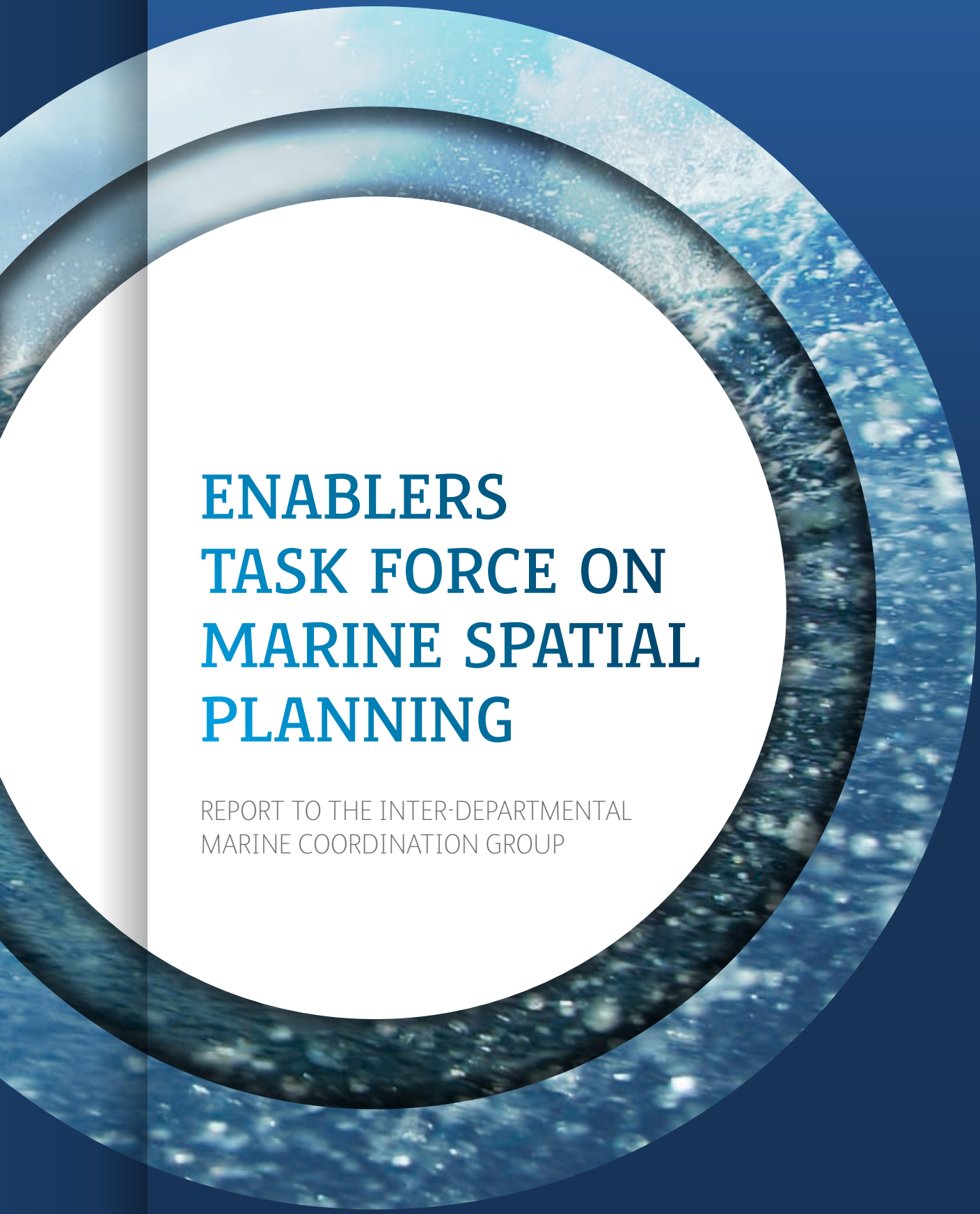
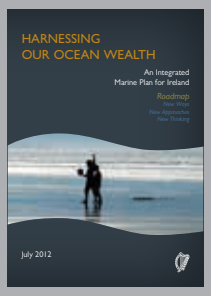


# ENABLERS TASK FORCE ON MARINE SPATIAL PLANNING

REPORT TO THE INTER-DEPARTMENTAL MARINE COORDINATION GROUP

*The Marine Coordination Group will establish an independently chaired Task Force for a specific period, with defined Terms of Reference, comprising participants from a broad range of expertise and knowledge (e.g. Departments, Agencies, Higher Education and Private Sector). The recommendations/outputs of the Task Force will be presented to the MCG and a decision on appropriate implementation will be made.*

*Harnessing Our Ocean Wealth – An Integrated Marine Plan for Ireland pp50*




# TERMS OF REFERENCE OF THE ENABLERS TASK FORCE – MARITIME SPATIAL PLANNING

To examine and report on the Maritime Spatial Planning component of

## GOVERNANCE ACTION # 2:

Develop an appropriate Maritime Spatial Planning Framework for Ireland within which the scope and objectives of an overarching national Marine Spatial Plan will be defined. Areas to be examined include:

- emerging EU policy in relation to maritime spatial planning;
- international best practice on developing integrated marine planning and licensing, benchmarking Ireland's marine regulatory framework;
- the need for any further legislative changes that may be required to support a national maritime spatial planning framework; and
- a national maritime spatial planning capacity and responsibility for data coordination and exchange, to facilitate decision support through the visualisation of ecosystem features and of existing and proposed activities in our ocean space.

