



Submission from Marine Institute

to the

Oireachtas Joint Committee on Housing, Local Government and

Heritage on

Pre-Legislative Scrutiny of the General Scheme of the Marine

Planning and Development Management Bill

1st December 2020

Ref. HLGH-i-32

1 Context

1.1. Marine Institute

The Marine Institute is the national agency responsible for marine research, technology development and innovation in Ireland.

The Marine Institute was set up under the Marine Institute Act 1991:

“to undertake, to coordinate, to promote and to assist in marine research and development and to provide such services related to research and development, that in the opinion of the Institute, will promote economic development and create employment and protect the marine environment.”

The Institute carries out environmental, fisheries and aquaculture surveys and monitoring programmes to meet Ireland’s national and international legal requirements; and provides scientific and technical advice to Government to help inform policy and to support the sustainable development of Ireland’s marine resource.

The Institute aims to safeguard Ireland’s unique marine heritage through research and environmental monitoring. Our research, strategic funding programmes, and national marine research platforms support the development of Ireland’s maritime economy.

1.2. Marine Institute Role in Foreshore Licencing

Since its establishment, the Marine Institute has played a part in the foreshore licensing process and has provided the Chair and other members to the Marine Licence Vetting Committee (MLVC) of the Department of Housing, Local Government and Heritage. This committee, which is comprised of technical, scientific and engineering specialists drawn from a number of Departments/State Agencies—including DHLGH (Engineering, Underwater Archaeology), Sea Fisheries Protection Authority, Marine Survey Office and Inland Fisheries Ireland—advises the Minister in relation to the interactions with the environment and other users that may arise from proposed foreshore developments and recommends appropriate conditions in the event of approval.

The Marine Institute also provides staff to the EPA’s Dumping at Sea Advisory Committee.

Under the Foreshore Regulations (SI 353 of 2011), the Marine Institute is a Statutory Consultee in respect of Foreshore applications submitted to the Minister

1.3. Marine Institute in Forward Planning

The Marine Institute provides scientific advice and technical support to DHLGH to support marine spatial planning in Ireland. The Institute is currently collating and analysing marine spatial data for the inclusion in the National Marine Planning Framework and is working with DHLGH to develop a web-based digital tool for the NMPF. We participated on the MPA National Advisory Group. MI-DAFM-DHLGH signed a Service Level Agreement in 2019 to ensure that services would be available to DHLGH to support the implementation of the NMPF. Since 2017, the Institute has been leading research, funded through the European Maritime Fisheries Fund, to support the NMPF. The projects relate to MSP data collection and governance, climate change, ecosystem services, seascapes, sediment catalogue in addition to fisheries and aquaculture environmental interactions. This research is improving the evidence base that supports decision making to sustainably maximise the potential for Ireland's ocean economy.

2. National Policy Context

In recent years, Ireland made a strategic choice to develop a greater appreciation of its maritime heritage and of the opportunities presented by its significant marine resources. Specifically, the country identified the opportunity and the need to build a sustainable maritime or 'blue' economy.

The MPDM is a fundamental piece of legislation to enable these commitments. It will provide assurances for Government for economic growth, protection of the environment, decarbonisation and investment in marine sectors. It will lead to a holistic approach to the sustainable development of our marine resources. The 2020 Programme for Government '*Our Shared Future*', outlines the Government's commitment to prioritising this development of the marine.

A new integrated marine sustainable development plan will be developed as a successor to '*Harnessing Our Ocean Wealth (2012)*', focusing on all aspects of the marine, with a greater focus on sustainability and stakeholder engagement and centrally coordinated by the Department of the Taoiseach. In 2020, the Marine Institute was asked to carry out a number of background studies on behalf of the Marine Coordination Group. This work was coordinated by the Department of the Taoiseach and included a review of the 2012 Plan, and a marine foresight study that identified future technological, legal, environmental, economic and political drivers were carried out by independent consultants.

