



Maritime Area and Foreshore (Amendment) Bill 2013

Speakers' notes.

(Helen Gelletlie: Coastal Concern Alliance)

Introduction

Coastal Concern Alliance is a voluntary citizens' group set up in 2006 to campaign for reform of The Foreshore Act 1933 and the introduction of a system of coastal and marine planning to ensure that any development in the coastal zone is in the public interest.

We welcome the recognition that the Foreshore Act 1933 must be urgently reformed and we acknowledge the considerable work which has gone into the preparation of this General Scheme of a new Bill. Our comments relate to development on the Foreshore, mainly to offshore wind.

We have deep concerns about the undemocratic manner in which large scale offshore wind developments were permitted and progressed during the Celtic Tiger era, on protected shallow sandbanks, in full view of Ireland's scenic east coast, under the outdated Foreshore Act 1933, without any plan for offshore renewable energy and without the knowledge of the vast majority of citizens. This legacy, embodied in the draft Offshore Renewable Energy Development Plan (2010), must be acknowledged and addressed by the Government if the new Foreshore Bill is to succeed in its objective of sustainably managing our coastal zone into the future in the public interest.

In this brief overview, I will touch on the **Need for Reform** and on how the **Content** of the legislation addresses our key concerns. My colleague Valerie Freeman will address the **Policy Context** in which the new Bill will operate and outline a few key **recommendations**.

The **need for reform** is clear. During the Celtic Tiger era the speculation and inadequate regulation, which is well documented on land, was also very evident at sea. Developers took advantage of the outdated Foreshore Legislation, (drawn up in 1933 before offshore wind farms were envisaged), and of the planning vacuum in our coastal waters, to obtain foreshore leases for construction of two of the biggest offshore wind farms in the world on the Codling and Arklow Banks, 10/12km off the coast of South Dublin and Wicklow. The leases were awarded on the sole authority of the Minister for the Marine with no statutory involvement of local authorities and no public right of appeal. Other EU countries carefully controlled offshore wind development. However, in Ireland developers were allowed to pick out extensive near shore sites, on a first come first served basis, apply for a foreshore lease with no restriction on size or scale of development and, in some cases,

sell on the leases before construction at a price reflecting the size of development permitted, netting substantial profit.

At end of 2006, 1620MW of offshore wind power, involving 420 huge turbines, had been approved in full view of the high-amenity Wicklow coast. This was more than double the amount of offshore wind then installed worldwide (700MW) raising serious questions about the rigour of the Irish permitting process.

In 2008, Minister for Energy, Eamon Ryan, announced significant price support for offshore wind. This was followed by a rush of applications for licences for foreshore development mostly on shallow sandbanks, a protected marine habitat, close to the East coast.

Applications for extensive offshore wind farms continue to be assessed under the Foreshore Act 1933, acknowledged by the Department of the Marine in 2010 to be inadequate and in need of substantial reform. (The latest is an application for Dublin Array, a 145-turbine development on the Kish and Bray banks, 12 km off South Dublin and Wicklow.)

Whatever the rationale for such large scale offshore wind developments, it is clear that the environmental impact is enormous. The scale and the proximity to shore of these developments will alter the nature of the landscape heritage in a profound way. (We have brought along a few photomontages for interested members of the committee to give you some idea of the scale of the developments envisaged and the potential visual impact in the near shore zone.)

In summary, CCA's concerns centre on (1) the lack of strategic planning for our seas, (2) the inappropriate manner in which large scale offshore wind farms in the in-shore zone have been, and continue to be, assessed under the undemocratic Foreshore Act 1933 and (3) the lack of importance attached to preservation of Ireland's coastal landscapes. We are also concerned about (4) plans to export wind energy direct to the UK, from large scale offshore wind farms permitted under outdated legislation, which can only be constructed at the expense of Ireland's east coast environment and landscape.

With regard to the **Content** of new legislation we have given your Committee detailed comment in our written submission. I will just refer to a few key points:

Head 3: The requirement to apply to An Bord Pleanála for development approval for significant developments in the Maritime Area.

With regard to the central involvement of An Bord Pleanála, we welcome the move to align the foreshore consent system with the land-based planning system. (Under the Foreshore Act 1933, one Minister has total control over development in the coastal zone.) Giving authority to the Bord will mean that for the first time developments must be assessed by professional planners (within the Irish planning process) within an overall policy and planning framework.

Head 15.6: Provision for plan-led leasing rounds and auction of maritime options for specified types of development in specified areas by open tender.

We welcome the provision for plan-led leasing rounds and auction by open tender. This should address the ad hoc manner in which large sites in Ireland's in-shore zone have been allocated to offshore wind developers on a "first come first served basis" with no plan and no public tender.

Head 3: CCA questions whether the development of offshore wind farms for export can be viewed as **Strategic Infrastructure**.

Should Ireland's valuable in-shore zone be used to generate offshore wind energy for export when such use will have adverse visual impact on valued coastal landscapes and unknown impact on marine wildlife? This is something that needs to be debated and agreed at national level, perhaps in the context of the review of the National Spatial Strategy to commence in 2014 (37B).

