



Rialtas na hÉireann  
Government of Ireland

# Marine Planning Policy Statement

Prepared by the Department of Housing, Planning and Local Government

## Department for Housing, Planning and Local Government

### Marine Planning Policy Statement

#### 1. Introduction

This document is Ireland's first Marine Planning Policy Statement. It applies to all facets of marine planning. It is being introduced now on a non-statutory basis, pending the introduction of legislation in 2020 that will provide for the preparation, adoption and review of statutory marine planning policy statements on six-yearly cycles. It reflects the comprehensive updating and renewal now underway of Ireland's marine planning system, setting out core principles to inform evolving marine planning and development management process.

The Marine Planning Policy Statement is intended to do the following:

- Describe the existing components of Ireland's marine planning system;
- Outline a vision for the future development of our marine planning system;
- Set out the overarching policies and principles the Government expects marine planning bodies and other public bodies that engage with the marine planning system to observe (in terms, for example, of public engagement, transparency, governance, environmental assessment, climate action, social and economic benefit);
- Set out high-level priorities for the enhancement of the marine planning system in Ireland.

This Marine Planning Policy Statement serves as a parallel to the 2015 Planning Policy Statement which underpins the operation of the entire land-planning system in Ireland.

#### 2. What do we mean by marine planning and what are the benefits of having a planning policy statement?

A planning system generally comprises three main elements:

1. Forward planning — the process by which statutory authorities set out high-level planning objectives over the medium to long term at national, regional or local level;
2. Development management (processing and making determinations in respect of applications for specific development), and;
3. Enforcement (i.e. tackling unauthorised development or non-compliance with development management decisions, as well as ensuring that forward plans are being properly observed).

Ireland has a clearly defined and well-understood land-planning system that has been in place for more than 50 years. The National Planning Framework (NPF) sits at the top of the forward planning hierarchy, above regional assembly Regional Spatial and Economic Strategies

(RSES) which feed into local authority City & County Development Plans (CDPs). The latter, in turn, inform Local Area Plans (LAPs).

The development management system is operated by local planning authorities and An Bord Pleanála (in respect of Strategic Infrastructure and Strategic Housing Development).

Responsibility for enforcement is split between local authorities (who are responsible for tackling unauthorised development and non-compliance with development management decisions) and the Minister for Housing, Planning and Local Government and the Office of the Planning Regulator (OPR). Both have responsibility for ensuring that the hierarchy of forward plans is properly applied and respected.

A holistic marine planning system should also comprise these three elements of (marine) forward planning, (marine) development management and enforcement.

### 3. What does marine planning in Ireland currently look like?

#### Forward planning

Ireland's first marine spatial plan is currently in development and will be completed before end 2020. However, Harnessing Our Ocean Wealth (HOOW), Ireland's first Integrated Marine Plan, has been in place since 2012. HOOW established three high-level goals based on the concept of sustainable development.

- **Goal 1** focuses on a thriving maritime economy, whereby Ireland harnesses the market opportunities to achieve economic recovery and socially inclusive, sustainable growth.
- **Goal 2** sets out to achieve healthy ecosystems that provide monetary and non-monetary goods and services (e.g. food, climate, health and well-being).
- **Goal 3** aims to increase our engagement with the sea. Building on our rich maritime heritage, our goal is to strengthen our maritime identity and increase our awareness of the value (market and nonmarket), opportunities and social benefits of engaging with the sea.

HOOW also established a series of enabling tasks/actions required to achieve the foregoing vision and goals.

However, HOOW was not intended as a bespoke planning policy document in the sense normally understood. Indeed, it acknowledged that the majority of planning, licensing and regulation for marine-based activity was carried out on a sectoral and demand-driven basis. It recommended that managing our ocean wealth required an overarching national marine spatial plan underpinned by an efficient and robust planning and licensing framework. Such an approach could provide a governance structure and blueprint for national, regional and local planning of our ocean wealth. This would provide competitive advantage for our marine sectors, help realise the full benefit of our ocean wealth, and assist with managing our resources effectively and sustainably.

