complied with all the requirements of Part 5 of the Maritime Area Planning Act (MAPA) which relate to licence applications. In determining a licence application, MARA will consider all submissions received during public consultation and observations received from relevant public authorities. MARA may seek submissions from other statutory bodies who have functions in the maritime area, where appropriate.

The process for MU licence application determination is presented in Figure 2-1 on the following page.

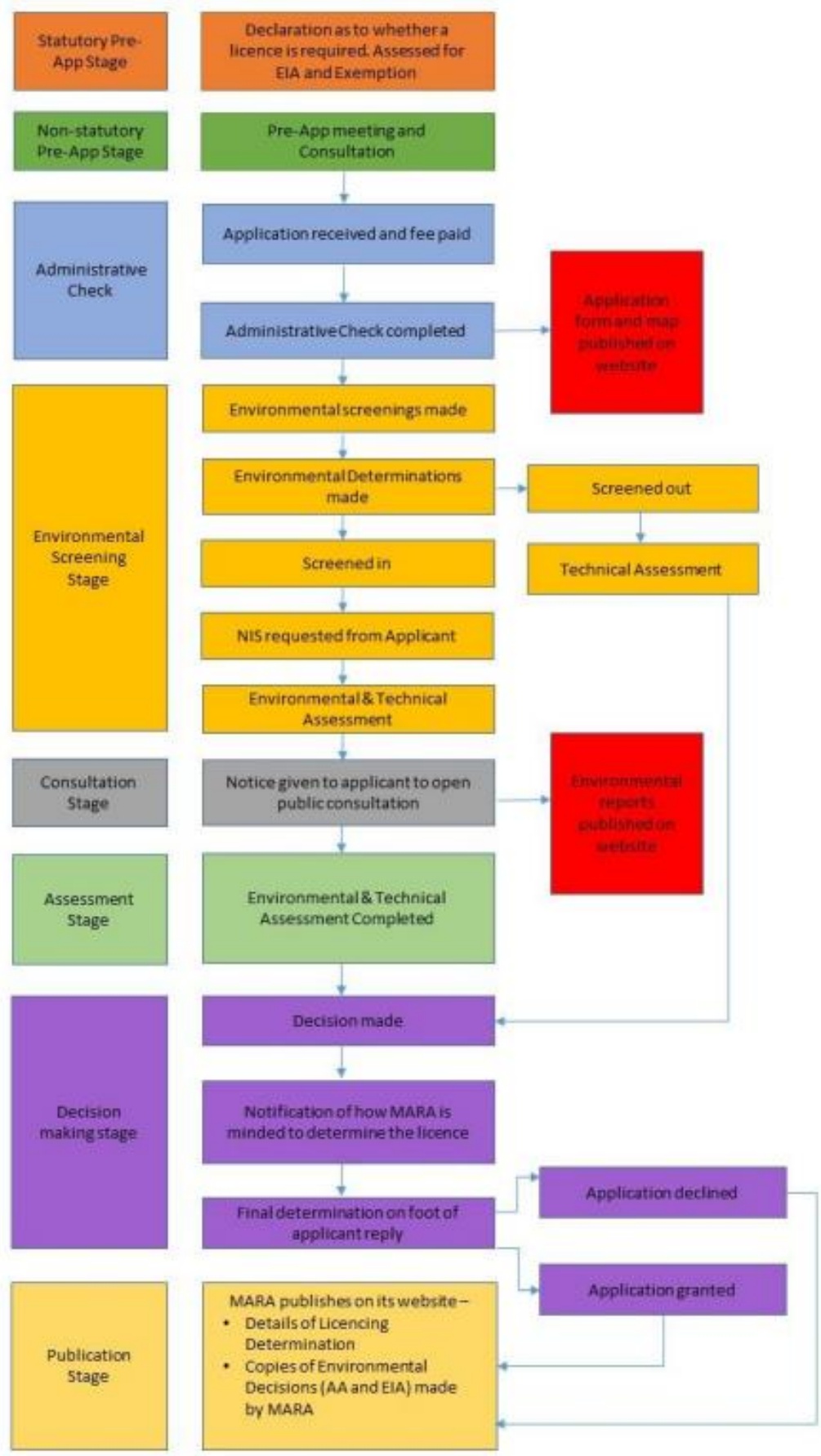

Figure 2-1 Process for applying for a Maritime Usage Licence from MARA.

2.4 Development Permission

2.4.1 Maritime Area Consent (MAC)

If you are satisfied that you would like to pursue development permission for your project, then you will need to seek a Maritime Area Consent or MAC. An application for a MAC is made through MARA. While MARA is not responsible for granting development permission, this function now falls to An Bord Pleanála or the Local Costal Planning Authority.

A MAC is the gateway into the planning system as a MAC is required before any planning application is made. A MAC may be granted following assessment of the applicant and the proposed project. Only MAC holders can apply for development permission in the maritime area. A MAC is a right to occupy a part of the maritime area, conditional on securing other necessary approvals.

For the purposes of licence applications, the maritime area is defined as an area that extends from the high water of ordinary or medium tides of the sea to the outer limit of the continental shelf.
Maritime usages that require a MAC include:

- Offshore Renewable Energy Projects,
- Telecommunication cables that land in the state,
- Harbour/Port Development,
- Coastal Protection works,
- Wastewater pipes,
- Bridges,
- Capital dredging (dredging to a depth not previously dredged),
- Permanent slipways/ jetties,
- Flood Defence Schemes,
- Piers,
- Marina developments,
- Wastewater Treatment and Disposal, and,
- Discharge/Outfall pipe.

A MAC application involves three assessments:

- General assessment including '*fit and proper person*' assessment.
- Technical Capability Assessment.
- Financial Capability Assessment.

Please refer to the general and capability assessment guidance notes on making a MAC application which are available on the MARA Website: https://www.maritimeregulator.ie/maritime-area-consent-mac/

2.4.2 Prioritisation of Offshore Renewable Energy Projects

Following the Government Decision Prioritisation of Renewable Energy Maritime Plans and Projects as a response to the Energy crisis (Uimhir Thagartha: S180/20/10/1776B from 14 September 2022), MARA will prioritise ORE related applications including port infrastructure.

2.4.3 Pre-Application Meeting

MARA will invite any person seeking a MAC to a pre-application meeting to discuss the project and advise on the MAC application. A pre-application consultation request form is available on the MARA website. Applicants are asked to provide as much information as possible on this form regarding the proposed development and to include an appropriate map (see guidance in 7.3 Part 4 below) for discussion.

2.4.4 MAC Application Process.

An overview of the MAC Application Process can be seen in **Figure 2-2** below.