We would draw attention to the commitment in the Programme for Government to carry out a **cost benefit analysis** of all strategic infrastructure projects. In the case of large offshore wind farms in the in-shore zone (inside 12nm), important national costs would include impact on protected scenic views and marine wildlife.

With regard to **public participation** (3.37) the enhanced public participation provisions in the Aarhus Convention must be embodied in the decision making framework. Particular attention must be devoted to ensuring that "the public concerned" are fully informed about proposals for major development in the in-shore zone. We recommend a 12 week public consultation period and a mandatory oral hearing for major projects on the foreshore. Appeal procedures must be defined in the legislation and must conform to the Aarhus Convention.

HEAD 9: To ensure conformity with democratically agreed **Local Area Development Plans**, statutory consultees should include all relevant local authorities, who must be legally obliged to make submissions reflecting the impact of the proposed development on the Objectives of the Local Area Development Plan. (To date, no such submissions appear to have been made by Planning Departments of maritime counties, such as Dublin and Wicklow, whose coastline borders waters where large scale, in-shore wind farms have been proposed and permitted in full view of the adjoining coast.)

The need to protect **the scenic and amenity quality of Ireland's coastline** in line with the objectives of Local Area Development Plans and the forthcoming National Landscape Strategy must be recognised and embodied in the Bill

POLICY CONTEXT. (Valerie Freeman, CCA)

Given the proposal that An Bord Pleanála will be responsible for foreshore leasing in the future, it is clear that the policy context within which the Bord will make its decisions is vitally important and must be democratically decided with full input from all stakeholders. I will address this policy framework under three headings:

- 1. Proper Policy Framework based on good international practice**
- 2. Inappropriate Policy Framework based on the developer-led draft OREDP 2010 - a clear example of retrospective planning**
- 3. CCA Recommendations.**

1) Proper Policy Framework - MSP & ICZM

All EU environmental law is based on the Precautionary Principle. Our new maritime legislation must be progressed with reference to this Principle. It must also be progressed "in the public interest" as is stated in the Foreshore Act 1933.

- The Framework to support the new Bill should be based on a Maritime Spatial Plan & Integrated Coastal Zone Management.**

A Directive on a Framework for Marine Spatial Planning and Integrated Coastal Zone Management proposed by the EU Commission in March this year states:-

*"In order to ensure the appropriate apportionment of maritime space among relevant uses and the coordinated management of coastal zones, **a framework** should be put in place that consists at least in the establishment and implementation by member states of Maritime Spatial Plans and integrated coastal zone management."*

Article 8 sets out "*Conservation, restoration and management of coastal ecosystems and coastal landscapes*" as a minimum requirement for integrated coastal zone management.

- In line with this recommendation, CCA recommends that a buffer zone of at least 12 nm (22.7km) be adopted in this country for all significant developments in our coastal zone.**

In 2012, according to the European Wind Energy Association, the average distance from shore of wind farms under construction was 26 km. This contrasts with the average 12 km of permitted and proposed developments in Ireland, with developments in Dundalk Bay & Galway Bay proposed 5 km from shore.

2. Inappropriate Policy Framework – draft OREDP

- **The draft Offshore Renewable Energy Development Plan (OREDPP) introduced by Minister Eamon Ryan in 2010 is clearly developer- led and is a text book example of retrospective planning. It should not be adopted by the current government and should not form part of the policy framework which will inform the decision making process under the new Bill.**

In 2010, after a decade of unfettered speculative activity in Irish waters, the Department of the Marine moved to comply with the EU Strategic Environmental Assessment Directive by producing a draft Offshore Renewable Energy Development Plan and commissioning a Strategic Environmental Assessment (SEA) of its environmental impacts. With regard to wind, the Plan served to rubber stamp the extensive offshore development permitted and progressed with no Plan and no SEA in the period 2002 – 2009. (We have provided copies of the CCA submission on the Draft OREDPP to the JOC for information.)

(a) SEA is intended to inform leasing decisions.

- The inclusion in the SEA Environmental Report of a statement by Minister for Energy Eamon Ryan stating that the SEA should NOT influence lease or licence applications which were in the pipeline is in direct contravention of this objective and undermines the integrity of the SEA. This resulted in developments which were in the pipeline being inexplicably classified in the SEA Environmental Report as “*already existing renewable infrastructure*”.
- **If this statement is allowed to dictate policy, in effect 840 of the 900 (5MW) turbines which would comprise the “High Development Scenario” outlined in the dOREDPP (4500MW) would be allowed to progress without being subject to proper planning.**

(b) Member States are required to ensure that Environmental Reports are of a sufficient quality to meet the requirements of the (SEA) Directive ...

- CCA contend that the Environmental Report of the Draft OREDPP does not provide data which is of a sufficient quality to meet the requirements of this Directive.

The Environmental Report itself acknowledges these inadequacies and states that:-

“Data, information and knowledge gaps have been identified as a key limitation to this SEA. They can affect the level of confidence with which potential effects on the environment are identified and evaluated. Additionally, ... the assessment itself is based on a plan that focuses on the development of a relatively new and emerging industry where longer term environmental effects are little understood.”

