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12th May 2025

Re: 400 Kv Cross Shannon Cable Project – Application for Regulation 54 Derogation Licence

Dear Sir/Madam,

The Electricity Supply Board (ESB) wishes to apply for a Regulation 54 Derogation Licence under the European Communities (Birds and Natural Habitats) Regulations, 2011-2021, to allow the undertaking of Phase One Site Investigation (S.I.) surveys (geophysical) to inform the development of the 400 KV Cross Shannon Cable Project, situated on the Shannon Estuary in County Clare (Figure 1 – attached to the application).

The ESB propose to deliver the laying of a new 400 kV cable across the Shannon Estuary (in the seabed) between the Moneypoint 400 Kv Electricity Substation in the townland of Carrowdotia South County Clare and Kilpaddoge 220/110 kV Electricity Substation in the townland of Kilpaddoge County Kerry.

The ESB holds a Foreshore Licence under the Foreshore Act 1933 (as amended) to undertake a suite of site investigation (SI) works as part of the 400 kV Cross Shannon Cable Project, commencing in September 2024 (subject to licence). The aim of the SI is to acquire high-quality data to inform the design and development of the project.

The SI is expected to take place in two phases. Phase One, which is the subject of this licence application, will include only Marine Geophysical Surveys. Phase Two, which will be applied for separately and is not part of this derogation application, will include Geotechnical Surveys (boreholes and vibrocores) and ROV Surveys.

In support of this application, please find attached a Risk Assessment for Annex IV Species. Other supporting documents, including the Screening for Appropriate Assessment (SISAA) report and the Natura Impact Statement (NIS), can be found [under FS007083 EirGrid / ESB Cross Shannon 400 kV Electricity Cable](#).

As part of the Foreshore Licence application, the supporting documentation attached to this derogation licence application was prepared and submitted. Please note that these assessment documents cover all site investigation works, including both geophysical and geotechnical surveys. Additionally, these documents were prepared by EirGrid and submitted to the Foreshore Unit as part of the licence application on behalf of ESB.

It should be noted that the original Annex IV Risk Assessment as part of (FS0070783) did not include an assessment of Geophysical or Geotechnical Surveys. As a result, ESB commissioned its consultant, RPS, to produce a new Annex IV Risk Assessment (24/03/2025) that covers these operations and their potential impacts on Annex IV species.

Before a derogation from the requirements of Article 12 or Article 13 of the Directive can be granted Article 16 of the Habitats Directive sets out three pre-conditions, all of which must be met. These preconditions are also set out in Regulation 54 of the Regulations. The preconditions are:

1. A reason(s) listed in Regulation 54 (a)-(e) applies
2. No satisfactory alternatives exist
3. Derogation would not be detrimental to the maintenance of a population(s) at a favourable conservation status.

To address each listed precondition a statement has been provided below with reference to supporting documents as required.

Test 1 Reasons for Seeking a Derogation Licence

There are several different reasons for which a derogation licence can be granted including, under Regulation 54(2)(c) of the European Communities (Birds and Natural Habitats) Regulations, 2011-2021, where it is in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.

Ireland has committed to meeting national and international commitments to greenhouse gas reduction including the Paris Agreement (2016), which sets out a global action plan towards climate neutrality with the aims of stopping the increase in global average temperature to below 2 °C above pre-industrial levels, and to pursue efforts to limit global warming to 1.5 °C. A number of pieces of Irish legislation and policy statements have also been enacted with a view to achieving these targets for reduction in greenhouse gasses, including, but not limited to:

- National Policy Position on Climate Action and Low Carbon Development (2013)
- Climate Action and Low Carbon Development Act 2015 (as amended)
- National Mitigation Plan (2017)
- National Adaptation Framework (2024)
- How the State Can Make Ireland a Leader in Tackling Climate Change (Third Report and Recommendations of the Citizens' Assembly, April 2018)
- Climate Action Plan 2024 (Department of the Environment, Climate and Communications, published in June 2019 and last updated 2024)
- Long-Term Strategy on Greenhouse Gas Emissions Reductions (Government of Ireland, November 2019, under review), and
- Ireland's National Energy and Climate Plan 2021-2030 (Department of the Environment, Climate and Communications, published in June 2020 and last updated 2023).

In order to meet targets set out in the policy above the Irish Government has developed the following plans with respect to offshore renewables and associated infrastructure.



- The Offshore Renewable Energy Development Plan I (OREDPI), 2019 and Offshore Renewable Energy Development Plan II (OREDPII) 2022
- National Marine Planning Framework (2021)

The Offshore Renewable Energy Development Plan I (OREDPI) and OREDPII, set out the Irish Government policy in relation to the sustainable development of Ireland's abundant offshore renewable energy resource.

In addition to the actions identified by OREDPI and OREDPII the Irish Government has set a national target of 5 GW of installed offshore wind by 2030 in the Climate Action Plan 2024. It is noted that, as part of the negotiations on the Sectoral Emissions Ceilings, the Irish Government have further increased this target to 7 GW. This indicates the strategic importance of the offshore wind energy sector in the attainment of national objectives as at times of medium to high wind generation output, it is expected that the south-west of Ireland will export the excess generation to areas where it is needed. This will create large power flows from the west and south-west towards the east coast. To be able to facilitate this and to utilise the existing 400 kV network better, a system reinforcement across the Shannon is required.

The National Marine Planning Framework (Project Ireland 2040) (NMPF) published by the Department of Housing Local Government and Heritage in 2021, is a single plan covering all marine activities which reflects the need for a coherent strategic vision for marine planning in Ireland. It sets out the objectives, policies and supporting actions the Government considers necessary to support the effective management of marine activities and more sustainable use of the marine resources.