*(pp 33 Harnessing Our Ocean Wealth – An Integrated Marine Plan for Ireland)*

## MEMBERSHIP OF THE TASK FORCE

- Chair: *Peter Heffernan, Marine Institute*
- Vice Chair: *Peter Langford, Chartered Engineer*
- Attorney General's Office: *Eoin Fannon*
- Department of Agriculture, Food and the Marine: *John Quinlan*
- Dept. of Arts, Heritage and the Gaeltacht: *Peter Carvill*
- Dept. of Communications, Energy and Natural Resources: *Koen Verbruggen*
- Dept. of the Environment, Community and Local Government: *Lorraine O'Donoghue*
- Dept. of Transport, Tourism and Sport: *Martin Diskin*

*Secretariat/Working Group: Eugene Nixon, Jenny O'Leary, Terry McMahon (Marine Institute); John Martin (planning consultant)*

# FOREWORD

Dear Minister Coveney and members of the Marine Coordination Group,

In December 2012 you established the Enablers Task Force (ETF) on Marine Spatial Planning (MSP) to recommend a framework for implementing MSP in Ireland as set out in *Harnessing Our Ocean Wealth – An Integrated Marine Plan for Ireland* (HOOW). I am very pleased to submit this report prepared by the ETF in response to the Terms of Reference set for it.

As you are aware, the decision to implement Marine Spatial Planning (MSP) in Ireland was set out in *Harnessing Our Ocean Wealth* and the Enablers Task Force (ETF) supports this and recommends that Ireland should, without delay, implement MSP. This initiative by Government is being progressed at a time where both nationally and internationally our oceans are seen as important assets with significant potential for economic growth and job creation. This will lead to an increased demand for marine space and it is vital that this is managed in an integrated ecosystem-based approach – as outlined in HOOW Vision:

> "Our ocean wealth will be a key element of our economic recovery and sustainable growth, generating benefits for all our citizens, supported by coherent policy, planning and regulation and managed in an integrated manner".

The findings of the Task Force show the economic, environmental and societal benefits associated with implementing the recommended framework for MSP in Ireland. The report notes benefits such as providing greater certainty for investors, the State, NGOs and the general public, resulting in an improved investment environment and lower transaction costs. It also shows on how MSP will also assist the State to manage current and future opportunities and conflicts, to identify synergies and to facilitate compliance with existing and proposed EU Directives.

I would like to acknowledge the active participation of the members of the Task Force, who shared their knowledge and experience throughout the process. Such participation has ensured we now have a report with a strong set of recommendations underpinned by sound evidence. I would also like to particularly thank the Vice Chair – Peter Langford, for his excellent input to the work of the Task Force and guidance to the supporting Secretariat.

As Chair of the Task Force I am happy to commend this report and its evidence based recommendations to the Marine Coordination Group and trust it will assist in preparing recommendation(s) to Government on a framework for the implementation of Marine Spatial planning in Ireland.

A copy of the final report is presented below.

Yours Sincerely,

**Dr. Peter. B Heffernan**
CEO, MARINE INSTITUTE
CHAIR OF THE ETF MSP

# CONTENTS

# EXECUTIVE SUMMARY

*Harnessing Our Ocean Wealth – An Integrated Marine Plan for Ireland* (2012) sets out the Government's Vision, High-Level Goals, and 39 Key Actions the Government will take to put in place the appropriate policy, governance and business climate to enable our marine potential to be realised[1]. An Enablers Task Force on Marine Spatial Planning was appointed by the Marine Coordination Group in December 2012 on foot of a governance action included in ***Harnessing Our Ocean Wealth***. This short-medium term action is to develop an appropriate maritime spatial planning (MSP) framework for Ireland within which the scope and objectives of an overarching national marine spatial plan will be defined. Five Departments which have a marine policy and / or a regulatory role and the Office of the Attorney General were represented on the Task Force. Areas examined by the Task Force included:

- Emerging EU policy in relation to maritime spatial planning;
- The need for any further legislative changes that may be required to support a national maritime spatial planning framework;
- International best practice on developing integrated marine planning and licensing, benchmarking Ireland's marine regulatory framework; and
- A national maritime spatial planning capacity and responsibility for data coordination and exchange.

The Task Force benefited greatly from a number of expert presentations, video conferences and discussions, including liaison with marine spatial organisations in England, Scotland and Northern Ireland. The Task Force also benefited from two research studies commissioned on its behalf by the Marine Institute:

- A study on the legal aspects of marine spatial planning, undertaken by an inter-disciplinary team of planners and barristers (MacCabe Durney Barnes; UCD Planning School; and the University of Aberdeen), and
- A review of international best practice in marine spatial planning, carried out by Dr. Wesley Flannery, Queen's University Belfast.

Marine spatial planning (MSP) is normally a statutory process carried out by public authorities. It involves extensive consultation, and employs Geographic Information Systems to collate and analyse spatial data relating to the uses, current and potential, of marine space and its goods and services. It seeks to manage, in an integrated and neutral manner, the spatial and temporal demands of the full range of marine sectoral policy objectives, the interaction between human activities and their pressures on the environment and to ensure effective linkages with terrestrial (landuse) spatial planning. It is important to emphasise that MSP is the process that delivers marine spatial plans and requires the involvement of policy makers, statutory bodies, stakeholders and the general public in their preparation, implementation, monitoring and review.