The Heritage Council submission on the SEA of the Draft OREDP states:-

"...Council believes that the SEA's findings and as a result, the conclusions of the draft Plan, fall short of the required level of confidence and detail"

"Its conclusion, as currently articulated, is premature"

"The Report and Plan as currently drafted do not outline the potential impacts of a "do-nothing" scenario"

The Heritage Council submission expresses serious concerns about the inadequacy of the Landscape/Seascape assessments presented in the report and ask:- *"Is the baseline data credible, reliable, fit-for-purpose?"* The submission states *"the Landscape Character Assessments used in the SEA to provide the baseline for the seascape assessments..... are out-of-date..."*

"These observations of the Heritage Council are in line with the serious concerns expressed by CCA and others and provide ample evidence against adoption of the Draft OREDP.

CCA Recommendations to the JOC

- **An investigation should be initiated** into the manner in which foreshore leases for extensive offshore wind farm developments on the Arklow and Codling Banks have been awarded to private developers (covering 120 km² of the Wicklow coastline) during the Celtic Tiger years without any strategic planning under regulations and legislation officially acknowledged to be inadequate. None of the extensive offshore wind development permitted in our in-shore zone is yet constructed (apart from 7 test turbines off Ark low). There is no need to construct it.
- No large-scale developments should be permitted on the Foreshore until a proper system of **Maritime Spatial Planning** and **Integrated Coastal Zone Management**, based on the ecosystem approach, as advocated by the EU, is put in place to ensure local participation and balance competing interests in our seas.
- The **Draft Offshore Renewable Energy Development Plan** introduced by Minister for Energy Eamon Ryan in 2010, is a clear example of retrospective planning and should not be adopted by the current government.
- A full **cost-benefit analysis** must be carried out for any projects deemed to be strategic infrastructure (*New Politics 2010. p10*) with landscape and wildlife impacts considered.
- The proposed Bill should be amended to ensure proper weight is given to the protection of Ireland's **coastal landscapes and seascapes** and conservation of coastal views listed in County Development plans. To this end a 12nm buffer zone (22.2km) should be adopted in Ireland in line with emerging good international practice. .

CCA responses to queries from Committee members

Irish target of 40% for renewable electricity.

This target was set by Minister Eamon Ryan in the absence of any comprehensive cost-benefit analysis (economic or environmental). We do not believe that other countries have adopted such a target.

Professional independent analysis of environmental and economic costs and benefits must be undertaken before clear decisions can be made. All EU Environmental Law is based on the Precautionary Principle. *“If in doubt, don’t do it.”* Ireland’s environment -coastal ecosystems, landscapes and communities - deserve the protection afforded by this Principle.

Former EU Environment Commissioner, Stavros Dimas, has stressed the need for **conservation of biodiversity** to move to the top of the political agenda. In a speech entitled “EU Nature Policy – Challenges in a Changing World” he stated:-

“Our climate mitigation policies should not come at the expense of biodiversity. We have very important targets to achieve for renewable energies but we need to be careful about how and where they can be developed”.

CCA believe that this is particularly pertinent in Ireland, where leases have already been granted for two of the biggest offshore wind farms in the world on shallow sandbanks, listed for protection under Annex 1 of the Habitats Directive, off our east coast and lease or licence applications are in the pipeline for others, almost all in similar habitats.

Offshore Wind not needed to meet Ireland’s targets.

With regard to Ireland’s **40% target for renewable electricity**, it is important to point out that Minister Pat Rabbitte stated in the Dáil (January 2012) that our binding targets would be met by onshore wind projects without recourse to offshore wind, which he described as almost twice as expensive. Regarding the possibility of a feed-in tariff to support offshore wind in the Irish electricity market he stated *“Given the inordinately high costs which would be incurred by business and domestic electricity consumers to support such a tariff, we need to focus instead on the opportunity to develop a renewable energy export market for the offshore wind sector”.*

CO₂ Emissions

In July 2012, the Energy and Climate Change Committee of the UK Parliament took evidence on “The Economics of Wind Power”. A submission in relation to **CO₂ emissions** from Sir Donald Miller, Chairman of SSEB/ Scottish Power for 10 years stated:- *“The assumption that each MWh of electricity generated from wind saves the equivalent in CO₂ emissions from fossil fuel power stations would not be supported by any engineer with experience of operating power plant. The considerably lower efficiency of the back up thermal plant running at part loads together with the additional losses from frequent deloading and reloading as wind strength varies, all consume additional fuel. The jury is still out on the exact implications of this but there is accumulating evidence from analysis of actual systems operations both in the USA and more recently for the Irish Grid that high wind penetrations save little or negligible emissions of CO₂ and can in some circumstances actually lead to increases.”*

This same view is shared by other technical specialists contributing to this and similar consultations.

Note: It is important to note that Ireland's total contribution to global emissions of CO₂ is in the region of 0.02%.

Coastal Concern Alliance is in favour of developing any type of alternative energy that is proven to effectively contribute to the reduction of CO₂ emissions. However, it is internationally recognised that renewable energy developments must be appropriately sited if they are not to cause environmental damage.

ENDS

Coastal Concern Alliance

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