**Response to Recommendations of the Joint Committee on the Pre-Legislative Scrutiny of the MAP Bill**

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| **Recommendation** | **No.** |
| **Accepted** | **15** |
| **Partially Accepted** | **11** |
| **Not Accepted** | **3** |
| **Total** | **29** |

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|  | **Committee recommendation/conclusion** | **Status** | **Comments** | **Relevant Part** |
| **1.** | The completion of designation, and specification of regulation and management of Marine Protected Areas based on ecosystem requirements, required under Article 13(4) of the Marine Strategy Framework Directive as the basis for any spatial plan and consents, be provided for in the proposed bill as a precondition to the making of any plan or the granting of any consent under the legislation. | Not accepted | Legislation is being developed separately by MHLGH to provide comprehensively for the definition, identification, designation and management of marine protected areas (MPAs), which is necessary to expand Ireland’s network of protected sites in the sea. The scope and complexity of this process with respect to Ireland’s extensive maritime area and ecosystems, along with its need to remain independent of the statutory consent process, necessarily means that the MPA legislation will post-date the establishment of the new spatial planning regime that is primarily centred around human activities. The Bill provides for consideration of any and all legally protected marine sites including MPAs, once designated, at both a project level and in the preparation of Marine Spatial Plans.  Further information on MPAs is available at:  <https://www.gov.ie/en/publication/e00ec-marine-protected-areas/> | N/A |
| **2.** | Alternatively, the Department prioritise the introduction of separate and complementary legislation to complete the designation, regulation and management of Marine Protected Areas and subsequently that Marine Protected Areas are included in the National Marine Planning Framework and Marine Spatial Plan | Accepted | As above. Development of the legislation is ongoing. | N/A |
| **3.** | The Government implement interim measures to protect areas of the marine environment given the disparity between the introduction of the proposed legislation and the absence of legislation regulating Maritime Protected Areas. | Partially Accepted | Existing measures for the protection of the marine environment and its features such as Environmental Impact Assessment and Appropriate Assessment requirements, the conservation of Ireland’s Natura 2000 network of sites (i.e. SACs, SPAs) and the protection of listed species and habitats under the Birds and Natural Habitats Regulations and the Wildlife Acts, plus Ireland’s binding environmental targets under the Marine Strategy Framework Directive, already apply to the Maritime Area.  DMAPs will take into account the environment of the area involved and includes provision, *inter alia*, for allowed/restricted uses, mitigating measures for the impacts of certain usages, measures to avoid adverse impacts and environmentally beneficial measures.  The Bill provides that project level decision makers will have to give due regard to existing and new designations.  The first National Marine Planning Framework, established this Summer, already applies to decision makers and State actors in the Maritime Area. The NMPF puts at the heart of all decision, plan and policy making, ocean health and protection of our marine ecosystem. | Part 2 |
| **4.** | All ecosystem requirements of the Maritime Spatial Planning and Marine Strategy Framework Directives, in particular those of species and habitats listed under the EU Birds and Habitats directives, the OSPAR Convention and the International Union for Conservation of Nature Red lists be taken into account as part of any planning process in the proposed legislation. | Partially Accepted | The first National Marine Planning Framework, already applies to decision makers and State actors in the marine space. Measures supporting the requirements of the MSFD, such as the achievement and maintenance of Good Environmental Status been expressed in the NMPF. The Birds, Habitats and EIA Directives are provided for by specific procedures in the proposed amendments to the Planning and Development Act. | Part 8 |
| **5.** | A statutory obligation requiring effective and adequate public consultation and participation as required by the Strategic Environmental Assessment Directive and Aarhus Convention, be included in all provisions relating to adoption of programmes of measures, marine spatial plans, and individual Maritime Area Consents. | Partially Accepted | The Bill provides for extensive measures to support the requirements of the SEA Directive and Aarhus Convention. Strategic Environment Assessments, including public participation of various elements, such as DMAPs and Guidelines will to be undertaken at the appropriate time as part of their development.  Marine Spatial Plans, including DMAPs, are subject to a mandatory Public Participation Statement that will detail the timeframes, procedures and mechanisms for public participation specific to the particular plan in development. That Statement will be laid before the Oireachtas to assist and enable relevant Oireachtas Committees to participate and inform the development process.  At a project level, the Bill provides for public consultation including, where required, the requisite EIA and AA consultation, within the planning permission and licensing processes.  The MAC process relates primarily to due diligence on the “fit and proper” nature of applicants and the financial terms to apply to the permission for occupation. MAC grants will be subject to securing planning permission where the project detail and environmental impacts will be assessed.  It is therefore not appropriate to apply an additional level of public consultation element to the MAC procedure. To do so would recreate the inefficient, duplicative and burdensome regime that the Bill seeks to replace. | Part 2, Part 4 |