### Development management

The Foreshore lease or licensing process and a number of sector-specific marine planning development management systems currently operate in Ireland's seas.

The main development management system is the foreshore lease or licensing process, operated under the Foreshore Acts by the Minister for Housing, Planning and Local Government. This process takes in a wide range of development types, including, for example, pipelines, marinas and reclamation works. It is, therefore, not a sector-specific development consent process.

Separately, the Minister for Agriculture, Food and the Marine has responsibilities under the Foreshore Acts in relation to the aquaculture licensing process. This is the process that applies specifically to proposed aquaculture developments in Irish waters. It is administered on behalf of the Minister by the Department of Agriculture, Food and the Marine and an independent appellate body (the Aquaculture Licensing Appeals Board – ALAB) exists to allow for appeal of decisions by the Minister.

A number of consent requirements under the Petroleum and Other Minerals Development Act 1960, the Continental Shelf Act 1968 and Gas Act 1976 apply to the exploration for and production of oil and gas in Irish waters, including a development consent requirement. Authorisations are issued by the Minister for Communications, Climate Action and Environment and all authorisations granted are subject to the Licensing Terms for Offshore Oil & Gas Exploration, Development & Production.

Prospecting for, and development of all State minerals on land and within the seabed and subsoil of Ireland's territorial sea and continental shelf requires consent from the Minister for Communications, Climate Action and Environment.

Finally, in terms of marine planning development management processes (and leaving aside the regulation of marine activities), Aids to Navigation consents are the statutory responsibility of the Commissioners of Irish Lights under the Merchant Shipping Acts.

Further detail on each of these processes, which incorporate the requirements of the Bird and Habitats and EIA Directive, is set out below in **Appendix 1**.

### Enforcement

The Foreshore Act provides the Minister for Housing, Planning and Local Government with a range of protective and enforcement powers to ensure compliance with the main foreshore development management process. The Minister may make prohibitory notices or orders to prevent removal or disturbance of beach material where the effects are potentially harmful. The Minister also has the authority to remove derelict structures in certain circumstances and can seek orders from the District Court to have unauthorised structures removed from the

foreshore. The Minister can also seek an order to have material deposited on the foreshore removed.

The monitoring and enforcement of aquaculture activities is carried out under the aquaculture-related provisions of the Foreshore Act by the Aquaculture & Foreshore Management Division in the name of the Minister for Agriculture, Food and the Marine. The Marine Institute provides a range of monitoring and other services to support the enforcement effort.

Broad enforcement powers for the Minister for Communications, Climate Action and Environment are set out under the Petroleum and Other Minerals Development Act, 1960 to allow for the prosecution of offences, including failure to comply with the general requirement to obtain appropriate licences.

The Minerals Acts set out a range of enforcement powers for the Minister for Communications, Climate Action and Environment. These include provisions to render unlawful the prospecting of minerals without a licence from the Minister, injunctions to discontinue unauthorised prospecting and the prosecution of offences.

Audit and Inspection of Local Aids to Navigation is carried out by the Commissioners of Irish Lights.

#### **4. What is our vision for Ireland's marine planning system?**

A programme of significant reform is under way to deliver a modern, integrated marine planning system.

##### **Forward planning/Marine Spatial Planning**

Marine Spatial Planning (MSP) in Ireland is underpinned at the highest level by the European Marine Spatial Planning Directive (Directive 2014/89/EU) (MSPD). This sets out the date by which member states must have in place plans for their seas, 31 March 2021, as well as articulating a range of activities that must be included within the MSP process and plan. The MSPD is reflected in domestic law through the Planning and Development (Amendment) Act 2018. The Act describes MSP in Ireland as being made up of one marine spatial plan for the entire of the maritime area and/or different marine spatial plans for different parts of the maritime area with the singular plan or suite of plans.

