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Status Update: Irish Offshore Renewable Energy – Phase Two

March 2023

The Irish Government recently published its highly anticipated Policy Statement on the Framework for Phase Two Offshore Wind¹ (“the **“Phase Two Policy Statement”**”), setting out the legal and regulatory framework which will apply to projects participating in the second phase of offshore wind development in Ireland (known as **“Phase Two Projects”**).

Irish Offshore Wind Development – Progress to Date

The Phase Two Policy Statement follows the Irish Government’s initial Policy Statement on the Framework for Ireland’s Offshore Electricity Transmission System published in May 2021² (the **“Initial Policy Statement”**), which set out a three-phased approach to offshore wind development.

Since then, the Irish Government’s primary focus has been to develop a legal and regulatory framework that can be used by the first phase of seven “Relevant Projects” (known as **“Phase One Projects”**) and then by future rounds of Irish offshore wind development (with modifications to reflect ‘lessons learned’ from the Phase One Projects process).

Broadly, this first phase of development has included:

- the introduction of the Maritime Area Planning Act 2021 (**“MAP Act”**) and the new State consent known as the Maritime Area Consent (**“MAC”**);
- the granting of the first MACs to the Phase One Projects by the Minister for the Environment, Climate and Communications;
- the proposed establishment of a new regulatory body, the Maritime Area Regulatory Authority (**“MARA”**) which will, amongst other things, take over the MAC permitting regime for all offshore development projects other than Phase One Projects (MARA is expected to be established in early 2023³);
- the launch of the first offshore competition under the Renewable Electricity Support Scheme (**“ORESS 1”**) – which is scheduled to complete in June 2023⁴; and
- the granting of grid connection assessments (**“GCAs”**) by the Transmission System Operator, EirGrid plc (**“EirGrid”**), which, subject to success in ORESS 1 and certain other conditions, are expected to form the basis of a formal grid connection offers.

¹ Accelerating Ireland’s Offshore Energy Programme – Policy Statement on the Framework for Phase Two Offshore Wind, March 2023, Department of the Environment, Climate and Communications

² Policy Statement on the Framework for Ireland’s Offshore Electricity Transmission System, 2021, Department of the Environment, Climate and Communications

³ Maritime Area Consent (MAC) Information Notice – Phase One projects, December 2022, Department of the Environment, Climate and Communications

⁴ ORESS 1 Auction Timetable, February 2023, EirGrid plc

Offshore Wind Development – Phase Two

The publication of the Phase Two Policy Statement is a critical next step in the establishment of a long-term Irish offshore wind regulatory regime. We have set out below some key points relevant to both Phase Two Projects and Phase One Projects which are unsuccessful in ORESS 1:

1. Plan-Led Approach for Phase Two Projects

The Phase Two Policy Statement provides that the locations of offshore wind projects and offshore transmission system infrastructure to be developed under Phase Two will be identified through the designation of Offshore Renewable Energy Designated Areas (“**OREDAs**”). This process will take place according to the legislative provisions for designation of Designated Marine Area Plans (“**DMAPs**”) within the MAP Act.

While the transition to a plan-led approach for offshore wind projects has been a feature of the Irish Government’s offshore policy since the introduction of the Initial Policy Statement, the emphasis on DMAPs at this relatively early stage of the development of the Irish offshore wind industry was not widely expected. The MAP Act contains provisions (not yet commenced) for the introduction of DMAPs, but a public consultation by the Department of the Environment, Climate and Communications (“**DECC**”) on Phase Two of offshore wind deployment (including the potential selection process for Phase Two Projects⁵) had suggested that DMAPs may not be introduced until the subsequent phase of offshore wind development (as part of the long-term ‘Enduring Regime’).

Alignment with onshore grid capacity

The Irish Government has determined that the initial OREDAs for Phase Two will be geographically aligned with available onshore grid capacity on the South coast of Ireland, which has been identified by EirGrid. EirGrid has identified 700MW of capacity, split across two locations of approximately 350 MW each.

Future OREDAs may be developed during Phase Two (including areas off the East or West coasts) and this plan appears to be at least partially contingent on capacity that would be freed up once the outcomes of ORESS 1 are known (ie, if a Phase One Project is unsuccessful in securing a route to market via ORESS 1 or a Corporate Power Purchase Agreement (“**CPPA**”).

Designation of initial OREDAs

The Phase Two Policy Statement provides that the goal is for the initial OREDAs to be designated by the end of 2023, subject to environmental considerations.