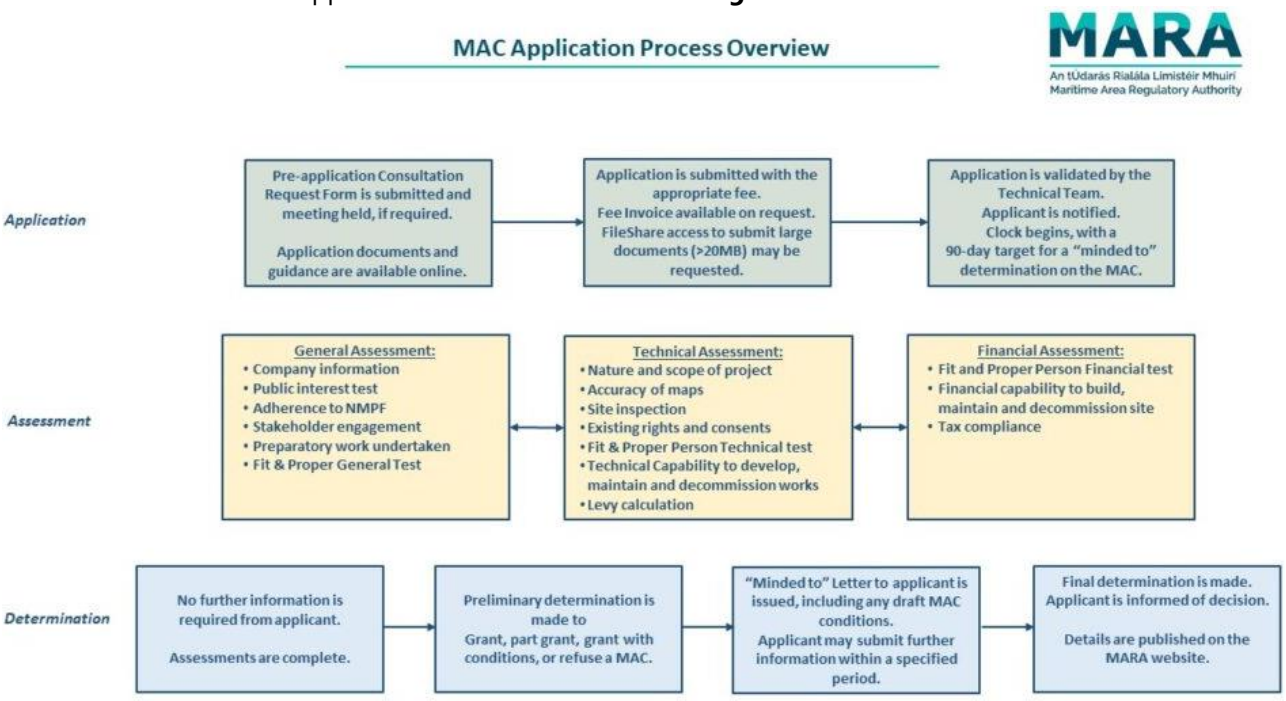

Figure 2-2 MAC Application Process Overview

2.5 Planning / Development Permission

Once you have been granted your MAC you may now proceed to the planning phase to seek development permission otherwise known as planning permission. Depending on the scale and location of your project you will either apply to a Costal Planning Authority (CPA) or An Bord Pleanála.

2.5.1 Nearshore Area – Coastal Planning Authority

The Maritime Area Planning Act (MAPA) distinguishes between the 'nearshore area' of a CPA and the outer maritime area (the entire maritime area beyond the nearshore area). The nearshore area is defined as the area within 3 nautical miles (nm) from the high-water mark of the mean tide. The designation of this area may also be made by the Minister for Housing, Local Government and Heritage. If a project falls exclusively within this area and has a capacity of 5 MW (or less) or consists of 5 generation units or fewer, the Local CPA will have jurisdiction over the planning application within their respective area. For example, the nearshore area off Fingal County Council administrative area will be under the administration of the Fingal County Council. However, if the installation exceeds 5 MW or 5 generation units, the planning application must be submitted directly to An Bord Pleanála.

2.5.2 Maritime Area – An Bord Pleanála

Beyond the Nearshore Area (3 nm from the high-water mark of the ordinary or medium tide), within waters of the State's continental shelf, is the Maritime Area. Any offshore development in the Maritime Area requires

development permission directly from An Bord Pleanála.

Under the MAPA, An Bord Pleanála shall independently assess planning applications including environmental assessments for certain strategic infrastructure projects listed in Schedule 10, including offshore energy projects and other projects that do not fall exclusively within the functional area of any one CPA. The application assessment will include public participation on the detailed project plan. An Bord Pleanála has established a new Maritime Directorate with responsibility for the assessment of planning applications for offshore development. For the avoidance of doubt and notwithstanding any other enactment, MARA is not required to carry out, for the purposes of determining a MAC application: (a) a screening for appropriate assessment or appropriate assessment (b) a screening for environmental impact assessment or environmental impact assessment.

2.5.3 The Planning Process

2.5.3.1 Pre-Application Consultation meetings

In advance of making your planning application you will need to have a pre-application consultation meeting with the Planning Authority. This will give you the opportunity to introduce your project and put forward key information and details about your project and seek the Planning Authority's guidance or opinions on certain matters. Indeed, there may be a need for a series of meetings dependent on the complexity of your project. These meetings will allow you to steer your project and ensure you include sufficient details in your planning application to assist the Planning Authority in assessing your application.

Meetings may include:

- Overall concept and design, consultation to date, etc.,
- EIAR Screening, EIAR Methodology and Scoping, if applicable,
- Any other issue where clarity or guidance is required,
- The required content of the planning pack,
- The appropriate scale for various drawings.

2.5.3.2 Design Flexibility

Unlike other planning permission processes, the Maritime Area Planning Act 2021 includes provisions that allows an applicant to seek the Planning Authority's opinion on design flexibility, regarding certain unconfirmed details in a planning application. To deal with this aspect of offshore renewable energy projects, there is a process whereby a specific a pre-application meeting focused on design flexibility is held with the Planning Authority, during which the authority may agree or disagree on whether the details are to be provided before or after the application.

In December 2023, new Regulations concerning seeking an opinion on design flexibility from the Planning Authority were published, namely, the Planning and Development (Amendment) (No. 3) Regulations 2023.

2.5.3.3 Planning Application

To make a valid planning application you will likely require the services of a professional team of experts to guide you, particularly with the more complex projects. The planning application pack that is submitted as part of the application must contain the following documents at a minimum:

- Completed Planning Application Form and all associated appendices,
- The Planning Application Fee,

- A copy of the Site Notice and the Newspaper Notice,
- A copy of the MAC,
- A copy of the Design Flexibility opinion (wherever this is applicable) and an associated form,
- All required drawing, plans, particulars, and information. This may include survey reports, technical reports, including any environmental reports and assessments as advised by your professional advisors, and the planning authority.

2.5.3.4 Public Consultation

All application documents will be made available for public scrutiny both in soft copy and in hard copy. Submissions and observations may be made by the public in relation to the development and the documentation provided.

2.5.3.5 Request for additional information

Where the Coastal Planning Authority or An Bord Pleanála considers the application or the EIAR to be inadequate in identifying or describing significant effects on the environment arising from the proposed development, it must require the applicant to submit further information within a specified period to ensure the completeness and quality of the EIAR and to facilitate the reaching of a reasoned conclusion of the significant effects on the environment of the proposed development.

2.5.3.6 Grant of permission

The Planning authority may grant or refuse a planning application, with or without conditions. Conditions may include agreeing certain details post consent, such as Construction Environmental Management Plans, or method statements for particular works.

2.5.3.7 Oral Hearing

An oral hearing is a public meeting to allow relevant issues in a case to be discussed and examined. Anyone can attend, but only participants who are taking part in the case can be involved in the discussion. Oral hearings are sometimes held to help a Planning Inspector (working for An Bord Pleanála i.e. the Board) to gather more information on a planning appeal case from participants. It is not formal or legal in design or practice.

The Planning Authority normally decides to hold an oral hearing if it believes it would be helpful to understand a particularly complex case. Oral hearings can also be held where the Board considers there to be significant national, regional, or local issues involved. The Board can decide to hold an oral hearing with or without someone requesting it.

2.5.3.8 Judicial Review

A judicial review is a mechanism whereby a person can challenge decisions made by public bodies in the exercise of their duties. A judicial review is made through the High Court. A judicial review is not concerned with the merits of a particular decision but rather the lawfulness of how a decision was made. The aim of a judicial review is to ensure that public functions are carried out fairly.

In practical terms what this can mean for a developer is that it may be used by the developer to challenge a decision such as the refusal of development consent if there were sufficient grounds, or if a judicial review has been taken against the grant of permission by a third party this may lead delays and project uncertainty until the judicial review process has concluded. Judicial review risks will need to be considered in any consents planning for a project.

Further information on the judicial review process can be found at:

https://www.citizensinformation.ie/en/government-in-ireland/how-government-works/standards-and-accountability/judicial-review-public-decisions/

2.6 Grid Connection

Prior to construction, a Grid Connection Offer must be obtained, which will allow for an offshore renewable energy installation to be connected to the national grid, to supply energy. It is important to note that to secure a grid connection offer, a project requires planning permission in advance of submitting a Grid Connection Application. However early consultation is advised to ensure the technical requirements are understood and incorporated into your design for planning. Depending on the scale of your project, one or more of the following Grid Connection Offers / Electrical Licences may be required.