The Department of Housing, Planning and Local Government is leading a whole-of-government approach to the development of Ireland's first marine spatial plan. The plan, which will be known as the National Marine Planning Framework (NMPF) and will serve as a parallel to the National Planning Framework, will set out the Government's long-term planning objectives and priorities for the management of our seas over a 20-year time frame. It will create an overarching framework for marine decision-making that is consistent, evidence-based and secures a sustainable future for Ireland's marine area. A draft NMPF will be

published in Q3 2019 for a period of public engagement and consultation (this follows an earlier engagement phase on the development of the NMPF Baseline Report), with the final plan due before end 2020. Both the draft and final plan will set out specific objectives and marine planning policies for all of the activities taking place in Ireland's seas, from aquaculture through to waste water treatment. All of these activities will be contextualised within the pillars of their economic, environmental and social considerations. The plan will also set out the proposed future approach to the adoption of spatial designations for marine activities or designated marine protected areas, and taking account of the existing network of designated European sites under the Habitats or Birds Directives by the Minister for Culture, Heritage and the Gaeltacht.

The NMPF is about the process as much as the plan and the work to date has placed a major focus on ensuring extensive public and stakeholder engagement to feed into this first cycle of plan-making and, further, to put in place the foundations for future engagement in later iterations.

### **Marine Planning and Development Management Bill**

The Government is also developing new legislation to modernise elements of the marine development management and enforcement systems. The Marine Planning and Development Management Bill 2019 (formerly the Maritime Area and Foreshore (Amendment) Bill) will, inter alia:

- Establish a statutory basis for the preparation of a Marine Planning Policy Statement;
- Introduce powers for the Minister for Housing, Planning and Local Government to put in place statutory marine planning guidelines (parallel to statutory planning guidelines under Section 28 of the Planning and Development Act 2000);
- Provide an enhanced statutory basis for marine forward planning;
- Introduce a single State consent system for the maritime area whereby the Ministers for Housing, Planning and Local Government and Communications, Climate Action and Environment will assume responsibility for the State consents for the control of the foreshore, territorial sea, exclusive economic zone and continental shelf elements of the maritime area as appropriate and the granting of leave to apply for development consent/planning permission to An Bord Pleanála/local authorities for projects under their jurisdiction;
- Eliminate the unnecessary duplication of development management processes (including environmental assessments) for activities or developments that are currently assessed under both the foreshore and planning regimes; and
- Introduce a single development management process for the Maritime Area for activities or developments that come within the remits of the Ministers for Housing, Planning and Local Government & Communications, Climate Action and Environment (including, oil and gas production, minerals extraction and offshore renewable energy). These transitional arrangements will, inter alia, provide a future development management pathway for legacy offshore renewable energy projects.

By bringing together these elements of forward planning and streamlined development management and enforcement, this new legislation will be a cornerstone of the future marine planning system in Ireland. It will be a key enabler of Ireland's ability to deliver on our obligations under the Marine Strategy Framework Directive and OSPAR Convention, our climate change and renewable energy targets, and on future ports development.

### **Maritime Jurisdiction Bill**

The Maritime Jurisdiction Bill will revise and consolidate the State's maritime jurisdiction law. In particular, it will define the State's different maritime zones (the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf) and provide for the delineation of their limits. The Bill will set out in detail the rights of the State in each zone and provide for the exercise of the State's civil and criminal jurisdiction in each zone in accordance with international law. In updating the State's maritime jurisdiction law and bringing it together in one enactment the Bill is partly intended to complement the Marine Planning and Development Management Bill.