OREDAs “will be designated according to legislative provisions” for DMAPs in the MAP Act. However, the distinction between OREDAs and DMAPs is not clear at this stage – eg, whether it is intended that DMAPs will sit within OREDAs, or if the concepts are one and the same. In any case, if the designation of OREDAs will follow the process for designating DMAPs under the MAP Act, including the various public consultation periods and Oireachtas approval, the timeline proposed by the Government for designating OREDAs may be challenging.

5 Offshore Wind Phase Two Consultation, December 2021, DECC

2. ORESS 2 Auctions

In line with the plan-led approach outlined above, auctions under ORESS 2 will be targeted exclusively at grid capacity identified by EirGrid within OREDAs. In addition, it appears that auctions under ORESS 2 will target “fixed” wind, on the basis that this is the “only proven offshore wind technology currently at scale in any jurisdiction” globally (an additional 2 GW of capacity is targeted for delivery by floating offshore wind as part of Phase Three).

It appears that there will be multiple auctions under ORESS 2. The first auction will be launched before the end of 2023, and will target 700 MW of capacity identified by EirGrid off the South coast within one or more OREDAs.

As part of the initial ORESS 2 auction selection process, the Government has also stated that it will also consider projects which can “deliver additional non-grid connected capacity” (beyond the 700 MW referred to above), however this will be consulted upon as part of the ORESS 2 terms and conditions (expected to be published mid-2023). The proposal that EirGrid shall deliver the required offshore substations for projects within the OREDAs is relevant to the feasibility of ‘non-grid’ options and we understand that industry is seeking clarity accordingly.

The timing and geographic location for future ORESS 2 auctions will be determined by the availability of onshore grid capacity, marine forward spatial planning, and the outcome of Phase One (eg, any capacity freed up as a result of a Phase One Project’s failure to secure a route to market).

3. Sequencing of Phase Two Permitting Process

The Phase Two Policy Statement provides that the sequencing of the relevant consents and market supports (ie, ORESS 2) will be outlined in the coming weeks and will align with the Government’s publication of the proposed OREDAs.

It is possible that (unlike Phase One) a MAC may not be required for participation in one or more of the ORESS 2 auctions. However, if this is the case then (a) projects will be subject to substantially the same technical and financial assessments as MAC applicants (including declarations regarding project delivery and supply chain access), and (b) projects will be required to obtain a MAC within a limited time period following the ORESS 2 auction results.

4. Phase One Projects – Alternative Routes to Market following ORESS 1

The CRU has previously determined that the GCAs granted to Phase One Projects will have a three month validity period following the ORESS 1 Notice of Award, to allow for administrative procedures surrounding issue of a full grid connection offer⁶. The CRU noted that it would revisit its decision regarding this validity period when the Phase Two selection criteria was published.

The Phase Two Policy Statement provides that the window of opportunity for securing an alternative route to market following an unsuccessful ORESS 1 bid (ie, via a CPPA) “has currently been set at the three months by the CRU”. This time period is currently under review by the CRU.

5 Grid Connection Assessment – Phase 1 Projects, CRU (CRU/2022/14)

This requirement should be considered in light of the ORESS 1 Terms and Conditions and the “Standstill Period” applicable to ORESS 1 applicants, during which applicants are unable to enter into agreements dependent on the ORESS 1 auction results (which could arguably include CPPAs) unless disclosed to EirGrid at application stage.

5. Irish Government Commitments

In the Phase Two Policy Statement the Irish Government makes a number of commitments with respect to the rollout of offshore renewable energy and related policies.

These commitments include the development of (i) a revised Offshore Renewable Energy Development Plan (known as “OREDP II” which follows the first OREDP published in 2014 and reviewed in 2018) (ii) an updated policy statement of electricity interconnection, (iii) a net zero electricity system pathway, (iv) a Green Hydrogen Strategy, and (v) a new National Ports Policy, in recognition of the important role ports will play in facilitating the development of offshore renewable generation and grid infrastructure.

Next Steps

The Irish offshore wind regulatory regime continues to develop at pace. Activity levels have steadily been increasing amongst stakeholders and there are opportunities for those who stay on top of the evolving policy environment.

Matheson’s dedicated offshore wind group, drawn from a number of practice areas within the firm including our dedicated **Energy and Natural Resources, Projects and Infrastructure** and **Environmental and Planning teams**, would be delighted to help your organisation to identify these opportunities.

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