Grid connection agreements must be sought with either ESB Networks or EirGrid. This is based on the capacity of the project.
Projects with total export capacity of under 40 MW at a single location should initially apply to ESB Networks for a Distribution Connection.

Projects with over 40 MW total export capacity at a single location should initially apply to EirGrid for a Transmission Connection.

For application forms for an EirGrid ECP (Enduring Connection Policy) and details of the application process please consult the EirGrid website. Any queries can be directed to OPMO@eirgrid.com.

It is recommended to begin consultation with the relevant network operator before filing a planning application as it may be determined that specific requirements such as sub-stations are needed. A full connection application, however, should only be filed after a planning application has been granted.

2.6.1 Distribution Use of System (DUoS) Agreement

For connections directly to the DSO (low to medium voltage connections only), a Distribution Use of System Agreement (DUoS) is required to access and transport electricity to and/or from the generation plant through the distribution system. An application must be made to ESB networks (Section 14(1)(b), (c), (d) or (h) of the Electricity Regulation Act 1999, and Section 34 of the Electricity Regulation Act 1999). Following on from the connection application, an initial payment is required.

It is recommended by the ESB to begin liaising prior to submitting a planning application as it may be determined that additional works or structures are needed which may result in additional consenting and planning requirements.

For further information on the application process, preparations needed, and necessary fees see the ESB Guide to the Process for Connection of Demand Customers to the Distribution System.

2.6.2 Transmission Use of System (TUoS) Agreement

For connections directly to TSO (high voltage connections only), a Transmission Use of System Agreement (TUoS) is required. This is a mandatory agreement that is required to obtain access to TUoS and transport electricity to and/or from the generation plant through the transmission system. This is regulated under Section 14(1)(b), (c), (d) or (h) of the Electricity Regulation Act 1999, and Section 34 of the Electricity Regulation Act 1999, as amended.

An application can only be made after planning permission has been granted. However, it is recommended to begin liaising with the TSO while in the pre-planning stage as there may be specific requirements that result and require planning and consenting approval.

This agreement must be in place before a supplier or generator can participate in the Single Electricity Market (SEM).

For guidance documents and application forms please see: EirGrid: Connection and Use of System Agreements.

2.6.3 Commercial Project Grid Connections

Commercial projects are generally larger in scale and / or energy production than Domestic or Community projects. Commercial projects are primarily developed by through private enterprise or energy companies for profit-geared energy production (not self-consumption). They often involve the installation of multiple turbines or even multiple sets of turbines.
Given the usual scale of commercial projects, they tend to fall under the Cat A or B connection requirement. However, it is always important to verify based on the scale of the project.

2.6.3.1 ECP Cat A

The Enduring Connection Policy (ECP) process for grid connection applications is the current pathway for generators, storage, and other system services technology projects to connect to the electricity system.
ECP Category A is for generation, storage, and other system services technology projects (MEC[2] >0.5 MW). Applications for this grid connection offer will occur in batches with application windows occurring annually. An application fee applies for projects with MEC >500kW (0.5 MW) which is €2,000. Successful applicants will be prioritised by largest renewable energy generation (first 25), then by planning permission grant date. Each batch application may set its own generation priorities.
A New Generator Connection Application (NC5) should be used where an applicant has identified their specific generator manufacturer detail and would like their technical study processed using the specified data provided by the applicant. NC5A is a shortened version of this form and may be used where the specific generator manufacturer detail is unknown at the time of application. Therefore, the technical study is completed using assumed data and the applicant is required to provide their specific data a year in advance of energisation. Fully completed application forms can be sent via email with all relevant documentation to DSOGenerators@esb.ie.

Recommended Reading:
ESB: Generator Application Process FAQs
Specific generator manufacturer detail is usually unknown at time of application. Therefore, the technical study is completed using assumed data and the applicant is required to provide their specific data a year in advance of energisation. Fully completed application forms can be sent via email with all relevant documentation to DSOGenerators@esb.ie.

2.6.3.2 ECP Cat B Grid Connection Offer

Enduring Connection Policy (ECP) Category B is open to the following projects:

- Small projects i.e., MEC greater than 6kW/11kW and less than or equal to 500kW,
- DS3[3] system services trial projects – up to 500kW, and,
- Auto producers.

Applicants who have an existing application which has been received complete (along with the appropriate application fee) by the Systems Operators, will be processed throughout the calendar year. These applicants will be prioritised by when the existing application was received complete. Where any relevant details

[2] The Maximum Export Capacity (MEC) is the maximum capacity that you can export to the Electricity Distribution System. MIC and MEC are measured in kilo Volt Amperes (kVA). 1kVA is roughly equivalent to 1kW in most circumstances.
[3] Delivering a Secure, Sustainable (electricity) System. The DS3 programme aims to ensure the secure and safe operation of the electricity system with increasing amounts of variable non-synchronous generation, such as wind, wave and solar. To achieve this aim, the TSO needs to obtain specific DS3 system services from generators and market participants

pertaining to their project have changed, the existing Applicants must submit a new application form under ECP-2.1 for the same site location (grid coordinates) and technology type. The applicants may apply to reduce their MEC.

To make a grid connection application Form NC5 should be used where an applicant has identified their specific generator manufacturer detail and would like their technical study processed using the specified data provided by the applicant.

Form NC5A is a shortened version of this form and may be used where the specific generator manufacturer detail is unknown at time of application. Therefore, the technical study is completed using assumed data and the applicant is required to provide their specific data a year in advance of energisation.

Fully completed application forms can be sent via email with all relevant documentation to: DSOGenerators@esb.ie.

2.6.4 Community Project Grid Connections

2.6.4.1 ECP Cat C Grid Connection Offer

Enduring Connection Policy (ECP) Category C is open to the following projects:

- Community-Led Projects where MEC greater than 0.5 MW and less than or equal to 5 MW; and
- Community-Led Projects meeting the 100% community owned status, as outlined the in the ECP-2 Clarification Note (CRU/21/069).

Category C (Community-led) applicants must be 100% community owned and can apply on an ongoing basis throughout the calendar year. Once the application fee deposit has been paid and the applications have been accepted, the Distribution System Operator (DSO) (ESB Networks) will conduct a detailed study and confirm the connection method and connection cost. This will be issued as a "connection assessment". Community-led renewable energy projects will also not need planning permission prior to applying for a grid connection. Planning permission will, however, be required before a grid connection offer is issued.

To make a grid connection application Form NC5 should be used where an applicant has identified their specific generator manufacturer detail and would like their technical study processed using the specified data provided by the applicant.

Form NC5A is a shortened version of this form and may be used where the specific generator manufacturer detail is unknown at time of application. Therefore, the technical study is completed using assumed data and the applicant is required to provide their specific data a year in advance of energisation. Community led projects must include a Declaration Form with their application. Fully completed application forms can be sent via email with all relevant documentation to DSOGenerators@esb.ie.
ESB: Generator Application Process FAQs

2.7 Pre-Construction Phase

2.7.1 Appointment of Construction Contractors

Pre-construction, contractors will need to be appointed to carry out the delivery of the development. There are two broad categories of contracting options:

1. Turnkey contracting, which sees a single company handling all, survey works, turbine equipment, turbine installations, inter-array cable installation, export cable installation, electrical and civil engineering works; or

2. Separate contracting, where individual aspects are contracted out to specific companies.

Maintenance contracts are also usually agreed at this point, where required.

2.7.2 Planning Permission Amendments, Clarifications and Conditions

Pre-construction, some conditions within the planning permission applied by the Local Authority or An Bord Pleanála must be sufficiently discharged (formal applications process where details requested are provided to comply), where required. This may include the likes of providing more specific details of design, or similar details. Failure to discharge planning conditions as specified by condition of a planning permission may result in enforcement action.