The NMPF Chapter 13: Energy Offshore Renewables sets out the key Offshore Renewable Energy (ORE) policies relating to Offshore Renewables. Key policies within Chapter 13 which are relevant to this Derogation licence application are listed below:

- ORE Policy 1: Proposals that assist the State in meeting the Government's offshore renewable energy targets, including the target of achieving 5GW of capacity in offshore renewable electricity energy, in line with decarbonisation targets, should be supported. All proposals will be rigorously assessed to ensure compliance with environmental standards and seek to minimise impacts on the marine environment, marine ecology and other maritime users.
- ORE Policy 11: Where appropriate, proposals that enable the provision of emerging renewable energy technologies and associated supply chains will be supported.

The SI surveys will help inform the identification of a suitable design for the 400 KV Cross Shannon Cable Project, and therefore will ultimately support the development of projects which will be compliant with the NMPF policies on ORE development, in particular the policies ORE1 and ORE11 within the NMPF Chapter 13.

The proposed SI works will provide the necessary engineering information to inform the design of the marine cable, which is imperative to Ireland achieving its renewable energy targets which will support

ORE Wind development which in turn will significantly reduce greenhouse gas emissions through displacement of fossil fuel generated electricity in line with National and EU policy.

The SI surveys will underpin the 400 KV Cross Shannon Cable Project development which when realised will support the development of OSW which will contribute to enhanced security of supply through the use of an indigenous energy source.

To conclude, the SI surveys are fully aligned with the key policies of OREDPI and II and Chapter 13 Offshore Renewable Energy of the NMPF and therefore the works as proposed are in the public interest.

Test 2 There is no satisfactory alternative

ESB has identified the following Five options that describe the possible alternatives that were considered and those that were considered unsuitable:

- **Option 1 – No Activity**

Do not undertake the geophysical survey, resulting in no seabed data being available for the proposed development area. However, this data is required to validate desk-based assessments and inform project design thereby minimising risk to the environment during future installation and operational phases. As such, this is not considered a viable alternative. After mitigation is applied, there is no risk of injury to Annex IV species, and the survey is unlikely to result in significant disturbance or displacement.

- **Option 2 – Use of Alternative Equipment**

Undertake the survey using only equipment with lower acoustic outputs, such as only Multibeam Echo Sounders (MBES). While this would reduce potential acoustic impacts, this tool alone cannot provide the subsurface data to interpret the soil layers and determine the presence of obstructions and other risks required for engineering design and environmental risk assessments for cable installation. The MBES and Sub Bottom Profiler (SBP) equipment selected for the proposed works has been carefully chosen to balance technical needs with environmental considerations. This option is therefore not deemed viable to use. With appropriate mitigation, the use of the selected equipment poses no injury risk to Annex IV species and is unlikely to cause significant disturbance.

- **Option 3 – Alternative Location**

Survey a different location. The proposed location for the installation of the Cross Shannon 400kv cable has been selected taking a number of criteria into consideration. The proposed location is within two designated areas for nature conservation and the route selected is the shortest route between two critical pieces of infrastructure to ensure minimum impact on designated features. The location is also highly constrained by existing infrastructure. Surveying an alternative site not covered by the foreshore licence would be outside the scope of the project. This is not a viable option. Surveying the small existing project area, with mitigation in place, poses no injury risk to Annex IV species and is unlikely to result in significant disturbance.

- **Option 4 – Alternative Timing**

Undertake the survey during a different season to avoid sensitive periods for certain marine mammals. While bottlenose dolphins are reported in the vicinity and occur year-round, with higher densities in summer. The proposed survey window of June to December 2025 was selected to balance operational feasibility and to reduce weather-related delays. Delaying to winter months would prolong vessel presence and increase environmental risk. Therefore, alternative timing is not considered satisfactory. With mitigation in place, the works pose no injury risk to Annex IV species and are unlikely to result in significant disturbance.

- **Option 5 – Proceed with Survey with Mitigation**

ESB has determined that the most appropriate option is to proceed with the proposed survey, supported by a comprehensive Risk Assessment for Annex IV Species. The assessment identifies, quantifies, and addresses potential risks, ensuring suitable mitigation (e.g. use of qualified Marine Mammal Observers) is implemented in accordance with best practice and Irish national guidance (DAHG, 2014). With mitigation, there is no risk of injury to Annex IV species, and significant disturbance or displacement is unlikely.

ESB has determined that Option 5 will be progressed, as the geophysical survey activities will provide ESB with an in depth understanding of the geophysical conditions of the proposed development area, while maintaining the Favourable Conservation Status (FCS) of cetaceans within the works area and adjacent waters.

If the works do not proceed, it would make Ireland's ambitious target to reach net zero by 2050 more difficult to attain, resulting in the underutilisation of a strong and renewable resource off the Irish coast.

Test 3 Favourable Conservation Status

The Risk Assessment for Annex IV Species report attached with this application provides evidence that the geophysical surveys permitted by a derogation licence will not be detrimental to the maintenance of the populations of the marine mammal species to which the Habitats Directive relates at a favourable conservation status in their natural range as is required under Section 54(2) of the European Communities (Birds and Natural Habitats) Regulations. It also provides details of mitigation measures to be implemented for the species affected by the survey works, along with evidence that such mitigation has been successful elsewhere.



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Yours sincerely,

Ciara Hamilton

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Offshore Ecology Manager ESB