The findings of the report can inform the implementation of the MPDM Bill. It identified a need to develop a strengthened implementation structure required to report and monitor performance; the uncertainty in the marine economy, particularly with regard to the likely impact of COVID-19 and Brexit. There are significant opportunities for economic growth in the long term, particularly in developing sectors such as offshore renewable energy, aquaculture and marine biotechnology.

3. Marine Institute’s Observations on General Scheme of the Marine Planning and Development Management Bill

- The Marine Institute welcomes the progress of the Marine Planning and Development Management Bill. The legislation is a key enabler to develop Ireland’s blue economy, protect the marine environment and implement national Climate Change targets. The existing Foreshore Act and outdated licencing system only covers the foreshore to 12 nautical miles offshore and is in need of reform. The Institute welcomes the holistic approach, that includes forward planning, development management and enforcement. It will not only give certainty to Marine stakeholders and industry nationally, but also help to guide activities in the Institute into future. The framework for forward planning is positive. The Marine Institute takes a holistic, integrated approach to delivery of our services, which is reflected in the Marine Institute’s Strategic Plan, *Building Ocean Knowledge - Delivering Ocean Services*.¹ We operate in a complex framework of national and international legislative instruments, regulations and policies. Our services support a range of commercial activities and important statutory requirements across fisheries, aquaculture, food safety, maritime transport and environmental compliance. The data are increasingly important to the delivery of integrated advice.
- Public participation is a welcome element of the proposed approach. The Institute strongly believes in the importance of engagement and education about Ireland’s marine resources. Through Government initiatives such as SeaFest, Ireland’s national maritime festival, and other outreach activities, the Institute works in partnership with government departments, to promote the marine education opportunities, a strengthening of our maritime identity and increased awareness of the value. This goes hand in hand with the National Marine Planning Framework.
- The Marine Institute supports the establishment of a “Maritime Area” as proposed, subject to further detailed assessment of the legal, administrative and technical implications of such an action. It is our view that this could facilitate the establishment of a development consent system for a range of potential future types of human activities; e.g. exploitation of offshore renewable marine energy, marine biodiscovery, that hitherto do not appear to be covered by existing consent systems beyond the foreshore which extends to 12nm.
- The establishment of the “Maritime Area” is a necessary action to enable Ireland to fulfil potential obligations under the MFSD—e.g. the possible need to designate Marine Protected Areas (MPAs).
- The Marine Institute notes that the proposed Maritime Area is being established for assessment,

¹ <https://oar.marine.ie/handle/10793/1382>

licensing and forward planning purposes, which is consistent with the goals of HOOW.

- The Marine Institute supports, in principle, the integration of the current Foreshore consent process for projects including:
 - Local authority development in the nearshore area requiring environmental impact assessment and/or appropriate assessment
 - Major Harbours/Marinas
 - outfalls related to waste water treatment plants,
 - Large infrastructure – offshore renewable energy, motorways, roads, bridges, and
 - Energy interconnectors

with the planning consent process operated by An Bord Pleanála. The Marine Institute also supports, in principle, the transfer of the consenting role for projects which would be subject to Environmental Impact Assessment (EIA) and Appropriate Assessment (AA) to An Bord Pleanála.

- The Marine Institute supports, in principle, the proposed devolution of the planning consent function to Coastal Local Authorities in respect of developments that adjoin the functional area of the Local Authority and to the extension of this planning function the outer limit of the new nearshore area. It is noted that Coastal local authorities will continue to be responsible for the generality of developments such as, small piers and slipways, pontoons, small marinas, and Minor outfalls.
- It is the Marine Institute's view that the proposed new planning consenting system would assist in the:
 - separation of the property and regulatory aspects of the foreshore regime;
 - removal of unnecessary duplication and costs (for both regulatory authorities and developers) in the development consent process; and
 - provision of greater clarity in respect of the timeframes in which determinations would be made.
- The Marine Institute would welcome additional clarification on the criteria / thresholds that might be used to distinguish between e.g. small and large marinas; minor and major outfalls so that it is clear to developers and all other interested parties the Planning Authority that

would be responsible for determining any application.