2.7.3 Notification of Intention to Construct or Reconstruct, and/or to Generate Electricity from a Generation Station not exceeding 10 MW

Under the Electricity Regulation Act 1999 (Section14(1A)) Order 2022, it is necessary to apply to the Commission for Regulation of Utilities (CRU) prior to commencing works to construct or reconstruct and or to generate electricity from a generation station not exceeding 10 MW.

Before applying for a licence all new applicants or applicants with novel or complex applications should apply for a pre-submission meeting with the CRU. To contact the CRU for a pre-submission meeting use: licensing@cru.ie.

Prior to the meeting it would be beneficial to the applicant to review the application: Generators not exceeding 10 MW application form.

2.7.4 Authorisation to Construct or Reconstruct a Generating Station

This authorisation allows a person to construct or reconstruct a generating station, it is applied for through the CRU (Section 16 of Electricity Regulation Act 1999, as amended). It is an offence to construct or reconstruct a generating station for the purpose of supply to final customers without the required Authorisation. An exception to this is where the proposed generation station has a capacity of less than or equal to 1 MW.

There are two separate applications for authorisation to construct or reconstruct generating stations that are less than 40 MW, or exceed 40 MW. If you are applying for both a Licence and Authorisation at the same time, use a Dual application form (less than 40 MW or exceeds 40 MW).

Before applying for a licence, all new applicants, or applicants with novel or complex applications should apply for a pre-submission meeting with the CRU. To contact the CRU for a pre-submission meeting use: licensing@cru.ie.

For further information and details on supporting documentation and most up-to-date fee requirements please refer to the CRU guidance notes on the Authorisation to Construct.

2.7.5 Licence to Generate

A Licence to Generate is a mandatory licence for anyone wishing to supply electricity to final customers (a final customer is defined as a customer purchasing electricity for his own use[4]), it is applied for through the CRU, (Section 14(1)(b), (c) or (d) of Electricity Regulation Act 1999, as amended). This licence is a requirement all electricity generators, with generating capacity >10 MW, as per the Electricity Regulation Act.

Before applying for a licence all new applicants or applicants with novel or complex applications should apply for a pre-submission meeting with the CRU. To contact the CRU for a pre-submission meeting use: licensing@cru.ie.

[4] Article 2(3) of the Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market in electricity (recast)

Please refer to the Guidance Notes: Licence to Generate, for further detailed information and the most up to date fees related to the application.

2.7.6 Licence to Supply

A Licence to Supply is a mandatory licence for anyone wishing to supply electricity to final customers (a final customer is defined as a customer purchasing electricity for his own use[5]), it is applied for through the CRU, (Section 14(1)(b), (c) or (d) of Electricity Regulation Act 1999, as amended).

The CRU grants revokes and enforces these licences. The current fee for the licence to supply is €254 and can be applied for through the CRU application form. An Electricity Supply Licence will be valid for 15 years. For further information and details on supporting documentation please refer to the CRU Electricity Supply website: https://www.cru.ie/regulations-policy/licences/electricity-supply/

2.7.7 Derogation Licence

Derogation licences are licences to disturb or interfere with protected plant and animal species. A derogation licence may be required for a surveys for example, where individuals may need to be captured and identified, or perhaps relocated. A number of plant and animal species are legally protected in Ireland. Some of these species are included in a system of Strict Protection pursuant to the requirements of Articles 12, 13 and 16 of the Habitats Directive (92/43/EEC) and are sometimes referred to as Annex IV species. The list of Annex IV species which occur in Ireland and its waters is set out in Table 2-2. The European Commission Guidance document[6] on the strict protection of animal species of Community interest under the Habitats Directive 92/43/EEC (October 2021) should also be consulted for further information.

Table 2-2 Annex IV Species

Annex IV Species	
Animals	**Plants**
All bat species	Killarney Fern
Otter	Slender Naiad
Natterjack Toad	Marsh Saxifrage
Kerry Slug	
Dolphins and Porpoises	
Whales	
Marine Turtles	

2.7.8 Ecological Consents, Notifiable Actions/ Consents/ Derogations Licences

If you are intending to develop on or in an area where wildlife could be impacted, consent may be required. Such consent may be in the form of notifiable actions or licences. Further permission may then be required in exceptional cases (e.g., species is threatened or in poor condition), when the handling or movement of the protected species is necessary.

For the full breakdown and detail on the various activities that constitute a notifiable action for listed habitats

[5] Article 2(3) of the Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market in electricity (recast)

[6] European Commission Guidance document. Available online at: https://environment.ec.europa.eu/topics/nature-and-biodiversity/habitats-directive_en [accessed August 2023].

and species please refer to the NPWS page here: https://www.npws.ie/farmers-and-landowners/notifiable-actions/listed-habitats-and-species.

If a protected species is suspected to occur in an area to be developed, a derogation licence may be required. Within limited circumstances derogation licences permit holders to disturb or interfere with protected plant and animal species. A number of plant and animal species are legally protected in Ireland. Article 16 of the Habitats Directive provides for derogations. These may be issued:

> "*Provided there is no satisfactory alternative, and the derogation is not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status*."

Any person thinking of applying for a derogation licence under these regulations should first read the document "*Guidance on the Strict Protection of Certain Animal and Plant Species*"[7], which details the strict protection measures around certain animal and plant species in Ireland under the EU Habitats Directive. It lists all animals and plants in Ireland that currently qualify for a derogation licence so this document should be consulted if you are unsure whether a particular species is protected. This document also describes what criteria must be met for a derogation licence to be issued and how Public Authorities, should approach activities where Annex IV species are involved.
The more detailed document "*Strict Protection of Animal Species – Guidance for Public Authorities*"[8] is written for public authorities when planning, however, it will also be helpful for Developers planning works which may have the potential to impact on strictly protected species.

2.7.8.1 Derogation Licence to Disturb Bats or their Breeding or Resting Places

At present there are nine confirmed resident bat species in Ireland. All bats are listed on Annex IV of the EU Habitats Directive. Under the Irish law that implements this directive, both the bats themselves and their roosts are protected, as such it is an offence to disturb or interfere with them without an appropriate licence. If any bat species is suspected to inhabit structure (e.g., trees, bat boxes, buildings, stone bridges etc.) in any area proposed for development, a derogation licence to disturb bats, their breeding or resting places may be required by the granting authority[9].

Even when planning permission is granted, the wildlife legislation applies. **Works which would capture or kill them, damage, or destroy their roosts or disturb them at important parts of their life cycle cannot take place without obtaining a *second derogation licence***. This licence is issued when planning permission is given under Regulation 54 of the Regulations, and strict criteria must be met before such a licence can be approved. 'Bat Mitigation Guidelines for Ireland'[10] should also be referred to when carrying out works which may disturb them.

2.7.8.2 Derogation Licence to Disturb Annex IV Species or their Breeding or Resting Places

The list of Annex IV species which occur in Ireland and its waters are set out in **Table 2-2 above**. The European Commission Guidance document[11] on the strict protection of animal species of Community interest under the Habitats Directive 92/43/EEC (October 2021) should also be consulted for further information.

If any Annex IV species is suspected/found to occur in an area to be developed, a derogation licence may be required. A derogation licence to disturb Annex IV species or their breeding or resting places may be

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[7] NPWS Guidance on the Strict Protection of Certain Animal and Plant Species. Available online at: https://www.npws.ie/sites/default/files/files/strict-protection-of-certain-animal-and-plant-species.pdf [accessed October 2023].
[8] NPWS Guidance on the Strict Protection of Certain Animal and Plant Species for Public Authorities. Available online at: https://www.npws.ie/sites/default/files/files/article-12-guidance-final.pdf [accessed September 2023].
[9] NPWS, under EC (Birds and Natural Habitats) Regulations 2011-2021.
[10] NPWS Bat Mitigation Guidelines for Ireland. Available online at: https://www.npws.ie/sites/default/files/publications/pdf/IWM134.pdf
[11] European Commission Guidance document. Available online at: https://environment.ec.europa.eu/topics/nature-and-biodiversity/habitats-directive_en

required by the granting authority, NPWS, under European Commission (Birds and Natural Habitats) Regulations 2011-2021. For example, otters are listed on Annex IV of the EU Habitats Directive. The Irish law that implements this directive gives strict protection to individual otters and their breeding and resting places.

