

Chapter S5.0: Stakeholder Engagement for Marine Renewable Energy

Supplementary Material

Authors: Deborah J. Rose, Mikaela C. Freeman
Contributors: Marley E. Kaplan, Kristin M. Jones

S5.1. Regulatory Context for Stakeholder Engagement

Table S5.1 provides information on the requirements for stakeholder engagement for each of the Ocean Energy Systems-Environmental countries.

Table S5.1. Regulatory context for stakeholder engagement related to or relevant for marine renewable energy (MRE) in Ocean Energy Systems (OES)-Environmental countries.

Country	Engagement Activity Requirements for MRE
Australia	There are limited formal statutory obligations regarding consultation. However, relevant commonwealth legislation—the Offshore Electricity Infrastructure Act (2021)—indicates consultation is still expected at a number of points along the project development timeline. As part of preparing management plans required under the feasibility licensing process, proponents are required to document consultation that has taken place with existing marine users, First Nations groups, and relevant government departments. In addition, the Act allows for the Minister for Energy to notify a commercial license applicant that specific kinds of consultations are required in relation to their license application. Australia has a history of relying on policy rather than Acts passed by Parliament to shape its management of natural resources. Following this pattern, the Guideline on Feasibility Licenses under the Offshore Electricity Infrastructure Act should be considered as best-practice expectations for consultation. It lays out core principles for consultation and lists key stakeholders.
Canada	Stakeholder engagement for MRE at the federal level in Canada is legislation specific and stakeholder group dependent. Federal regulatory agencies have a legal ‘duty to consult’ with Indigenous governments and communities about the components of proposed MRE projects falling under their respective jurisdictions. For a Fisheries Act Authorization this may entail advising project proponents to include detailed descriptions of engagement activities with stakeholders and Rightsholders as part of their application. Broader public stakeholder

	<p>engagement may also be required, such as under the Canadian Navigable Waters Act, which requires developers must publish a notice of work for 30-day public and interested party comment. The most intensive stakeholder engagement requirements for any Act in Canada would fall under the Impact Assessment Act, applicable only to MRE projects that meet a threshold trigger or are deemed a reviewable project by the Minister. Currently there is not a threshold for wave energy projects, while tidal stream projects exceeding 15 MW of nameplate capacity and any tidal barrage project would trigger an assessment. There are additional engagement requirements at the provincial regulator level that vary between provinces.</p>
Denmark	<p>The public consultation usually relates to the Environmental Impact Assessment (EIA). The Danish Energy Agency is responsible for the consultation on behalf of all other government authorities when related to offshore energy projects.</p>
European Union (EU)	<p>Public consultation is broadly conducted by developers in the planning and implementation phases of projects and includes the requirement to make EIA reports publicly accessible and available, and provide the opportunity for public comment. The 2014/52/EU Directive (2014) strengthened the provisions relating to public access of information and increased transparency and aims to ensure that environmental information relating to the Directive is accessible in various formats, including electronic format. The Directive has since been updated (EU/2023/2413) and requires public participation regarding plans designating renewable energy areas, and identification of public affected or likely to be affected, as well as promotion of public acceptance of renewable energy projects through supported community participation.</p>
France	<p>An initial national consultation (public debate) is led by the French government and takes place at the planning stage. Every French citizen is invited to express their opinion on the planning of human activities at sea, including MRE. The government obtains authorizations for the development of these activities before transferring project management to the MRE developer. A second public consultation is organized at the project level (public inquiry) just before the construction works begin, when the project is already well defined.</p>
Ireland	<p>For a Maritime Area Consent, pre-application engagement with stakeholders and other marine users is not mandatory but is strongly recommended (Maritime Area Regulatory Authority, 2023). As part of the development consent process, an EIA will usually be conducted and hence involve both consultation with the public and other statutory consultees, including with local authorities prior to approval and commissioning.</p>
Mexico	<p>An EIA is required before the deployment of any structure and public consultation is required after the EIA is completed and before the project is officially approved (Procuraduria Federal de Proteccion al Ambiente (Federal Attorney for Environmental Protection), 2019).</p>

Portugal	Public consultation is required for marine spatial plan implementation and corresponding amendments. Any MRE pilot project requiring a license for the private use of maritime space which has not been previously inscribed in the plan will also be subject to public consultation. Lastly, public consultation is also mandatory after an EIA is completed (Baulaz et al., 2023).
Singapore	There is no legal requirement to conduct public consultation as part of environmental assessments for development projects, and no guidance available for any form of consultation (Chng, 2021). EIA findings are reviewed by technical agencies who may consult with community stakeholders on the findings and reports are typically made publicly available (Urban Redevelopment Authority Government of Singapore, 2024).
Spain	MRE project consent is linked to existing marine spatial plans, and is coordinated between central government and relevant regional governments, with limited opportunities for local participation in the marine spatial planning process (Quero García et al., 2021; Salvador et al., 2019). Opportunities for public consultation are provided by the developer in the EIA phase (Ramos et al., 2021).
Sweden	There is an early consultation organized by developers with public authorities to scope environmental impacts, and a second consultation with stakeholders for siting, design, and environmental impact discussions (Baulaz et al., 2023).
United Kingdom	<ul style="list-style-type: none"> • For Nationally Significant Infrastructure Projects in the United Kingdom, the Planning Act (2008) includes a requirement for project applicants to carry out consultation on their proposal before submitting an application. • <u>Scotland*</u> - Pre-application consultation is compulsory for construction or alteration of renewable energy structures in the Scottish marine area of over 10,000 square meters in extent under Regulation 4 of The Marine Licensing (Pre-application Consultation) (Scotland) Regulations 2013. The prospective applicant for a marine license must hold at least one pre-application consultation event to allow statutory consultees and members of the public to comment on proposals at any early stage, before a marine license application is submitted. The event must be held in a suitably accessible venue and a notice containing a description and details of the project and time and location of the event must be published in a local newspaper at least six weeks in advance of the event. A pre-application consultation report, in the form prescribed in the Regulations must be prepared and submitted with the Marine License application. • <u>England, Wales*, and Northern Ireland</u> - Part 4 of The Marine and Coastal Access Act 2009 lists marine activities requiring a Marine Licence, including MRE developments. Pre-application consultation is not compulsory in the marine licensing process