1 The Minister for Agriculture, Food and the Marine and the Inter-departmental Marine Coordination Group are overall responsible for the cross-government delivery and implementation of the Plan. Further details are available on www.ouroceanwealth.ie

The Task Force believes that the implementation of MSP in Ireland would deliver the following benefits:

- Contribute to vision and goals set out in *Harnessing Our Ocean Wealth* and in the EU's Integrated Maritime Plan. These include coherent and integrated marine planning and management and public participation, aimed at delivering a thriving sustainable maritime economy based on healthy, clean and productive marine ecosystems.
- Provide greater certainty for State bodies, investors, NGOs and the general public, resulting in an improved investment environment, lower transaction costs and improved timescales for project delivery.
- Reduce the risk of and from legal challenges to regulatory decisions through robust environmental assessment of marine spatial plans.
- Manage spatial conflicts, identify synergies and facilitate compliance with existing and proposed EU Directives (the Commission has proposed a Directive mandating statutory MSP systems for coastal Member States).
- Provide coordination with marine spatial plans being prepared by UK authorities for marine areas which adjoin our jurisdiction, notably in the Irish Sea.

The Task Force recommends a Framework for Marine Spatial Planning in Chapter 17. The following is a summary of the key points:

- A National Marine Spatial Plan should cover Ireland's marine waters (see Fig. 10.1) at a broad strategic level, with more detailed plans being prepared subsequently at a sub-national level as required.
- In line with EU policy and international best practice MSP should be established in Ireland through primary legislation. This will require the establishment of a lead department to draft and enact legislation establishing the MSP Body and plan-making framework recommended by the ETF. Pending drafting and enactment of such legislation, a multi-disciplinary MSP Body should be created on a "shadow" basis to start establishing the processes and the plan itself.
- It is estimated that a National Marine Spatial Plan, including full consultation and environmental assessment in accordance with EU directives, could be adopted by the lead Minister within four years.
- Robust plans require a sound evidence base. A substantial amount of marine-related data and information already exists (such as Ireland's Marine Atlas2), and this provides a good platform for the preparation of the first marine spatial plan. An expert advisory group should be established to assist in filling any gaps.

2 Ireland's Marine Atlas was developed under the Marine Strategy Framework Directive funded by DECLG. The Atlas compiles and consumes available data from a number of sources, including Departments and agencies and is available at http://atlas.marine.ie/# .

- Marine spatial plans should aim for sustainable and efficient use of marine space by maximising multiple uses and where necessary for the management of conflicts or to highlight specific opportunities for potential investors the zoning for preferred uses.

- Meaningful and early consultation with all stakeholders, including the general public, is essential. Engagement with regulatory and consenting authorities, sectoral and environmental organisations, coastal local authorities and development bodies will contribute to the management of land-sea interactions, thus enabling the inclusion of marine-related opportunities in local and regional development plans.

- The initial focus should be on forward planning and the preparation of a National Marine Spatial Plan. A plan-led system facilitates greater consistency in decision-making. This requires that consent authorities are obliged to have regard to relevant spatial policies and objectives set out in the plan.

- The Task Force is aware that as part of the wider reform and efficiency agenda, public bodies are continuing to bring about positive changes to a variety of marine licensing and consent processes, and recommends that further streamlining of such processes should be undertaken by Departments and agencies while the national marine spatial plan is being prepared and adopted. The report sets out suggested criteria to guide this process. Ultimately, consideration can be given to devolving responsibility for some marine consents / licences to a designated MSP body, in order to maximise synergies between marine plan preparation and implementation.

Finally, it is important that marine spatial plans remain responsive to changing circumstances; implementation should be carefully monitored, and the plans reviewed periodically.

# PART A: MARINE SPATIAL PLANNING – DESCRIPTION AND CONTEXT

# CHAPTER 1 INTRODUCTION

## TERMS OF REFERENCE

The Enablers Task Force was appointed by the Marine Coordination Group in December 2012 on foot of a governance action included in *Harnessing Our Ocean Wealth – An Integrated Marine Plan for Ireland* (2012). This short-medium term action is to develop an appropriate maritime spatial planning (MSP) framework for Ireland within which the scope and objectives of an overarching national marine spatial plan will be defined. The Task Force has worked on the basis that the Government has decided that "managing our ocean wealth requires an overarching national marine 'spatial' plan underpinned by an efficient and robust planning and licensing framework"[3], and that its primary task is to advise on the development of an MSP framework.

Areas to be examined by the Task Force include:

- Emerging EU policy in relation to maritime spatial planning;
- The need for any further legislative changes that may be required to support a national maritime spatial planning framework
- International best practice on developing integrated marine planning and licensing, benchmarking Ireland's marine regulatory framework; and
- A national maritime spatial planning capacity and responsibility for data coordination and exchange, to facilitate decision support through the visualisation of ecosystem features and existing and proposed activities in our ocean space.

## MEMBERSHIP OF THE TASK FORCE

**Chair: Peter Heffernan** (Marine Institute)

**Vice Chair: Peter Langford**, Chartered Engineer

**Peter Carvill** (Dept. of Arts, Heritage and the Gaeltacht)

**Koen Verbruggen** (Dept. of Communications, Energy and Natural Resources)

**Eoin Fannon**
(Attorney General's Office)

**Lorraine O'Donoghue**
(Dept. of the Environment, Community and Local Government)

**Martin Diskin**
(Dept. of Transport, Tourism and Sport)

**John Quinlan** (Dept. of Agriculture, Food and the Marine)

**Secretariat:** Eugene Nixon, Jenny O'Leary, Terry McMahon (Marine Institute); John Martin (planning consultant)

## WORK PROGRAMME

The Task Force benefited from a number of expert presentations, video conferences and discussions:

- Presentation on UNCLOS (international law of the sea) by Dept. of Foreign Affairs and Trade
- Presentation on Ireland's Marine Atlas by RPS Consultants and Compass Informatics
- Presentation on the National Strategic Plan for Aquaculture 2014-2020 by BIM
- Video conference with the marine spatial planning team of the UK Marine Management Organisation
- Video conference with Marine Spatial Planning team, Marine Scotland
- Video conference with Licensing Operations Team, Marine Scotland
- Presentation on MSP issues by Coastal and Marine Research Centre, Cork

A half-day workshop on marine spatial planning was facilitated by a Geographic Information System specialist with the Marine Institute.