### **Government Climate Plan to Tackle Climate Breakdown**

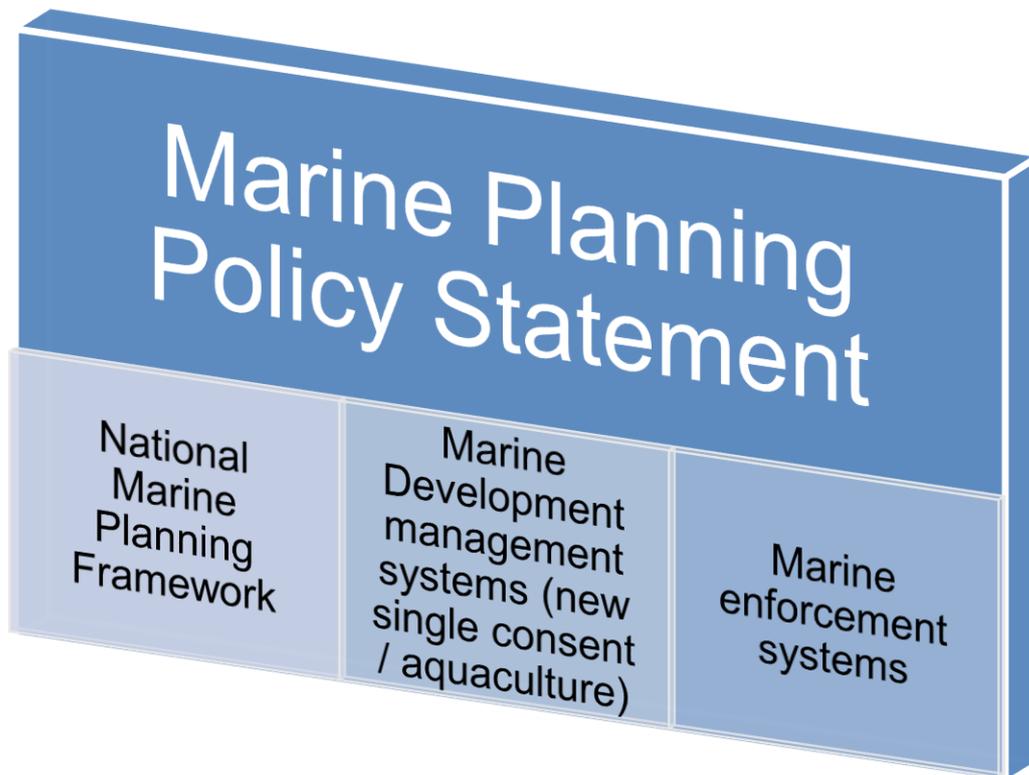
The Government will shortly publish the *Government Climate Plan to Tackle Climate Breakdown*. The Plan will set out how this Government intends to make Ireland a leader in responding to climate change by driving the delivery of policies to reduce emissions in all key sectors, including electricity, agriculture, transport, industry, buildings, and the public sector. The Plan will build on the actions already contained in the National Mitigation Plan, the National Adaptation Framework, the National Development Plan, and the Offshore Renewable Energy Development Plan. It will have a strong focus on implementation, including clear timelines and steps needed to achieve each action.

The plan will highlight the critical role of marine planning in our national climate action efforts in terms of realising our renewable energy targets through planning for the delivery of offshore renewable energy, carbon capture and sequestration.

### **Marine Environment**

The objective of ensuring that the Ireland's seas are both clean and healthy *and* sustainably used is at the heart of the Marine Strategy Framework Directive. The obligation to achieve or maintain good environmental status (GES) under the MSFD and obligations under other environmental laws such as the Water Framework Directive and the Habitats Directive can be supported through a well-functioning marine planning system. The allocation of space to human activities through a marine planning system at levels of activity that ensures a sustainable use of the environment and the utilisation of the ecosystem approach to management support these overarching objectives. A marine planning system will also serve to deliver Ireland's commitments and obligations under the OSPAR Convention, the UN Convention on Biological Diversity and 2030 Sustainable Development Goals.

*With these key reforms under way, our vision for an integrated, holistic marine planning system in Ireland is for a marine planning system with clear forward planning, development management and enforcement elements that promotes and sustains ocean health, and supports the sustainable (recreational) enjoyment, management and use of Ireland's marine resource.*



## 5. What are the overarching principles and high-level priorities for Ireland's marine planning system?

### Strategic Principles

1. Marine planning will be plan-led and evidence-based so that our processes for marine forward planning, marine development management and marine planning enforcement work together to support the achievement of Ireland's marine planning policies, including those relating to our international connectivity.
2. Marine planning will enable Ireland to meet its relevant obligations under EU and International law, including, but not limited to, the Marine Strategy Framework Directive, the Maritime Spatial Planning Directive, the Habitats and Birds Directives, the Common Fisheries Policy, the OSPAR Convention, the Aarhus Convention, the SOLAS Safety of Life at Sea Convention, the UN Convention on the Law of the Sea, the Urban Waste Water Treatment Directive and the Water Framework Directive.