- In relation to the proposed establishment of the “nearshore area” the Marine Institute would welcome additional clarity on the likely extent of this area and the criteria that might be used determining this extent.
- The Marine Institute would also welcome additional clarity on the process and procedures that would be used in the event of a proposed development that would be within the nearshore area of more than one coastal local authority.
- The Marine Institute supports, in principle, the consideration of the establishment of “exempted developments”/ “exempted activities” but would welcome further consideration on the development of the criteria to be used to determine what types of developments/activities could be classified as exempted and the development of any administrative/technical conditions that may be applied to such developments/activities. In this regard, the Marine Institute is of the view that a clear distinction can be made between site investigations aimed at the collection of data required to inform the design of a potential future development in the marine environment and investigations / research conducted by Academic Institutions for the purpose of teaching or scientific advancement. It is the view of the Marine Institute it would be appropriate to treat the latter with a “lighter touch” and be exempted from the requirement to acquire a licence. The Marine Institute supports the proposal to provide the Minister with powers to make regulations for the purpose of exempting, subject to thresholds where deemed appropriate, certain activities from requiring consent under the Foreshore Act 1933. In addition to those activities provided as examples of activities that could be exempted, the Marine Institute is of the view that consideration should be given to the inclusion of additional activities such as:-
 - the deployment of any equipment used in “emergency response” situations—e.g. for the purpose of controlling or containing an oil spill or algal bloom;
 - the deployment of instruments or instrument arrays for the collection of data required to fulfil obligation under EU Directives or for scientific experiment or survey; and
 - entering onto and removal from the foreshore, by or on behalf of a local authority, of litter or seaweed for the purpose of ensuring public health and safety—e.g. removal of large accumulations of sea lettuce.
- The Marine Institute notes that it is proposed that Coastal Local Authorities will be responsible for providing planning consent for maintenance dredging activities. The Marine Institute welcomes this proposal in cases where it is intended that the dredge spoil would be beneficially reused e.g. for beach nourishment or disposed of on land under the appropriate waste

management licencing regime. It is the Marine Institute's view however, that in cases where it is intended that the dredged material would be disposed of at sea under a Dumping at Sea permit from the EPA that consideration be given to the creation of new powers for the EPA to also assess and permit the dredging operations. Maintenance dredging can be considered to be a single project involving dredging, loading and dumping and it is the Marine Institute view that it would be appropriate that a single licencing system is in place to regulate this activity.

- The Marine Institute notes that it is proposed to include provision in the Bill to enable the Minister to grant, subject to certain criteria, a "Planning Interest" to a project proponent that would allow the proponent to reserve a portion of the maritime area for a limited period while they apply for the necessary development consents. We acknowledge that this is an administrative/legal issue and, as such, is beyond the remit of the Marine Institute. It is our view, however, that the effective and efficient operation of such a system would require a high level of co-ordination across all licencing authorities (DHLGH, DECC, DAFM, EPA and LA) to ensure each authority is aware of the demand, and in particular overlapping demand, for marine space. Applications for different activities e.g. aquaculture, dumping at sea, marine aggregate extraction, sub-tidal seaweed harvesting could, at least in theory, be made to a number of different authorities for the same marine space.
- It is noted that the Bill does not appear to make reference to or consider Fishery Order (FO) Areas and their ongoing regulation. Such areas are currently under the remit of Inland Fisheries Ireland and DECC. The Marine Institute is of the view that consideration could be given to the management and regulation of activities within such areas e.g. installation of structures for shellfish cultivation. Given the extensive nature of these Fishery Order areas in what is likely to be the 'nearshore' area around the coast, it would be helpful to clarify the ongoing regulation of these areas and how they may interact with other provisions within the Bill?

In conclusion, the Marine Institute supports the general aims of the Bill and is of the view that it will contribute to the achievement of the goals and objective of HOOW; provide a legal basis for the sustainable management of Ireland's marine resources; contribute to the generation of jobs and economic growth in coastal communities; and assist in ensuring that Ireland can continue to meet its obligations under current and future marine-related EU Directives.