Finally, the Task Force also benefitted from two research studies commissioned on its behalf by the Marine Institute:

- A study on the legal aspects of marine spatial planning was undertaken by an inter-disciplinary team of planners and barristers (MacCabe Durney Barnes; UCD Planning School; and the University of Aberdeen), and
- A review of international best practice in marine spatial planning carried out by Dr. Wesley Flannery, Queen's University Belfast.

In addition, a study undertaken in association with the Office of the Attorney General entitled "A Study of the Law Required to Support a Marine Spatial Planning Framework in Ireland" was completed and will be a very valuable resource for the preparation and implementation of an MSP framework in Ireland.

## STRUCTURE OF THE REPORT

The report is divided into four main parts:

(1) Part A describes the general objectives and typical process of marine spatial planning. The obligations and constraints on any future Irish framework set by international law and EU Directives are outlined. Finally, recent marine policy developments in Ireland and the EU are summarised.

(2) Part B summarises the main conclusions of the two research studies.

(3) Part C considers what would be required in order to implement a marine spatial planning system in Ireland, such as a legal framework, consultation with stakeholders, capacity to collect and analyse marine spatial data, an effective marine consent / licensing system, and linkages with landuse planning. Task Force recommendations at the end of relevant chapters in Parts A and C, together with the recommendations from the research studies (Part B), informed the overall recommended MSP framework.

(4) Part D sets out the Task Force's recommended framework as required by its terms of reference, and also proposes a series of short to medium term actions which could be taken by Government and the Marine Coordination Group.

Supplementary technical / reference material is included in the Annexes.

# CHAPTER 2 MARINE SPATIAL PLANNING: AN OVERVIEW

This chapter aims to provide an overview of marine spatial planning (MSP) – what is it, how it typically operates, and what are the potential benefits.

## DEFINITION OF MSP

Marine spatial planning is a relatively recent discipline which has been developed in different ways throughout the world, but a useful definition is provided by UNESCO:

> "Marine spatial planning is a practical way to create and establish a more rational organisation of the use of marine space and the interaction between its uses, to balance demands for development with the need to protect marine ecosystems, and to achieve social and economic objectives in an open and planned way."

MSP is normally carried out by public authorities, involves extensive stakeholder consultation, and employs Geographic Information Systems to collate and analyse spatial data relating to the use of marine space and its goods and services, and to the impact of human activities on the marine environment. It seeks to manage the spatial and temporal demands of integrate the full a range of marine sector policy objectives, and to ensure effective linkages with terrestrial (landuse) spatial planning in the coastal zone.

It is important to emphasise that MSP is a process (see below), of which marine spatial plans form only a part; data collation and analysis, the involvement of statutory bodies, stakeholders and the general public, implementation, monitoring and review all constitute essential elements of MSP.

Typical MSP objectives might include:

- To promote a thriving and sustainable maritime economy
- To protect and conserve our rich marine biodiversity and ecosystems
- To promote societal wellbeing, particularly that of coastal communities, through the sustainable use and development of marine resources
- To deliver a business-friendly yet robust governance, policy and planning framework.

While MSP has borrowed some processes and techniques from terrestrial spatial planning, the sea is not subject to individual property rights in the same way as on land. The sea is a fluid and dynamic environment, and is subject to a range of international laws and conventions (see chapter 3) which do not apply on land. MSP thus operates in a different planning context.

## DRIVERS OF MSP

According to *Harnessing Our Ocean Wealth*,

> "Currently in Ireland the majority of planning, licensing and regulation for marine-based activity are carried out on a sectoral and demand-driven basis. Managing our ocean wealth requires an overarching national marine 'spatial' plan underpinned by an efficient and robust planning and licensing framework."

At a global level, the increasing use of marine space and resources is leading to growing conflicts between some marine uses, and is putting the sustainability of the marine environment under greater pressure. Within the EU, there has been a growing policy focus on an ecosystem-based approach to marine management, notably in the context of implementation of the 2008 Marine Strategy Framework Directive. MSP is often seen as a practical way of managing marine resources and of integrating sectoral policies. Several EU countries such as Germany, The Netherlands, Belgium and the UK are to the forefront in promoting the development of offshore wind energy in harmony with other marine activities and with environmental objectives, and this has been a strong driver of MSP in those countries.

The EU Commission published its proposals for a MSP Framework Directive in March 2013 with a view to making maritime spatial planning and coastal management processes obligatory while allowing Member States to tailor them to their specific situations, starting points and legal systems (see chapter 4).