3. Marine planning will facilitate Ireland's transition to a low carbon and climate resilient economy. Marine planning should ensure that developments in the marine environment consider as a matter of course ways to reduce the emission of greenhouse gases and also that they have due regard to the impacts of a changing climate. Marine planning should also support the realisation of relevant measures contained in the *Government Plan to Tackle Climate Breakdown*.
4. Marine planning will take into account land-sea interactions. Land-sea interactions (LSIs) are complex and take many forms but can broadly be described as either being related to land-sea natural processes (the effect of dynamic natural processes on coastal environment and on coastal socio-economic aspects), or interactions among land and sea uses and activities (almost all maritime uses need support infrastructure on land with some uses, e.g. tourism existing mostly on the land, which is in addition to activity at sea). In practice, because of the nature of the marine environment and the land-sea interactions being a gateway between land and sea interests, the impact of decisions at the coast in particular can have far-reaching and diverse impacts. Consideration of LSI as it relates to the environment, society and economy should be a feature of each part of the marine planning system. Alignment between marine and land-based planning elements should be sought where possible to ensure efficient and coherent consideration of LSI. Local authorities will have a key role to play in this regard.
5. While seeking to integrate environmental, economic and social considerations, marine planning will also support safety at sea. The safety of activities at sea is paramount, particularly in relation safety of life at sea and navigation. Contributing to a culture of continuing vigilance, good practice and improvement in this area, the marine planning system will provide opportunity at all stages for expert participation and provision of advice. Safe activity also has meaning in relation to environmental protection as well as in the provision of secure jobs and marine planning should seek to play a role in these areas.
6. The marine planning system will ensure that the marine environment is used sustainably and in a manner that is consistent with the Good Environmental Status requirements of the Marine Strategy Framework Directive and the requirements of relevant national, European and OSPAR Convention standards, including the 2030 Agenda for Sustainable Development, by guiding development towards optimal locations.
7. The marine planning system will support the maintenance and restoration of biodiversity as a necessary prerequisite for healthy and resilient marine ecosystems and the sustainable development of our maritime and coastal areas.

8. The marine planning system will support the preservation and enjoyment of Ireland's rich marine heritage – both natural and cultural – and our marine-related cultural and heritage assets.
9. The marine planning system will support the maintenance and sustainable development of our seafood industry, particularly in recognition of our strong fishing heritage and its contribution to vibrant, accessible sustainable coastal and island communities.
10. The marine planning system will treat all marine interests in a fair and transparent manner when decisions are being made in the marine environment and will ensure that early and effective public engagement with the public and all marine stakeholders is undertaken across all forward planning, development management and enforcement elements of the system.

## 6. What are the key priorities for Ireland's marine planning system?

To ensure that the marine planning process is properly enabled to deliver on the key principles outlined above, the Government will be guided by the following key priorities for marine planning in Ireland:

### Priorities

#### A. An up-to-date, robust legislative framework

To succeed in enabling better integrated marine management, Ireland's marine planning system – forward planning, development management, and enforcement — must be underpinned by an up-to-date, robust legislative framework to support timely and better decision making. Work is under way, as outlined earlier in this MPPS, to bring forward critical legislation that will provide a modern framework for many strands of our marine planning system. The Marine Planning and Development Management Bill and subsequent Act will result in a more streamlined consenting process for numerous activities in the maritime area that will be subject to decision-making by Local Authorities and An Bord Pleanála. In particular, the Marine Planning and Development Management Bill will bring forward a new single development consent regime for developments that come within the current remits of the Minister for Housing, Planning and Local Government and the Minister for Communications, Climate Action and Environment. This new development management regime will include the decision-making process for Offshore Renewable Energy (ORE), a key enabler in Ireland's transition to a low carbon economy.

The Bill will also provide the vehicle through which spatial designations can be made in support of specific marine activities (such as the development of ORE) or protection (through the adoption of designated of Marine Protected Areas. It will also set out an obligation on the Minister for Housing, Planning and Local Government to ensure that all marine planning activities are supported through a statutory Marine Planning Policy Statement as well as

providing a power for the Minister to bring forward statutory marine planning guidelines, as a parallel to terrestrial planning guidelines issued under S.28 of the Planning and Development Act 2000.