| **6.** | The bill provide for the refusal of Maritime Area Consent where an adequate level of public participation and consultation has not been met. | Accepted | The level of engagement by applicants with potentially impacted stakeholders is a key MAC assessment criterion. The MAC process will not consider directly matters raised that are appropriate to the planning permission application process. The process is intended to help ensure that the public is involved at the early conceptual stages of project design with a view to incorporating or resolving issues before any applications are made.  The precise nature and detail of that engagement will be project type specific and consideration of the level will be proportionate to the scale and scope of the particular proposal. | Part 4 |
| **7.** | The bill provide for enhanced public consultation measures surrounding the notification of the public in relation to the adoption of marine protected area designations, the drawing up of marine spatial plans, the designation of strategic marine activity zones and the determination of applications for planning permission or consent. This should include notifying the wider public of any developments and should not be confined solely to the locality in which the development is being proposed. Measures employed should include electronic means via websites and social media, as well as traditional media such as various national and local newspapers. Time periods for public participation should allow the public sufficient time to plan and participate effectively and in recognition of the volumes and complexity of information involved. | Accepted | As above in the response to recommendation 5, Marine spatial plans, including DMAPS which replace the proposed strategic marine activity zones, will be subject to a mandatory Public Participation Statement in which such detail relating to a specific plan will be clearly laid out.  With respect to the planning application processes provided for in the Bill, the requirement for the publication of a newspaper notice for each application is widened to include national newspapers. | Part 2 |
| **8.** | The regulation and management of aquaculture be provided for in the bill. | Partially Accepted | The consent regimes set out in MAP provides a platform for consolidation of other marine consenting functions. Government decision of June 2021 has committed all Government Departments with a marine consenting regime not included in this Bill, including aquaculture, to review their regime with a view to considering incorporating the function into the MAP regime. The outcome of those reviews will be subject to Government decision. | N/A |
| **9** | Alternatively, that the spatial planning for aquaculture be provided for in the bill, in order to meet the requirements of the Maritime Spatial Planning Directive that consent can only be granted in areas that are designated as suitable in the spatial plan, and to provide for overall compatibility and compliance of marine planning and consents. | Accepted | The National Marine Planning Framework already applies to aquaculture licensing. Spatial designations will be considered as part of a DMAP process. The DMAP provisions are sufficiently flexible to develop plans on a regional, local or sectoral basis. | Part 2 |
| **10.** | The bill be proofed to ensure full compliance and compatibility with The Marine Strategy Framework Directive, Environmental Impact Assessment Directive, Habitats Directive, Birds Directive, Water Framework Directive, Shellfish Waters Directive, Bathing Waters Directive, Waste Framework Directive, Maritime Spatial Planning Directive, measures implementing those Directives, and the Dumping at Sea Act and Sea Pollution Act. | Accepted | The Bill sets out the procedures for the preparation of forward plans and project level assessments through MACs, licensing and planning permission. The obligations on competent authorities, state actors and decision makers resulting from the wide range of Directive and legislation referenced in the recommendation continue as now and will be taken into consideration, where appropriate to the measure, directive or legislation in the context of a particular project assessment or development of a plan. | Part 2, Part 4, Part 5 |
| **11.** | The Department of Housing, Local Government and Heritage together with the Department of the Environment, Climate and Communications and the Department of Further and Higher Education, Research, Innovation and Science, engage with education institutes and industry bodies with a view to developing and implementing a range of courses and apprenticeships to address potential future skills shortages in the Offshore Renewable Energy sector. | Accepted | A "top team" to this effect is in the process of being established, with membership from academia and the Departments mentioned, and with the addition of the Department of Enterprise, Trade and Employment and also Enterprise Ireland.  The Expert Group on Future Skills Needs (EGFSN), chaired by DETE, will shortly publish a report, Skills for the Low Carbon Economy, which will support the work of the top team. | N/A |
| **12.** | Consideration be given to the introduction of local employment and training clauses for large developments to ensure community gain. | Partially Accepted | When determining large-scale planning application, An Board Pleanála will be able to condition community gain in much the same way as it currently does with Strategic Infrastructure Developments.  With regard to offshore wind developments supported under the Renewable Electricity Support Scheme (RESS), in order to capture the maximum economic benefit for hosting local communities, the draft terms and conditions for the first offshore auction under the scheme (ORESS 1) propose that operation and maintenance facilities are required to be headquartered in an Irish port. A public consultation on these terms and conditions will be launched later this month [Sept]. The accompanying consultation paper will specifically call for evidence regarding the potential impact and effectiveness of a local employment and training clause. | Planning and Development Act 2000 |