## INDICATIVE MSP PROCESS

Figure 2.1 presents a generic outline of the MSP process. The various stages in the cyclical process are adapted from "A step-by-step approach to marine spatial planning" published by UNESCO in 2009[4], and also to an extent mirror the stages in preparing and adopting city and county development plans in Ireland:

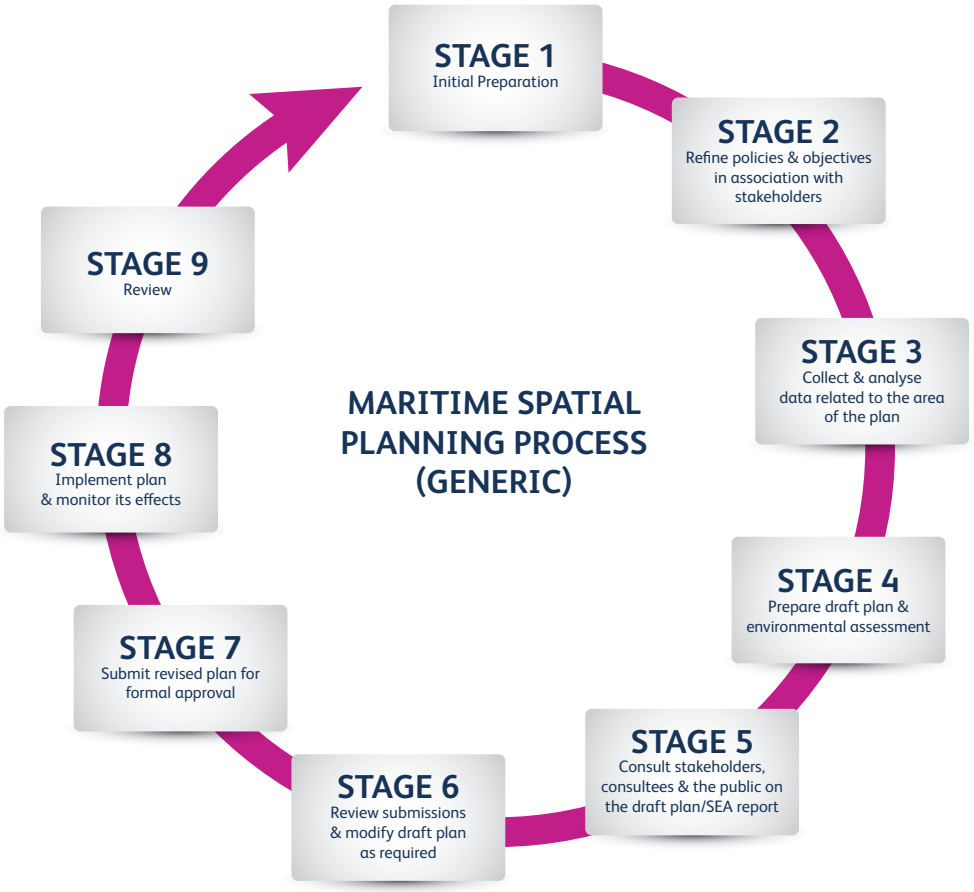



FIG. 2.1 GENERIC OVERVIEW OF THE MARINE SPATIAL PLANNING PROCESS

## STAGE 1: INITIAL PREPARATION

MSP legislation is likely to specify some high-level policy goals for marine plans, but these will need to be complemented by an analysis of relevant Government sectoral policies (see chapter 8). The national legal and policy framework will be expanded with reference to international law (such as UNCLOS), EU Directives, and international conventions (such as OSPAR) to which Ireland is a party (see chapter 3). Any existing or proposed marine plans in adjoining jurisdictions should be identified. Apart from these "top-down" goals, "bottom-up" goals will emerge through consultation with statutory consultees, stakeholders, NGOs and the general public (see chapter 9).

If the geographic area to be covered in the plan (see chapter 10) is not specified either in legislation or by direction of a Minister, the designated MSP body (which may be an existing Department or agency) will need to determine the boundaries of the area in order to compile data relating to the economic, social and environmental status of the area. Similarly, the time frame of the plan may be specified by law, or else may be set by the body.

The MSP body will publish notice of its intention to begin the preparation of a draft marine plan for the specified area, and will invite submissions from stakeholders and the general public as to the goals and objectives of the plan, and on potential sources of data. Consultations with relevant statutory bodies – including coastal local authorities - will also commence, with particular reference to their policy objectives for the area and any spatial data they may hold relating to that area.

The MSP body will begin to translate the high-level policy goals for the area into more specific and measurable objectives; this is an iterative process, as these objectives will subsequently be refined in the light of available data and further consultation with stakeholders and statutory bodies.

Consultation with other marine planning authorities (e.g. in the UK) would also be mutually beneficial, and is likely to result in the sharing of data relating to transboundary marine waters and activities.

## STAGE 2: DEFINING AND ANALYSING EXISTING CONDITIONS IN THE MARINE PLAN AREA

In order to provide robust, evidence-based policy guidance to marine licensing and consent authorities, and to give greater certainty to potential investors in the marine economy, any marine plan must be grounded on reliable evidence (see chapter 11). Such evidence is also required for environmental assessment of the draft plan under EU Directives.

The MSP body will begin by assembling relevant spatial scientific and statistical data relating to the current economic, social and environmental status of the area of the plan, with a view to identifying:

- Pressures of human activities on the marine environment, and
- Existing conflicts and opportunities for co-existence between different users.

It is important to map such data where possible, such as the location of marine conservation areas. The data will relate not only to marine waters (including the seabed and the water column), but also (to the extent relevant) to the adjoining coast, such as estuaries, ports and harbours, transport and energy infrastructure, beaches, scenic areas and views, etc. The use of Geographical Information Systems (GIS) enables different categories of data relating to the same area to be presented in "layers" for ease of understanding; comparing different layers facilitates identification of existing or potential conflicts and opportunities.