The Government will work across departments to ensure integrated consideration of the NMPF in these and any future new marine-focused decision-making processes to ensure they are fit for purpose upon adoption.

These changes, alongside the NMPF, will provide a sound basis for decision-makers and enforcement bodies to update their processes, ensuring real-world outcomes led by a common marine planning approach that makes a clear difference in Ireland's maritime area. To enable a relevant, dynamic marine-planning system on an ongoing basis, the priorities of the NMPF and this MPPS will be reviewed on a six-yearly basis. This will ensure that they remain relevant and are informed by best practice, trends emerging from plan application and changes to the policy landscape.

#### **B. An integrated marine forward plan as a parallel to the National Planning Framework**

The NMPF will be Ireland's first marine plan. With input from the public and marine stakeholders, the Government will provide clear direction through the NMPF for how Ireland manages its seas out to 2040. The NMPF will be the key consideration for decision-makers across the various marine development management and enforcement processes and all future applications for human activities or development in our seas will be considered in terms of their consistency with the objectives and policies set out in the NMPF. As such, it will address a wide range of maritime activities (as set out in the [NMPF Baseline Report](#), September 2018).

The Plan will include:

- Vision, objectives and a description of the approach to policy development;
- Relationship with wider policy context, including this MPPS, Land Planning, and transboundary matters;
- General marine planning policies that will likely have application across all activities and the entire maritime area;
- Activity-specific marine planning policies that will direct particular activities and set out how activities should account for one another. These planning policies will be spatial and/or temporally specific where appropriate;
- Information to support implementation, clarifying what is expected from public authorities in terms of applying policies;
- Information as to how application of the NMPF at a policy level and overall will play a role in climate change adaptation and mitigation;
- Maps, a glossary of terminology and direction in terms of available tools such as Ireland's Marine Atlas.

A full draft plan for publication in 2019 with a final plan will be prepared for submission to Government in 2020. The NMPF will be underpinned by this MPPS in the policy hierarchy, just as the 2015 Planning Policy Statement provides the foundation for the NPF. Broadly, the MPPS will provide overarching guidance from Government on the direction and components of the MSP system while the NMPF will set out what needs to be accounted for within the system.

### **C. Greater awareness and understanding of the marine planning system / marine planning processes**

As set out above, while there is a good level of general awareness of the terrestrial planning system among members of the public, fewer people have experience or knowledge of the marine planning process, despite the fact that 40% of the Irish population lives within 5km of the coast, and 40,000 people live less than 100 metres from the nearest coastline. To support the change in terms of updating delivery of functions in a way that enables contribution towards securing our vision for the marine planning system, Government will provide implementation support and guidance to public bodies, marine stakeholders including NGOs, community groups and members of the public. This will include co-ordination across decision-making and enforcement bodies in Ireland and issuing of guidance and best practice. The Department of Housing, Planning and Local Government will also provide extensive practical guidance on how the NMPF is to be applied by public bodies through the development management and enforcement processes for which they have responsibility.

Over the medium term, it is proposed that the Minister for Housing, Planning and Local Government will be given powers to bring forward statutory marine planning guidelines for public bodies on specific aspects of marine planning (working with the relevant sectoral Minister as is the case with statutory planning guidelines for the on-land planning system). This could include, for example, guidelines in relation to the development of offshore renewable energy or joint marine/terrestrial planning guidelines in relation to coastal erosion.

The Government will examine how the awareness-raising role of the OPR in relation to terrestrial planning can be broadened to encompass marine planning. This would help to inform OPR's core work to drive national research, training, education and public information programmes in relation to planning, establishing best practice in planning matters, and highlight the role as well as the benefit of proper planning in both the terrestrial and marine spheres.

The Department of Housing, Planning and Local Government will also work with professional planning bodies and higher education institutions to support the development of professional marine planning expertise in Ireland and embed marine planning and related practice as an operational function of the State.