Even when planning permission is given, the wildlife legislation applies. Works which would capture or kill them, damage, or destroy their breeding or resting places, or disturb them at important parts of their life cycle cannot take place without obtaining a *second* derogation licence. This licence is issued when planning permission is given under Regulation 54 of the Regulations, and strict criteria must be met before such a licence can be approved.

See https://www.npws.ie/licensesandconsents/disturbance/application-for-derogation-licence for a further information.

2.7.9 Capture/Kill Protected Wild Animals for Education or Scientific Purposes Licence

A *'Capture/Kill Protected Wild Animals for Education or Scientific Purposes Licence'* is required for all survey and monitoring of all protected species, ***even where animals will not be handled*** (under Section 23 and Section 34 of the Wildlife Act 1976 (as amended)).

Although the application form/licence refers to 'capture or killing of protected wild animals', licences are required to investigate sites where protected species are found. Due to the various protected species' status as threatened and or in poor condition, it is only in exceptional cases that handling, or movement of animals is licenced. Licences will only be granted if the licenced activity will result in no significant adverse impact on the conservation of the species. For example, if the freshwater pearl mussel is suspected to occur in an aquatic habitat impacted by a development, this licence would be required to potentially translocate this species to an appropriate location. The decision for granting the licence will be made by the wildlife licence unit through the National Parks and Wildlife Service (NPWS).

See https://www.npws.ie/licencesandconsents/education-and-science/capture-kill-for-scientific-purposes for the application forms and further information.

2.7.10 Licence to Take or Interfere with Protected Plant Species for Scientific, Educational, or Other Such Purposes

As per the Flora (Protection) Order (2022), If any protected plant species is known/found/noted to be present in an area that is proposed to be developed, a licence to interfere with these species is required Under Section 21 of the Wildlife Act. Under Section 21, it is an offence for a person to cut, pick, uproot or otherwise take, purchase, sell or be in possession of any plant whether whole or part, of a species mentioned in the Order, or wilfully to alter, damage, destroy or interfere with the habitat of such a species, except under licence of the Minister, and then, strictly for scientific, educational, or other such purposes.
A licence to take or interfere with protected plant species for scientific, educational, or other such purposes can be applied for through the granting authority, NPWS. In the absence of any viable alternative, licences are granted where no significant damage will be caused to the conservation status of the species and where the adverse impact on the local population of species is kept to a minimum. Applications will only be considered if a licence is required for scientific, educational, or other such purposes.

See licence to take or interfere with protected plant species for a further information.

2.7.11 To interfere with or Destroy the Breeding Places of Any Wild Animals

If you are intending to develop in an area to be known for breeding places of any wild animals, a licence 'To Interfere with or Destroy the Breeding Places of Any Wild Animals' may be required to proceed. A licence may be required by the granting authority, NPWS (Section 23 (5) (d) of the Wildlife Act 1976 as amended), the legislation states that any person who wilfully interferes with or destroys the breeding place or resting place of any protected wild animal, shall be guilty of an offence.

See https://www.npws.ie/licences-disturb-or-interfere-protected-plant-and-animal-species for a further information.

2.7.12 Licence To Photograph or Film a Protected Wild Animal or Bird

In general, a licence is not required for photography/filming of protected wild animals or birds provided that there will be no risk of disturbance to the breeding place of any animal, a nest containing eggs or unflown young of any bird. However, **if you intend to photograph a protected wild animal or bird on or near the breeding place of such an animal or bird, you should apply for this licence**.

For a person to take or make photographic, video, or other pictures of a protected wild animal of a species specified in the licence, on or near the breeding place of such an animal, a licence may be issued by the Minister (Under Section 23 (6)(b) of the Wildlife Act, 1976 (as amended)). Applications for permissions are made on a standard application form (Licence to Photograph/Film a Protected Wild Animal) and submitted to the wildlife licence unit of the National Parks and Wildlife service.

For a person to take or make photographic, video, or other pictures of a protected bird of a species specified in the licence, or a wild bird of a species specified in the licence on or near a nest containing eggs or unflown young, a licence may be issued by the Minister (Section 22 (9)(f) of the Wildlife Act, 1976 (as amended)). Applications for permissions are made on a standard application form (Licence to Photograph or Film a Protected Wild Bird) and submitted to the wildlife licence unit of the National Parks and Wildlife service.

Animal species protected under the Wildlife Act are listed in **Table 2-3** below.

Table 2-3: Current list of protected animal species in Ireland

Mammals			Amphibians	Reptiles	Fish	Invertebrates
All Bat Species	Otter	All Seal species	Natterjack Toad	Common Lizard	Basking Shark	Freshwater crayfish
Badger	Pine Marten	All Whale species	Common Frog	Leatherback turtle		Freshwater pearl mussel
All Deer Species	Red Squirrel	All Dolphin species	Common Newt			Kerry slug
All Hare Species	Pygmy Shrew	All Porpoise species				
Hedgehog	Stoat					

2.7.13 Licence for the Removal of Invasive Alien Species

Under the EC birds and Natural Habitats Regulations 2001 SI 477 of 2011, it is an offence to release or allow to disperse or escape, to breed, propagate, import, transport, sell or advertise species listed on Schedule 3 of the regulations without a Licence. The two regulations that deal specifically with this scheduled list of species are:

- Regulation 49: Prohibition of introduction and dispersal of certain listed species; and,
- Regulation 50: Makes it an offence to or to intend to import, buy, sell, breed, transport and distribute listed animal or plant species or vector material; and
- Regulation 74: Which sets out transitional provisions related to the commencement of Regulations 49 and 50

The following activities are expressly prohibited:

- Dumping invasive species cuttings in the countryside,

- Planting or otherwise causing to grow in the wild (hence the landowner should be careful not to cause further spread),
- Disposing of invasive species at a landfill site without first informing the landfill site that the waste contains invasive species material (this action requires an appropriate licence), and,
- Moving soil which contains specific invasive species in the Republic of Ireland unless under a licence from NPWS.

See: https://biodiversityireland.ie/top10/10-most-unwanted-species/, for the current list of invasive species (for flora and fauna) in Ireland.

At any stage of a project, where invasive alien plant species are encountered, a licence (applied for through the Wildlife Licence Unit of the NPWS) for the removal/movement of invasive species from the site is required. In the event that herbicides or pesticides have been used, the contaminated materials may be classed as a hazardous waste or non-hazardous waste and will be required to be appropriately disposed of at an appropriately licenced facility.

2.7.14 Dumping at Sea Permit

A Dumping at Sea (DaS) permit that can be applied for through the Environmental Protection Agency (EPA) under Section 5 of the Dumping at Sea Act 1996. It is required for the disposal of dredged material and inert material of natural origin (in the absence of suitable alternative reuse and disposal methods). Dumping of vessels, aircraft, sewage sludge, animal carcasses/parts/products and industrial fish waste is not permitted. As per S.I. No. 270/2021- Dumping at Sea (Fees) Regulations 2012, a fee shall be payable to the Agency in respect of an application for a DaS permit[12] .

Some aspects of dumping at sea may be covered under a MU Licence from MARA, consultation is advised.

2.7.15 Ministerial Consent for works under the Continental Shelf Act

This act (Continental Shelf Act, 1968) applies to works within a designated area in the marine environment. Section 5 (Safety of Navigation) (1) states:

"*A person shall not construct, alter or improve any structure or works in or remove any object or material from a* ***designated area*** *without the consent of the Minister for Transport and Power.*" This is related to works within, on or under the seabed but not the waters above (which are part of the 'High Seas').