## STAGE 3: DEFINING AND ANALYSING FUTURE CONDITIONS IN THE MARINE PLAN AREA

The next step is to map opportunities for future use of marine space within the area of the plan, up to at least the end year of the plan (say 6 - 10 years), again using GIS to identify the location of such activities and to map them against likely pressures on the marine ecosystem and against known constraints. Various alternative spatial scenarios for the end year can be formulated, in the light of the high-level goals and objectives established in stage 1, and the strengths and weaknesses of the alternatives can be assessed (statutory environmental assessment also requires consideration of alternative policy options). Scenarios hypothesize realistic alternative futures, based on different assumptions, such as "business as usual" versus a redistribution of emphasis between social, economic and environmental priorities. This assessment will facilitate the selection of the preferred spatial scenario, to be incorporated in the draft marine plan.

## STAGE 4: FINALISING THE DRAFT MARINE PLAN

Once the preferred spatial scenario has been selected, management measures have to be devised to ensure it can be implemented over the lifetime of the plan. In particular, the plan needs to give clear policy guidance to the various sectoral licensing / consent bodies responsible for specific activities or proposed developments within the area. Ideally, many compatible uses should be able to share the same marine space, but where conflicts arise, zoning may be required to prioritise particular uses. For example, the main shipping lanes need to be kept free of fixed obstacles.

The plan is likely to comprise:

- A written policy statement, setting out high-level goals and the specific, measurable objectives needed to achieve those goals within the area and timeframe of the plan. The plan will detail the criteria and spatial considerations which marine licensing / consent bodies will need to have regard to (and where necessary be consistent with) in dealing with applications, e.g. in facilitating proposed uses and developments in maintaining Good Environmental Status in marine waters by 2020. Other management measures – such as the preparation of management plans for Special Areas of Conservation – may also be included, together with policies to ensure greater co-ordination between marine and terrestrial spatial plans in coastal zones.
- A map or series of maps, perhaps in GIS format, showing the preferred location for certain activities, constraints (e.g. shipping lanes), marine conservation areas, etc. within the area of the plan.
- Monitoring measures to assess whether the plan's objectives are being achieved in practice (see stage 8, below).

## STAGE 5: PUBLIC CONSULTATION ON THE DRAFT PLAN

When the draft plan is completed, the MSP body will notify statutory consultees (relevant public sector authorities, including designated environmental authorities and any affected EU States under the SEA Directive), stakeholders (identified in stage 1), relevant NGOs, and the general public that the draft plan and environmental assessment(s) are available for consultation over a specified period; written submissions, which will be taken into account by the body before the plan is adopted, are invited. The MSP body may also wish to hold a series of information meetings, particularly in coastal areas adjacent to the marine area involved, at which the goals, objectives and management measures can be explained and feedback given (see also chapter 9).

## STAGE 6: REVISING THE DRAFT PLAN

Following the public consultation phase, the MSP body will review all submissions received, and decide whether to amend the draft plan accordingly. If the proposed amendments are substantive, a second public display relating only to such amendments may be required, together with a revised SEA report (and Natura impact statement, if necessary), and any submissions considered. The plan will be finalised, and submitted to the Government or relevant Minister for adoption.

## STAGE 7: FORMAL ADOPTION

The plan will be formally adopted in accordance with whatever process is set out in MSP legislation (see chapter 12 re governance issues), and relevant public authorities, stakeholders, and the general public will be notified when the plan comes into force. Specified information required under the SEA and Habitats Directives will be made available to the public.

## STAGE 8: IMPLEMENTATION AND MONITORING

The plan will be implemented through the decisions of various marine licensing, consent and management authorities (see chapter 14). It is important that both the decisions, and how they are complied with, are monitored by the marine planning body; monitoring of significant environmental impacts of the plan's implementation is also required under the SEA Directive. Monitoring implementation of the plan should demonstrate the extent to which its objectives have been achieved, and provide evidence-backed feedback about what has worked and what hasn't. Monitoring can utilise existing data sources to the greatest extent possible (such as national monitoring programmes under the Marine Strategy Framework Directive and Common Fisheries Policy), and will also benefit from specialised or localised data which will become available through Environmental Impact Assessment of marine projects in the area of the plan.

## STAGE 9: REVIEW OF THE PLAN

It is essential that marine spatial plans should be reviewed periodically, to reflect the outcomes of the monitoring process and also to respond to changing circumstances, such as the introduction of new technology or the emergence of new scientific data.

## IMPORTANCE OF ENVIRONMENTAL ASSESSMENT

Various EU Directives[5] require the environmental assessment of specified types of plans and projects – Strategic Environmental Assessment and (if required) Appropriate Assessment of plans, and Environmental Impact Assessment and (if required) Appropriate Assessment of projects. Both SEA and Appropriate Assessment are likely to be required in the case of marine spatial plans.

Rigorous implementation of environmental assessment, while potentially costly in terms of resources and time, is vital not only in ensuring compliance with EU law but also in terms of greatly minimising the risk of judicial reviews of either marine spatial plans themselves or consent decisions based on such plans, by ensuring that environmental sensitivities are fully addressed from the outset. The availability of robust marine environmental data required for plan preparation will facilitate all forms of assessment, whether initially by the MSP body or subsequently by marine developers and consent authorities. As will be shown in chapter 14, even further efficiencies can be achieved by combining Appropriate Assessment with either Strategic Environmental Assessment or Environmental Impact Assessment.