### **D. Transparent and fair decision-making**

All elements of the marine planning system will be characterised by openness and transparency in the various decision making processes. This will be achieved through:

- The introduction of new legislative and forward planning frameworks;
- Public engagement and participation at every stage of the development of the NMPF which will ultimately be subject to decision by Government as well as Oireachtas scrutiny;
- Public participation throughout the development management processes;
- Recourse to a range of enforcement mechanisms, including enforcement of all aspects of the NMPF by all public bodies;
- Access to the Courts to review decisions on points of law;
- The Ombudsman's office on matters relating to administrative fairness and the Standards in Public Office (SIPO) in relation to matters of ethics and standards in public office; and,
- In the medium term, a future role for the OPR in oversight of implementation of the NMPF.

#### **E. Robust Governance and enforcement systems to support quality marine planning outcomes**

As part of realising the vision for an integrated marine planning system, the Government is committed to strengthening and rationalising the enforcement framework. As set out above, there are a number of marine planning enforcement processes and competent authorities. While they may operate under different legislative codes, these are all joint custodians of the marine planning system. The introduction of a single development consent process under the Marine Planning and Development Management Bill will have some rationalising effect on enforcement mechanisms but the Government will examine options for marine planning enforcement that will place a strong emphasis on:

- Clear compliance obligations flowing from a clearly articulated decision framework, ultimately based upon the marine planning policies and objectives set out in the NMPF;
- The need for consent-holders to demonstrate and prove compliance;
- Collaboration between bodies with marine planning responsibilities, with an emphasis on cross-compliance;
- The sharing of information, expertise and resources where appropriate; and,
- A flexible approach to deploying enforcement resources, taking account of geographical as well as functional capacity.

The Government will also examine the future role of the OPR in terms, for example, of ensuring consistent application of the NMPF by all marine planning bodies in their decision-making roles.

## **7. Conclusion**

This Marine Planning Policy Statement is an important step in acknowledging the important work already carried out by a range of Government Departments and agencies in the delivery of marine planning services. It also outlines an ambitious programme of reform that will bring marine planning into the mainstream of Government functions, while delivering the necessary

structures to complete an integrated system with identifiable forward planning, development management and enforcement elements.

Above all, it is intended to provide all marine users and stakeholders with a clear understanding of what marine planning in Ireland is, what principles and priorities underpin that system and what services they can expect from it.

## Appendix 1 – Overview of existing marine planning development management systems

### FORESHORE

#### Activity / regulatory authority

A wide range of development types come within the Foreshore development management system for determination by the Minister for Housing, Planning and Local Government. The following is an indicative list:

- Pipelines;
- Interconnectors;
- Site investigations;
- Wave-monitoring buoys;
- Construction of wind turbines and associated development;
- Monitoring equipment;
- Deployment of Wave Energy Converters;
- Extraction of sand;
- Extraction of gravel, minerals;
- Reclamation of foreshore;
- Licence to harvest wild seaweed;
- Works to remove or deal with hazards on foreshore;
- Beach nourishment works;
- Sewerage works;
- Construction of quay storage facility;
- Berth extension for port company;
- Marina development;
- Reclamation works; and,
- Port extension

#### Relevant legislation

The Minister's foreshore lease/licensing powers are set out under the Foreshore Act 1933, as amended. The Act requires that a lease or licence must be obtained from the Minister for Housing, Planning and Local Government for the carrying out of works or placing structures or material on, or for the occupation of or removal of material from, State-owned foreshore.

#### Other features

The foreshore is classed as the land and seabed between the high water of ordinary or medium tides (shown HWM on Ordnance Survey maps) and the 12-mile limit (12 nautical miles equals approximately 22.24 kilometres). Foreshore also covers tidal areas of rivers particularly estuaries. All the foreshore of Ireland is presumed to be owned by the State unless valid alternative title is provided.