Section 8(1) states:
"Section 3 of the Submarine Telegraph Act, 1885, and Article IV and the first paragraph of Article VII of the Convention set out in the Schedule to that Act shall apply in relation to all submarine cables and pipelines under the high seas and the said section 3 shall be construed—
(a*) as referring to telephonic as well as telegraphic communication, and*
(b) in relation to pipelines and electricity cables, as if from "to which the Convention" to the end of subsection (1) were deleted."

2.7.16 Ministerial Consent for works at/ near a National Monument/ Detection Device Consent (Archaeological Works)

The detection device consent licence is granted by the National Monuments Service (NMS) under Section 2 of the National Monuments Act (NMA) 1987 (as amended). It requires that consent must be obtained for the use of a detection device to search for archaeological objects at a specified place or for the use and possession of a detection device at a place protected under the National Monuments Acts.

A detection device is defined as *'a device designed or adapted for locating any metal or mineral on or in the ground, on, in or under the seabed or on or in land covered by water but does not include a camera*'.

[12] https://www.irishstatutebook.ie/eli/2012/si/270/made/en/print?q=270&years=2012

The underwater archaeological dataset is maintained by the Underwater Archaeology Unit of the National Monuments Service. Wrecks over 100 years old and archaeological objects underwater, irrespective of their age or location, are protected under Section 3 of the National Monuments (Amendment) Act 1987. Section 26 of the 1930 national monuments act and Section 2 of the NMA (1987) regulates the archaeological excavation and or use of detection devices in the search for archaeological objects. The permits and licences for the aforementioned activities are only issued in connection with a defined archaeological research project or survey or with an archaeological impact assessment for planning-related cases.
For further information please see:

- Licence for Archaeological Excavation; and
- Detection Device Consent

2.7.17 Dive Survey Licence

During the course of survey works if it is determined that a dive survey licence is required (for example, cable routes, at or near underwater areas protected under the National Monuments Act 1987)- a licence should be applied for under Section 3(5) of the National Monuments act 1987.

The licence holder must inform the National Monuments Service, at least two working days in advance of commencing dive operations. In addition to this there are a number of relevant stipulations including:

1. Neither the licence holder, nor persons diving in support of the licence holder may interfere with or remove any part of the wreck/site in question.

2. Licence holders are required to provide a short account of their dives and a brief description of the general state of the site/wreck before the end of the year in which the licence was granted. The report should be in the following formats one digital (PDF format on CD or USB) and two hard copies of a preliminary report on the excavation with the National Monuments Service, and one digital (PDF format on CD or USB) and one hard copy of same with the National Museum of Ireland.

3. The Minister for Housing, Local Government and Heritage may revoke this licence at any time should he form the view that the project is not being conducted in accordance with the conditions of the licence or is otherwise contrary to the protection of the archaeological heritage.

2.7.18 Marine Notice

Marine Notices are information notices issued by the Department of Transport to publicise important safety, regulatory and other information relating to the maritime sector in Ireland.

A Marine Notice will be required to be placed to advise of construction, works or surveys at sea that may affect navigation. The requirement for placement of marine notice will need to be taken into account for survey and construction works. Details on Marine Notices can be found on the Department of Transport website.

2.7.19 Irish Coast Guard permits /approvals

Depending on the project it may be necessary to obtain approvals from Irish Coast Guard (IRCG) for certain works offshore. Irish coast guard are concerned with the safe operation of vessels off shore and managing response to certain emergencies offshore. There are no statutory timeframes for approval of such permits or documents therefore consultation will be required with IRCG at an early stage to ensure the requirements are understood and factored into your planning. The requirements may not be fully understood until contractors are appointed.

- Ship to ship transfer of fuel (bunkering),
- Ship to ship transfer of crew,

- Oil Spill Contingency Plan
- Hazardous and Noxious Substances Plan
- Emergency Procedures Manual

2.8 Construction Phase

2.8.1 Planning Permission Conditions

Upon a grant of planning permission, there will almost certainly be planning conditions imposed by the consenting authority, which may cover a range of matters.

There will likely be conditions that will cover matters during construction, such as working hours (for terrestrial aspects), which specifies the acceptable window of time when construction may take place, or other conditions in relation to noise from construction, dust generated, breeding seasons of marine mammals and birds, impacts to certain species, etc. These conditions must be strictly adhered to, as if a project is found to be in breach of conditions, the consenting authority may initiate enforcement proceedings.

The consenting authority may deploy Site Inspectors to ensure compliance with planning conditions.

2.8.2 Construction Environmental Management Plan (CEMP)

As part of the application the developer may have submitted an outline CEMP. The CEMP should include all the mitigation and management measures identified during the EIA process necessary to prevent or mitigate environmental impacts during the construction phase. The CEMP should be implemented, and performance monitored throughout the construction process, and updated as necessary. As specialist constructors will likely be used, they may have very well-developed CEMPs, however, it is important that all mitigation and management measure identified in the EIAR process and relevant planning conditions are included in final CEMP for construction. It is likely that the final CEMP for the construction phase will need to be submitted to the planning authority in advance of construction. This may be a condition of the planning consent.

2.8.3 Commencement Notice / 7-Day Notice

In accordance with the Building Control Regulations, you are obliged to submit a *Commencement Notice* or a *7-Day Notice Application Form* with a *Seven Day Statutory Declaration* prior to commencement of the development to Building Control Section of the Local Planning Authority, giving notice of the intention to start work.

A Commencement Notice must be received by the Building Control Authority not less than 14 days and not more than 28 days before you wish to commence.

Additional documentation may be required to be submitted with the completed Commencement Notice; and this should be completed on-line on the National Building Control Management System (BCMS). An online BCMS system for lodging commencement notices and 7 Day Notices and complying with the various new requirements is available at www.localgov.ie.

2.8.4 Road Opening / Closing Licence

For the terrestrial works linking the offshore up to the onshore substation, a temporary road closure may be required in conjunction with a road opening licence, or for other works. To comply with statutory requirements, **an application for a temporary road closure should be submitted 8 weeks in advance** to the relevant Local Authority.

You will require a licence called a 'Road Opening Licence' for any works in a public area, to dig up a public road, footpath, or grass verge, for works such as:

- Water/Sewer Connections,

- Lowering of footpaths,
- Footpath reconstruction, and,
- Cable laying.

Applications for Road Opening Licenses can be applied through the MRL website. You must register with Road Management Office; http://www.rmo.ie/non-registered-users.html online MRL System to apply for a Road Opening Licence.

Temporary Road Closures are on occasion required to facilitate road works. Completed **application forms must be submitted 5 weeks prior to the road closure** to the relevant Local Authority. The applicant must cover advertisement costs.

In conjunction with the above licences the following licences should also be applied for where works take place on or near public roads or pathways: a Hoarding/Scaffolding Licence and a Signage licence (Section 254 licence). A hoarding/scaffolding licence is required to facilitate building works and to ensure safety for the public. Completed **application forms must be submitted 3 weeks prior to works commencing** to the relevant Local Authority. A Signage licence is also required to authorise the use of advertisement signs/structures on public roads, (e.g., Directional Signs). Completed application forms must be submitted for assessment.

It will be necessary to check with the relevant Local Authority what the current fees are for the different permit applications.

2.8.5 Section 254 Licence (Items on Public Roads)

A Section 254 Licence applies to all appliances, cables, signs, street furniture or other items on public roads. You will need to apply to the relevant Local Planning Authority to place on, under, over or along a public road numerous items or equipment, including the following which may be relevant to offshore renewable energy projects, onshore aspects:

- A fence, scaffold, or hoarding,
- A cable, wire, or pipeline,
- Over ground electronic communications infrastructure and any associated physical infrastructure such as A telephone pole or cabinet, or
- Any other appliance, apparatus or structure specified in regulations made by the Minister for Housing, Planning and Local Government or by an Act of the Oireachtas that requires a licence.