| **13.** | Consideration be given to the allowance of design envelope flexibility subject to periodic review as part of the planning process in instances where there are no detrimental environmental impacts. | Partially Accepted | Whilst such an approach is desirable, the practical implications on the findings of any EIA / AA carried out in respect of a proposed development need to be considered in detail. Even perceived immaterial deviations from a granted scheme may have impacts that will need to be assessed. S146B of the Planning and Development Act already provides for this and similar provisions have been provided for in the Bill.  Notwithstanding this, the Bill provides for the preparation of planning regulations that can set out the parameters of future planning applications and there may be an opportunity to further review the detailed requirements for individual applications in this context, in a manner that is consistent with the land-based planning regime and that protects the interests of the wider public. | Part 8 |
| **14.** | Consideration be given to the streamlining of the consent process to one authority in all instances, and subject to adequate public consultation procedures. In the event of the legislation providing for determinations in respect of such a process, such determinations should ensure public participation is provided for at the earliest stage not only when all options are open in accordance with the Aarhus Convention. | Accepted | MARA will undertake a number of consenting roles under the new regime, with the Relevant Minister construct and Local Authority permitting regime replaced. The enhanced agency/licensing model will provide for considerable streamlining. It is appropriate for coherence, expert competencies and practicalities relating to coastal development to retain development consent consideration within the planning system by local authorities and An Bord Pleanála as appropriate.  Stakeholder engagement by prospective developers will begin prior to any MAC application at the conceptual stage of project design. | Part 3, Part 4, Part 5 |
| **15.** | The Bill be amended to provide for a requirement for developers to meet time-limited specific development milestones, these milestones to be provided for in secondary legislation, for the Maritime Area Consent and for mandatory conditions in consents requiring operations to begin within a certain period post-consent, or agreement of a binding commitment to do so, subject to the possibility of financial penalties for late completion. | Accepted | The MAC model as currently set out in the legal text provides for a schedule of conditions which may be attached to the MAC, including an adherence to a specified work programme and the setting of dates when events or obligations are to be performed by the MAC holder. This may be impacted and updated to account for planning permission conditions.  It is a general provision with project specific timeframes to be set out in conditions appropriate to the proposal. Robust enforcement provisions include fines and other sanctions for breach of MAC/Planning/Licence conditions are provided for.  MACs will have a set time-limit after which point if planning has not been granted the MAC will terminate. | Part 4 |
| **16.** | Consideration be given to inserting a provision in the bill to facilitate the change of ownership of a project during the consenting process. This should include a requirement of consent to transfer such interest, and for time limited public participation on the decision to consent to the transfer, and a proviso that a change in the identity of the ultimate beneficial owner be regarded as a transfer for which consent is required, duly linked to definition of ‘person concerned’ at Head 28. | Accepted | The Bill provides for assignments of the MAC to a new owner though a joint application process. The standard MAC suitability tests (fit and proper person etc.) will apply to any new potential owner including the ability to comply with MAC conditions as granted. | Part 4 |
| **17.** | Consideration be given to subjecting marine environmental surveys to a streamlined process | Accepted | Such surveys will be considered in the new licensing regime provided for in the Bill. The licensing procedure will be applied proportionally to the scale of the proposed activity. It is envisaged that certain minor activities will only require minimal consideration. Activities that may impact on Natura 2000 sites will be subject to Appropriate Assessment. Activities that require an EIA will not be licensable and subject to planning permission instead. | Part 5 |
| **18.** | Further clarity in the bill be provided for surrounding the criteria used to distinguish between small and large marinas, and minor and major outfalls. Such criteria should reflect the characteristics and status of the receiving waters. | Accepted | Such uses are scheduled in the draft Bill and will broadly reflect existing SID provisions. An Bord Pleanála will have ultimate authority when considering whether an application is to be made to it or a local authority and will be dependent upon the nature, scale, detail and location of particular proposals. Discharges from outfalls will continue to be regulated by the EPA and local authorities under the Waste Water Discharge Authorisation process. | Schedule 10 |
| **19.** | Consideration of the management and regulation of hybrid connections be provided for in the proposed bill. | Accepted | Any single project proposal will be subject to a single MAC assessment and single Planning Permission or licence as appropriate. | Part 4 |
| **20.** | The Good Practice Principles Handbook provide for an adequate, transparent and fair distribution of benefits to communities. However, given the nature and scale of development envisaged it would be appropriate to provide for wider public consultation on the matter of community dividend. | Partially Accepted | For offshore wind projects supported under the RESS, community benefit contributions will be required. In order to ensure good governance principles of transparency and fair distribution of these funds, guiding principles will be established for their disbursement, based on the terms and conditions of ORESS 1 in the first instance, due for public consultation later this month [Sept]. | N/A |