	in England, Wales, or Northern Ireland although it is strongly encouraged by Natural Resources Wales for applications in Wales.
United States	Regulatory processes for MRE involve various state and federal agencies, and consultation at multiple levels, depending on the scale and location of the project (Barr et al., 2021). Early stakeholder engagement, while not required until public comment phases, has been used and found effective for several projects (Brandt, 2021; Freeman et al., 2022).

S5.2. References

Barr, Z., Roberts, J., Peplinski, W., West, A., Kramer, S., and Jones, C. (2021). The Permitting, Licensing and Environmental Compliance Process: Lessons and Experiences within U.S. Marine Renewable Energy. *Energies*, 14(16), Article 16. <https://doi.org/10.3390/en14165048>

Baulaz, Y., Pirttimaa, Lotta, Mak, Forest, and Hildebrandt, Silvia. (2023). *SEETIP Ocean D2.1 – ‘Best practice’ guidelines on community engagement* (p. 38). France Énergies Marines. ETIP Ocean (The European Technology and Innovation Platform for Ocean Energy). <https://tethys.pnnl.gov/publications/best-practice-guidelines-community-engagement>

Brandt, D. (2021). *A Current Look at Marine Renewable Energy in Oregon: Oregon MRE and the Role of Public Perception and Participation in Oregon’s MRE Future* [Capstone Project, Oregon State University]. https://ir.library.oregonstate.edu/concern/graduate_projects/2227mx291

Chng, K. (2021). Conceptualising a role for the common law in environmental protection in Singapore. *Asian Journal of Comparative Law*, 16(2), 218–237. <https://doi.org/10.1017/asjcl.2021.16>

Directive 2014/52/EU. (2014). *Amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment*. European Parliament and Council. Retrieved June 28, 2024, from <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0052&from=FR>

Freeman, M., O’Neil, R., Garavelli, L., Hellin, D., and Klure, J. (2022). Case study on the novel permitting and authorization of PacWave South, a US grid-connected wave energy test facility: Development, challenges, and insights. *Energy Policy*, 168, 113141. doi:10.1016/j.enpol.2022.113141. <https://tethys.pnnl.gov/publications/case-study-novel-permitting-authorization-pacwave-south-us-grid-connected-wave-energy>

Maritime Area Regulatory Authority. (2023). *General Guidance for completing an application for a Maritime Area Consent (in accordance with Section 75 or 76 of the Maritime Area Planning Act 2021)*. <https://www.maritimeregulator.ie/wp-content/uploads/2023/08/General-Guidance-for-completing-an-application-for-a-MAC.pdf>

Offshore Electricity Infrastructure Act (2021). <https://www.legislation.gov.au/C2021A00120/latest/text>
 Planning Act 2008, c. 29 UK Public General Acts (2008). <https://www.legislation.gov.uk/ukpga/2008/29/contents/enacted>

Procuraduría Federal de Protección al Ambiente (Federal Attorney for Environmental Protection). (2019). *Manifestación de Impacto Ambiental (MIA) (Environmental Impact Statement)*. Gobierno de México. <http://www.gob.mx/profepa/articulos/manifestacion-de-impacto-ambiental-mia>

Quero García, P., García Sanabria, J., and Chica Ruiz, J. A. (2021). Marine renewable energy and maritime spatial planning in Spain: Main challenges and recommendations. *Marine Policy*, 127, 104444. doi:10.1016/j.marpol.2021.104444. <https://tethys.pnnl.gov/publications/marine-renewable-energy-maritime-spatial-planning-spain-main-challenges>

Ramos, V., Giannini, G., Calheiros-Cabral, T., Rosa-Santos, P., and Taveira-Pinto, F. (2021). Legal framework of marine renewable energy: A review for the Atlantic region of Europe. *Renewable and Sustainable Energy Reviews*, 137, 110608. doi.org:10.1016/j.rser.2020.110608. <https://tethys.pnnl.gov/publications/legal-framework-marine-renewable-energy-review-atlantic-region-europe>

Salvador, S., Gimeno, L., and Sanz Larruga, F. J. (2019). The influence of maritime spatial planning on the development of marine renewable energies in Portugal and Spain: Legal challenges and opportunities. *Energy Policy*, 128, 316–328. doi:10.1016/j.enpol.2018.12.066. <https://tethys.pnnl.gov/publications/influence-maritime-spatial-planning-development-marine-renewable-energies-portugal>

Urban Redevelopment Authority Government of Singapore. (2024). *Environmental Impact Assessment*. Urban Redevelopment Authority. <https://www.ura.gov.sg/Corporate/Planning/Our-Planning-Process/Bringing-plans-to-Reality/Environmental-Impact-Assessment>