To apply for a Licence, you will need to complete the application form and submit that form to the Planning Authority along with:

- A Site Location Map - 1:2,500 scale,
- A Site Layout Plan showing location of proposed appliance(s)/apparatus(s)/structure(s),
- Drawing(s) to scale of proposed appliance(s)/apparatus(s)/structure(s),
- The appropriate licence fee,
- Copy of Insurance Confirmation indemnifying the relevant County Council against claims arising out of any accidents to persons or property,
- Written legal consent of the landowner, and,
- A copy of the site notice.

2.8.6 Abnormal Loads Permit (Permit for Specialised Vehicles)

A 'Special Permit' is required for any haulage vehicles which are considered to be either: Wide, Long or Heavy

and travelling on the roads within the relevant County Council administrative area. These vehicles may be required when transporting larger components by road. Completed **application forms must be submitted 7 days prior to commencement of the journey**.

It will be necessary to check with the relevant local authority what the current fees are for the different permit applications.

2.8.7 Fire Safety Certificate

A Fire Safety Certificate is required where the applicant proposes a new building, a new building extension, material alterations to an existing building or a change of use of an existing building. The application is made through the Building Control Authority (BCA) in the local City or County Council. If the building or works complies with the requirements of Part B of the Second Schedule of the Building Regulations 1997, the BCA will issue a Fire Safety Certificate.

A Fire Safety Certificate application should be made by a Fire Safety Consultant, Architect or Engineer who is familiar with the Building Regulations and the procedure for applying for a Fire Safety Certificate. The fees for the application vary based on the type of application required (normal, 7-day notice or regularisation application).

A valid Fire Safety Certificate application must include:

- A completed application form,
- Relevant fire safety drawings in duplicate,
- A fire safety report in duplicate,
- Site location maps in duplicate, and,
- The appropriate fee.

Please refer to Part II of the Building Control Regulations for further information and exemptions.

2.8.8 Disability Access Certificate

To determine if your project requires a Disability Access Certificate, please refer to the Building Control (Amendment) Regulations 2018 Article 20D, Part 4.

It is best practice to apply for your Disability Access Certificate at the same time you are applying for your Fire Safety Certificate. If both applications are prepared at the same time by the same person, the drawings can be co-ordinated prior to submission. A Disability Access Certificate application should be made by an appropriate consultant, architect or engineer who is familiar with the Building Regulations and the procedure for applying for a disability access certificate.

A valid Disability Access Certificate application must include:

- A completed application form,
- Relevant fire safety drawings in duplicate,
- A disability access report in duplicate,
- Site location maps in duplicate, and,
- Providing the application is lodged at the same time as the Disability Access Certificate application a €500 fee applies, otherwise it is currently €800 per building.

To determine if your project may be exempt from the necessity of obtaining a Disability Access Certificate please refer to the Manual for the Reuse of Existing Buildings.

2.8.9 Waste Disposal Licence/Permit

Waste disposal and recovery activities in Ireland require authorisation in accordance with the Waste Management Act 1996 as amended. To determine if the activity that is being carried out requires a waste licence please refer to the EPA services. A waste licence is a single licence which deals with emissions from an activity and the environmental management of the facility. Waste licences are issued through the EPA.

2.8.10 Certificate of Registration

A Certificate of Registration is granted by the relevant Local Authority in area the works will be carried out. The waste activities that require a Certificate of Registration are listed in Part II of the Third Schedule of the Waste Management (Facility Permit and Registration) Regulations 2007, (S.I. No. 821 of 2007) as amended. To aid in rapid determination, if the project or development requires a Certificate of Registration please refer to the following Decision tree.

Contact your Local Authority if you wish to apply for a Certificate of Registration.

2.8.11 Wayleave Consent: Section 48 to Lay Electric Cables

Wayleave Consent: Section 48 refers to the power to lay electric cables (Section 48 of Electricity Regulation Act 1999, as amended) is granted to: lay electric cables across or under any street, road, railway or tramway, and the right to break up any street, road, railway, or tramway for that purpose. This licence is separate to other agreements such as the Road Opening Licence.

The Section 48 wayleave consent is applied for through the CRU, see Section 48 application form. At present there is no application fee. It should be noted that letters of consent from the landowners in addition to a copy of their connection offer are required as part of the application. If the land that is affected is a tramway or railway consent will also be required from CIE. A photocopy of the route map is also required to be submitted along with the application.

Applications should be submitted at least two months prior to when the applicant intends to use the consent. The CRU will acknowledge only fully completed applications within 10 working days of receiving them. Once the CRU acknowledge an initial application the CRU will review it, contact will be made if the cru requires clarifications or additional information. For further information or queries related to Section 48 please contact the CRU at: consentapplication@cru.ie.

2.8.12 Wayleave Consent: Section 49 to Lay Electric Cables

Wayleave Consent: Section 49 refers to the power to lay electric lines (Section 49 of Electricity Regulation Act 1999, as amended), this is granted to lay lines across or under any land not being a street, road, railway, or tramway.
The Section 48 wayleave consent is applied for through the CRU, see Section 49 application form. At present, there is no application fee. Should the electric lines be required to go through private land a yearly agreement has to be reached between the asset owner and the landowner for the duration of the project. It should be noted that letters of consent from the landowners in addition to a copy of their connection offer are required as part of the application. A photocopy of the route map is also required to be submitted along with the application.

Applications should be submitted at least two months prior to when the applicant intends to use the consent. The CRU will acknowledge only fully completed applications within 10 working days of receiving them. Once the CRU acknowledge an initial application the CRU will review it, contact will be made if the cru requires clarifications or additional information.

For further information or queries related to Section 49 please contact the CRU at: consentapplication@cru.ie.

2.8.13 Irish Aviation Authority and Use of Cranes or Temporary Structures

During construction there may be a need for erecting of temporary structures such as communication masts,

wind speed masts, or when the operation of high lift equipment such as cranes are required to be used on site, regard must be had to the Irish Aviation Authority's Obstacles to Aircraft in Flight Order, 2005, (S.I. 215 of 2005), as amended. These regulations specify the criteria used to determine whether or not any object anywhere in the State is deemed to be an obstacle affecting aircraft operations.

Any structure exceeding 90 metres in height are considered obstacles to aerial navigation and need to be shown on aviation charts. They will also need appropriate aviation warning lighting. Consultation with the IAA should have already taken place during the application process and their requirements should have been incorporated into the final design. However, during construction there will be a requirement to notify the IAA in advance of use of temporary equipment over 45m. IAA should be informed 30 days in advance of the erection of any structure exceeding 45 metres in height under S.I. 215 of 2005. This includes wind monitoring masts which may be exempt from planning permission. These requirements are often a condition of planning permission.

2.8.14 Commissioning

Following the installation of the infrastructure and equipment, it must then be commissioned. This takes place on all installations regardless of size. Commissioning involves a series of electrical testing, mechanical testing, performance evaluations and corrections reporting. The purpose is to ensure the equipment has been correctly installed and will operate safely and efficiently.

A project will need to understand the commissioning process and incorporate this into their project plan at the start of construction. Commissioning activities may be carried out concurrently with construction activities so it will be necessary to be in contact with the relevant System Operator (either ESBN or EirGrid depending on the scale of the project) at an early stage. Advance notifications are required in preparation for commissioning. Therefore, it is important to have a commissioning schedule that reflects the requirements set out by the systems operator. Commissioning may be divided up into pre-energisation commissioning, and post-energising commissioning each with different tasks and objectives.

After the grid connection and substation are commissioned and energized, the turbine will be commissioned. At this point, the facility conducts grid code compliance testing with the grid system operator (either ESBN or EirGrid, depending on the project's scale). This testing ensures the project adheres to the operator's rules, maintaining the smooth, secure, and reliable operation of the electrical transmission and distribution systems.

The facility will then undergo an extended period of testing before being handed over to the operations team.

Further information on commissioning can be found by clicking on the links below. The document relates to the requirements for wind farms however the process is likely to be similar. Please refer to ESB Networks or EirGrid for further details.