There are two main types of foreshore consent (excepting Aquaculture related foreshore licencing which is discussed separately):

1. Foreshore leases are required for proposed developments that would require exclusive occupation of the foreshore.

2. Foreshore licences are generally required for developments that do not require exclusive occupation of the foreshore.

## AQUACULTURE

### **Activity / regulatory authority**

Aquaculture includes the culture or farming of fish, aquatic invertebrates, aquatic plants or any aquatic form of food suitable for the nutrition of fish. Aquaculture licensing is administered through the Aquaculture and Foreshore Management Division of the Department of Agriculture, Food and the Marine (land-based aquaculture also requires planning permission and a discharge permit from the local authority), with technical and scientific input from the Marine Institute. Final determinations are made by the Minister for Agriculture, Food and the Marine. DAFM also processes companion foreshore licences required for coastal aquaculture operations.

### **Relevant legislation**

Under Section 6 of the Fisheries (Amendment) Act, 1997 (as amended), it is illegal to engage in aquaculture without an appropriate Aquaculture Licence. Licenses are issued under the Foreshore Act 1933. The Department of Agriculture, Food and the Marine considers applications for aquaculture licences in accordance with the following legislation:

- Fisheries (Amendment) Act 1997;
- EU Habitats Directive of 92/43/EEC;
- EU Birds Directive 79/409/EEC;
- Consolidated Environmental Impact Assessment Directives 2011/92/EU;
- Public Participation Directive (Aarhus Convention).

### **Other features**

The licensing process involves consultation with a wide range of scientific and technical advisers as well as various Statutory Consultees. The legislation also provides for a period of public consultation. Applications for aquaculture licences are assessed through a number of stages such as Appropriate Assessment and Environmental Impact where relevant, as well as statutory and public consultation, with follow up monitoring and compliance as required.

The licencing process considers issues such as hydrodynamic conditions, visual impact, impacts on Natura 2000 sites, other marine users and native fish stocks.

## OIL AND GAS

### **Activity/regulatory authority**

This relates to the exploration for, and production of, oil and gas in Irish waters. There have been approximately 160 Exploration and Appraisal wells drilled in the Irish offshore since 1970, with four commercial gas discoveries. Over two-thirds of these wells were drilled in the 1970s and 1980s and only 18 have been drilled since 2005. In 2018, indigenous gas accounted for approximately 62% of Ireland's gas demand, the majority of which was provided from Corrib, although production is now in decline. In order to explore the Irish offshore (or

onshore) for oil and gas, companies need to be issued an authorisation to do so by the Minister for Communications, Climate Action and Environment. The Irish offshore is divided into 'Open Areas' and 'Closed Areas'. In Open Areas applications for exploration licences and licensing options may be made at any time. In Closed Areas applications for these authorisations may only be made during a Licensing Round when the area is opened for licensing by the Minister.

### **Relevant legislation**

Authorisations are issued by the Minister under the Petroleum and Other Minerals Development Act 1960, the Continental Shelf Act 1968 and Gas Act 1976. All authorisations granted are subject to the Licensing Terms for Offshore Oil & Gas Exploration, Development & Production. The Commission for Regulation of Utilities is the competent authority for safety as designated in the Electricity Regulation 1999.

### **Other features**

When a commercial discovery has been established, the authorisation holder will apply to the Minister for a Petroleum Lease. The application must include the outline development, financial and marketing plans and outline environmental impact for the exploitation of the discovery based on the applicant's considered likely production profile.

## **MINERALS EXPLORATION**

### **Activity/regulatory authority**

As set out above, prospecting for, and development of all State minerals on land and within the seabed and subsoil of Ireland's territorial seas and any area designated under the Continental Shelf Act 1968 requires consent from the Minister for Communications, Climate Action and Environment. Historically, almost all of the minerals prospecting and development undertaken in Ireland has been on land.

### **Relevant legislation**

The licensing of minerals prospecting and development is governed by the provisions of the Minerals Development Act 1940 as amended and the Minerals Development Act 2017 (yet to be commenced). The Exploration and Mining Division of the Department of Communications, Climate Action and Environment is the Competent Authority for the licensing process.

### **Other features**

Currently, there are no areas of seabed in the Irish marine area leased or licensed for minerals prospecting or extraction. However, there is potential for minerals deposits to be prospected for in Ireland's maritime area.

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