## POTENTIAL BENEFITS OF MARINE SPATIAL PLANNING

Marine spatial planning offers a wide range of potential benefits to society as a whole, to public and private sector operators and developers in the marine economy, and to marine consent authorities. These benefits include:

- MSP is based on a holistic approach that addresses social, economic and environmental policy objectives, and which can assist in overcoming the problems inherent in a sector-by-sector approach to the management of marine resources, for example, by providing an overarching policy context for marine sectoral plans. It also coordinates and, if necessary, integrates various levels of governance, from international, through national and regional, to local level.
- It seeks to facilitate multi-use of busy marine waters whilst avoiding conflicts between different marine users, thus maximising the use of marine resources.
- It offers greater certainty for potential developers and thus reduces investment risk and the regulatory burden (e.g. by identifying opportunities and conflicts, and by sharing baseline marine environmental data). The potential economic benefits will be explored in more detail in chapter 13.
- By integrating environmental objectives at the marine plan stage, it facilitates more informed site selection for offshore developments, and contributes to compliance with relevant EU environmental Directives. A plan-led permitting system can help to avoid serious challenges to proposed desirable developments; such challenges have the potential to delay, or

5 See chapter 3

even completely frustrate, such developments, resulting in greatly increased costs for applicants, employment and potential loss of downstream revenue for the State.

- MSP is built on early and effective consultation with stakeholders, which adds local knowledge to plan-making datasets and which encourages greater "buy-in" to adopted plans.
- By setting a plan horizon up to 20 years into the future, and by building in an adaptive capacity into marine plans through periodic reviews (say every 6 – 10 years), MSP can facilitate planning for new and emerging technologies.
- The need for effective implementation of marine spatial plans can help to deliver a more effective and streamlined consent and licensing regime (see chapter 14).

## TASK FORCE RECOMMENDATIONS:

(1) Any MSP process in Ireland should broadly follow the sequential steps outlined above.

(2) A primary objective of marine spatial plans should be to facilitate efficient and sustainable shared use of marine space to the greatest extent possible, and to identify opportunities for new uses in the future.

(3) The process should facilitate the active participation by relevant public authorities, stakeholders, and the general public from the outset (see also chapter 9).

(4) The process should integrate robust environmental assessment of draft plans.

(5) Effective implementation of marine spatial plans depends on streamlined and coordinated licensing and consent processes.

# CHAPTER 3 INTERNATIONAL MARINE LAW

## UNCLOS

The sea is an international space which is regulated by a number of treaties, primarily by the 1982 UN Convention on the Law of the Sea (UNCLOS). Although UNCLOS doesn't contain any specific provisions regarding marine spatial planning (MSP), the ability of coastal States to engage in MSP takes place in the context of different maritime zones as defined in UNCLOS.

Ireland ratified UNCLOS in 1996. As UNCLOS also regulates matters for which the European Union exercises competence (such as fisheries and protection of the marine environment) the European Union is also a party and UNCLOS forms part of the legal order of the EU.

The various UNCLOS maritime zones are defined by reference to coastal baselines:

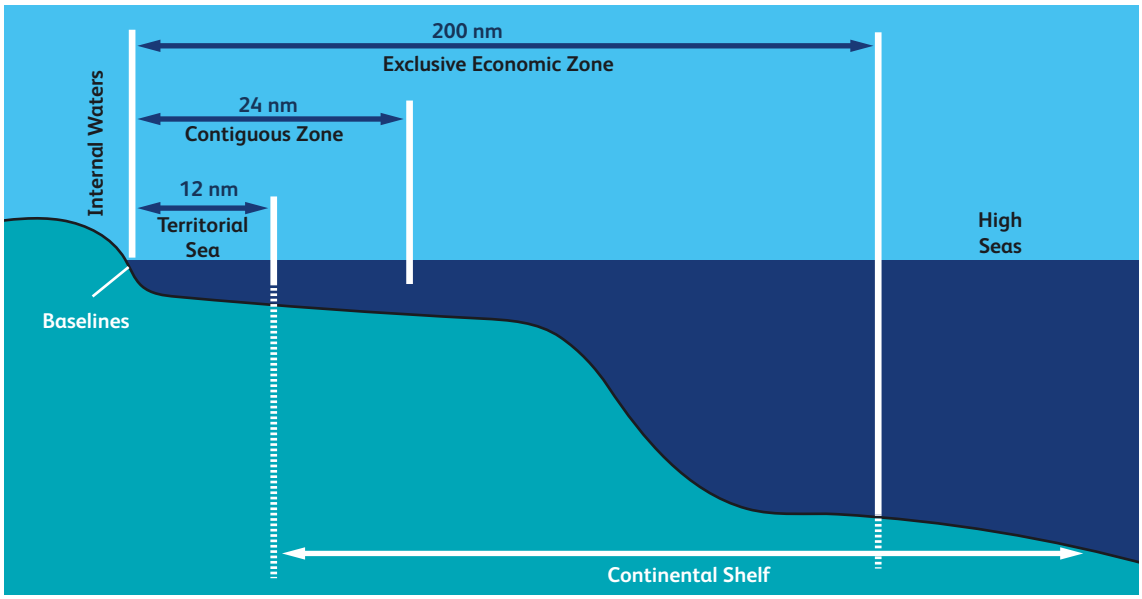



FIGURE 3.1: UNCLOS MARITIME ZONES[6]

6 Adapted from UNCLOS 30th Anniversary Pamphlet: http://www.un.org/depts/los/convention_agreements/convention_overview_convention.htm

In Ireland the low water mark forms the baseline along the east coast, whereas straight baselines – joining two headlands or a fringe of islands along the coast of the mainland – are the norm along the indented west and south coasts (see below). The maritime zones are as follows:

(1) Internal waters are waters landward of the baseline, over which States have full sovereignty.