| **21.** | Future iterations of the Renewable Electric Support Scheme provide for community benefits stemming from offshore wind projects. | Partially Accepted | RESS is beyond the scope of the MAP Bill.  Community Benefit Funds and the contribution level of €2/MWh are established in the design of all RESS auctions, onshore and offshore. This design feature is included in the State Aid notification for RESS and is not expected to change. | N/A |
| **22.** | Consideration be given to the potential for wider dividends to be provided in respect of protecting and preserving biodiversity. | Not Accepted | This is beyond the scope of primary legislation. While MARA (and MECC in the interim) has the power to establish a levy framework for MACs appropriate to proposals it is ultimately a matter for DPER to determine the appropriate disbursement of funds. | N/A |
| **23.** | Consideration be given to the potential for wider dividends to be provided in respect of grants and scholarships to promote academic excellence in marine biodiversity and also for the support and development of truly independent studies and assessments associated with marine biodiversity. | Not Accepted | As above. | N/A |
| **24.** | All Government departments and bodies be adequately resourced to effectively and efficiently carry out the functions stemming from the introduction of the new marine planning system, both in terms of facilitating efficient development and effective marine environmental protection. Consent application fees should be calculated to contribute to the costs of such resourcing. | Partially Accepted | Departmental Staff will continue to lead the further development of the NMPF and constituent elements. Continued cross-departmental collaboration and multi-agency working groups both spread the staff resource impacts and increase the breadth of marine competencies across the system. | N/A |
| **25.** | Consideration be given to the expertise and benefit provided by eNGOs to the decision-making under this legislation and the additional burden and volume of consultation which is likely to arise, and the need to provide for additional supports to enable them participate effectively in the environmental decision-making under the legislation | Partially Accepted | The Bill provides scope to a prescribe range of bodies for the purposes of planning permission decision making. The MAP Bill provides for a single environmental assessment of proposal. This elimination of the existing duplicative assessment regime will remove a significant burden from the eNGOs in relation to specific projects.  The issue of additional supports is not marine specific and beyond the scope of the legislation. | Part 8 |
| **26.** | Further clarity surrounding the enforcement regime be provided for in the bill, particularly in relation to the enforcement of environmental provisions contained in the both the current bill and existing environmental legislation. | Accepted | The modalities and responsibilities of enforcement are clearly laid out in the legal text. MARA will be responsible for enforcement of MACs licences and offshore planning permissions. Local Authorities will continue to be responsible for enforcement of coastal development extended into the new nearshore area. | Part 6 |
| **27.** | The enforcement body provided for in the bill be adequately resourced to enable it to effectively administer its obligations under the bill and related legislation. The enforcement body be subject to a requirement to ensure prompt, effective and dissuasive enforcement in order to comply with requirements of EU Directives, and subject to supervision by an external supervisor to guard against regulatory capture. The enforcement body be required to provide publicly available detailed quarterly reports on their activities. | Accepted | MARA will be a well-resourced independent agency carrying out certain consenting functions. Work is ongoing to determine appropriate structures, staffing levels and skills requirements for MARA to undertaken the functions set out in the Bill.  MARA will have robust investigation and enforcement powers and a specified statutory function to promote and monitor compliance relating to its functions under the Bill. MARA will report on its enforcement activities in its annual report to be laid before the houses of the Oireachtas. It is intended that MARA will perform its functions in an open and transparent manner with the modalities of notifications to be detailed during its establishment process. | Part 3, Part 6 |
| **28.** | Consideration be given to transferring the responsibility for foreshore licensing to the proposed independent enforcement body. | Partially Accepted | MARA will be responsible for managing the existing MHLGH foreshore consent portfolio. No further foreshore consents will be granted by MHLGH with the exception of applications on hand upon MARA establishment to be determined. Minister for Agriculture, Food and the Marine foreshore consents will continue to be administered by that Department pending review in the context of Marine 2040.  MARA will consider MAC applications for all project types appropriate to the new regime. | Part 3 |
| **29.** | Consideration be given to the provision of surety or bonds against the potential costs of cleaning up and/or otherwise remediating or addressing environmental damage in the marine environment consequent on activities or consents granted, and in respect of the costs associated with the retirement and proper disposal or re-use of materials deployed in the marine environment from consents granted to survey or develop in the marine environment. | Accepted | MACs will contain a rehabilitation schedule setting out the “end of life” obligations on MAC holders to rehabilitate or restore the maritime area appropriately. This schedule may evolve over the lifetime of the MAC due to technological or best practice evolution. MACs will also include a condition on holders to indemnify the State in relation to breach of the MAC conditions and any liabilities arising from the undertaking of the maritime usage including rehabilitation. | Part 4  Schedule 6 |