- ESB guide on Pre- and Post-Energisation Requirements for Wind Farms

Useful resources:

ESB & EirGrid: TSO and DSO Testing Protocol for Wind Farm Power Station's

ESB Customer Guide: Pre- and Post-Energisation Requirements for DSO Wind & Solar PV Generators

EirGrid: Grid Code Compliance & Testing

EirGrid: Market Readiness Certificate – Specification of Requirements
EirGrid: Operational Notification Procedure – Information Note

3 Operations and Maintenance Stage

Some licences and consents may not have a duration that covers the entire lifespan of an offshore renewable energy project, and so may require further attention from the owner/operator. This may be as a result of the legislative basis for the consents, or as a change of legal circumstance, or an environmental change over time.

The operations and maintenance (O&M) phase of the offshore renewable energy project (once constructed) will involve the monitoring of the performance of the generation devices themselves along with all the component infrastructure to ensure correct and efficient functioning of the site. This will include regular maintenance and repair activity to ensure the safe operation of the site. In addition to the below licences, a MU licence may be required for each monitoring/inspection/repair season in the marine areas, refer to **Section 2.3.3.**

3.1 Licences

3.1.1 Ecological Consents, Notifiable Actions/ Consents/ Derogations Licences

If you are intending to develop on or in an area where wildlife could be impacted, consent may be required. Such consent may be in the form of notifiable actions or licences. Further permission may then be required in exceptional cases (e.g., species is threatened or in poor condition), when handling or movement of the protected species is necessary. For the full breakdown and detail on the various activities that constitute a notifiable action for listed habitats and species please refer to the NPWS page.

3.1.2 Capture/Kill Protected Wild Animals for Education or Scientific Purposes Licence

For the purposes of monitoring the site to determine impact levels and degree of change if any a capture kill licence may need to be applied for if any of the listed species are known/thought to be in the area. Please refer to **Section 2.7.9** for further information about Licences to capture/kill protected wild animals for education or scientific purposes.

3.1.3 Licence to Take or Interfere with Protected Plant Species for Education or Scientific Purposes Licence

For the purposes of monitoring the site to determine impact levels and degree of change if any a licence to take or interfere with protected plant species may need to be applied for if any of the listed species are known/thought to be in the area. Please refer to **Section 2.7.10.** further information about licence to take or interfere with protected plant species for education or scientific purposes.

3.1.4 Licence to Photograph or Film a Protected Wild Animal or Bird

During operation of an offshore renewable energy project, it may become necessary to continue surveys or monitoring for protected species in the vicinity of the installation. Please refer to **Section 2.7.12** for further information about Licences to Photograph or film a protected wild animal or bird.

3.1.5 Dumping at Sea Permit

During operation of an offshore renewable energy installation, it may become necessary to dredge or move waste material necessitating dumping at sea permit. Please refer to **Section 2.7.14** for further information about dumping at sea permits.

3.1.6 Removal of Invasive Alien Species

During operation of an offshore renewable energy project, it may become necessary to remove invasive species if they are discovered during routine maintenance or surveys, thus requiring an associated licence. Please refer to **Section 2.7.13_** for further information about Licences to remove invasive species.

4 Project End Stage

4.1 Decommissioning

Decommissioning refers to the cessation of energy production and the dismantling and removal of associated equipment and infrastructure.

4.1.1 Planning

Typically, projects that have been constructed following the procurement of planning permission, from either the Local Authority or An Bord Pleanála, will deal with decommissioning by condition. This means that within the conditions attached to the planning permission, it will directly set out how to carry out decommissioning and restoration of the site to its original condition. This is typically ordered after a set period of operation, and thus the decommissioning of the installation does not require further consent, as it has been provided for under the original application. If, however, you wish to conduct works not specified within the condition, planning consent will be required for those works. A sample of what a condition might look like in relation to decommissioning is shown below. Please note this sample was issued in relation to a solar PV development and is simply indicative of what a condition may look like.

> *"Within 6 months of the cessation of energy generation, or a period of 30 years and 6 months following completion of construction, whichever is the sooner, all foundations / anchors, access roads and infrastructure associated with the [wind] farm shall be dismantled and removed from the site and the site restored to its original condition, unless planning permission has been granted for the retention of the [wind] farm for a further period, prior to the expiration of the 30-year period."*

Please note that there may be other conditions specified regarding the end of a project's lifespan, so please review relevant permissions carefully.

4.1.2 Licences

The decommissioning phase of a project may require reapplication for licences applied for during the pre-construction phase along with additional licences.

In addition to the above licence other licences may apply such as abnormal load or road closures if the site is to be fully decommissioned – these licences will be subject to the conditions laid out under planning.

4.1.2.1 Notice to Close and Application to Terminate Connection Agreement

Notice of intention to stop/change electricity generation is a mandatory requirement as part of grid connection agreement. The requested termination date must be in line with Grid Code requirements. For generators less than 50 MW the date must be at least two years after the deemed complete application date. For generators greater than 50 MW installed capacity, the date must be at least three years after the deemed complete application date.

For further information on the steps required for a valid notice to close and application to termination connection agreement please refer to the EirGrid Group Plant Closure Process.

4.2 Lifespan Extension

Generally, manufacturers of equipment will specify an operational lifespan. This means the period after which the manufacturer recommends it be decommissioned or replaced. Sometimes the lifespan of an installation may be set by other bodies, such as the consenting planning authority, which may specify through planning permission conditions, a lifespan of an installation. Unless specified by a statutory body, it is up to the owner/operator to determine the lifespan of the installation ultimately, however, it is recommended to have due regard to the manufacturer's instructions.

4.2.1 Planning

It is likely that lifespan extension will be dealt with by condition, meaning that within the conditions attached to the original planning permission, it will directly set out how to carry out a lifespan extension. Typically, this will specify that further planning consent is required. If there is no specific condition, you may not require planning permission. If you have any doubts whether planning permission is required, you may contact your Local Authority and request a Section 5 Declaration, in which it will be determined if your works are exempt from planning permission or not.

4.2.2 Licences

As project extension entails the use of the equipment for a slightly longer period of time the licences would fall under the O&M remit. As project extension by nature is determined by the equipment being used it may be necessary to reapply (due to timescales/permits/conditions involved) for various licences.

4.3 Re-Powering

Re-powering means retrofitting and upgrading existing renewable energy installations with better equipment and technology, to improve the efficiency of the installation, while also allowing for an extended lifespan (given the newer infrastructure installed). For offshore renewable energy, re-powering would likely see the infrastructure used upgraded for ones that are more efficient, allowing for more energy to be produced using the same amount (or perhaps less) installations. This may also necessitate the upgrading of associated ancillary equipment such as transformers, substations, or inverters.

4.3.1 Planning

The original planning permission may contain a condition specifying that any further works on the site requires further planning permission to be obtained. If there is no such condition, you may still require further planning permission, as the works required will likely be substantial. It is recommended that you consult with the Local Authority / An Bord Pleanála regarding re-powering, and potentially seek a Section 5 Declaration. It is likely that permission will be required, as re-powering may be classed as 'land use intensification.'

For planning purposes re-powering can be considered as approaching the development as a fresh application.

4.3.2 Licences

With the exception of certificates that will not be required for renewal (e.g., Disability Access Certificate) it is likely that the remaining licences will require renewal or reapplication. It is recommended that you consult with the various granting authorities regarding re-powering of your project and seek advice as to whether renewal/reapplication is required.

5 Other Useful Resources

Licensing of Maritime Usages - MARA - The Maritime Regulator

Maritime Area Planning Act 2021 Statutory Instrument: https://www.irishstatutebook.ie/eli/2021/act/50/enacted/en/html

Maritime Area Planning Act 2021 Schedule 7: https://www.irishstatutebook.ie/eli/2021/act/50/schedule/7/enacted/en/html

Maritime Area Consents and Usage Licences: Application Fees: https://www.mhc.ie/latest/insights/maritime-area-consents-and-usage-licences-application-fees

Back page

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