(2) Territorial seas extend for 12 nautical miles from the baseline; coastal States have full sovereignty over their territorial seas, subject to the right of innocent passage by foreign vessels. Shipping navigation is thus an important constraint on the exercise of MSP in territorial seas. The sovereignty extends to the air space over the territorial sea as well as to the sea bed and subsoil. Under current Irish law, the sea bed of the territorial sea comes within the legal definition of the "foreshore".

(3) Beyond the territorial sea a coastal State may claim an Exclusive Economic Zone (EEZ) that can extend up to 200 nautical miles from the baseline, subject to similar rights claimed by other coastal States sharing the same marine space (the UK in the case of Ireland). The seabed of the EEZ is the continental shelf, the subject of a separate legal regime which deals mainly with oil and gas (see below). Within its EEZ, a coastal State has sovereign rights for the purposes of exploring, exploiting, conserving and managing living and non-living natural resources (such as fish) and other activities for the economic exploitation and exploration of the zone. These activities include wind, wave and tidal energy; marine scientific research; environmental protection; and the construction of "offshore installations and artificial islands". Other States enjoy the freedoms of navigation for shipping and of laying submarine cables and pipelines within a coastal State's EEZ.

(4) The Continental Shelf is the natural prolongation of land territory to the outer edge of the continental margin. Depending on the geology of the seabed, the Continental Shelf can be extended beyond 200 nautical miles up to a maximum of 350 nautical miles from the baselines in places where the United Nations Commission on the Limits of the Continental Shelf (CLCS) has issued appropriate recommendations. (Upon the recommendations of the CLCS Ireland has already extended its continental shelf beyond 200 nautical miles in the area abutting the Porcupine Abyssal Plain while two other claims are being pursued in respect of the Celtic Sea and the Hatton Rockall area.) On the Continental Shelf a coastal State has sovereign rights over mineral resources and living "sedentary" resources. As with the EEZ, the coastal state exercises only limited sovereign and jurisdictional rights and any regulation of activity for MSP purposes within these zones may only be effected by the coastal state subject to the rights and freedoms of all other states.

(5) The high seas lie beyond the EEZ / Continental Shelf; no State may claim sovereignty and the vessels of all States enjoy high seas freedoms such as the freedom of navigation.

## OTHER INTERNATIONAL OBLIGATIONS

International marine laws and conventions also influence the following MSP-related issues:

[a] Navigation: Although not named as such, the International Maritime Organisation (IMO), established by international convention in 1948, is identified in UNCLOS as having authority to make binding rules; more than 120 traffic separation schemes have been adopted to date within European seas, including off Tuscar Rock and Fastnet Rock. In its territorial seas, a coastal State can impose the use of specific sea lanes and traffic separation schemes, such as the approaches to our principal ports.

[b] Environmental protection: This is one of the objectives of UNCLOS, and has led to a number of related conventions, such as OSPAR whose aim is the protection of the north-east Atlantic. UNCLOS imposes a number of general obligations on States to protect the marine environment in seas under their jurisdiction, including measures to protect ecosystems and habitats. UNCLOS predates the development of the concept of marine protected areas but the jurisdictional rules set down in it dictate the extent to which coastal states can create and enforce MPAs. The EU's Birds and Habitats Directives apply within the marine areas of Member States, and these mandate the establishment of Special Areas of Conservation and Special Protection Areas which, where created at sea, are types of marine protected area. The Marine Strategy Framework Directive (see below) has as its main objective the achievement or maintenance of "Good Environmental Status" in European waters by 2020. The IMO also has a role in preventing pollution from ships through the MARPOL Convention and has authority to create certain types of MPAs (such as the Particularly Sensitive Sea Area along the west coast of Europe, including Ireland).

[c] Fisheries: At EU level the management of fisheries is governed by the Common Fisheries Policy (CFP) which applies to EU waters (essentially the territorial waters and EEZs of Member States) and to fishing vessels flying the flag of a Member State. The net effect is that with the exception of territorial seas, where Member States can take non-discriminatory measures for conservation and management of fish stocks, spatial measures by individual Member States for the sole purpose of regulating fisheries are not permitted – any such measures can only be implemented through the CFP.

## RELEVANT EU DIRECTIVES:

A number of EU Directives are of particular relevance in the context of MSP:

- **Marine Strategy Framework Directive 2008 (MSFD):** The MSFD (Directive 2008/56/EC) has been described as the environmental pillar of the EU's Integrated Maritime Policy. The fundamental aim of the Directive is the conservation of marine ecosystems, by designating marine protected areas and by controlling all human activities that have an impact on the marine environment. It establishes a legally binding framework within which Member States must take the necessary measures to achieve or maintain "Good Environmental Status" (GES) in their marine waters by 2020 at the latest.

  The MSFD requires each Member State to develop a marine strategy which shall include:

  - An initial assessment by July 2012 of the current environmental status of the waters concerned and the environmental impact of human activities thereon, and the establishment of environmental targets and indicators;
  - Implementation by July 2014 of a monitoring programme for ongoing assessment; and
  - Development by 2015 of a programme of measures designed to achieve or maintain GES, and entry into operation of the programme by 2016.

  Much of the MSFD data assembled for Ireland's Marine Atlas is likely to prove of value in preparing marine spatial plans for Irish waters (see Chapter 11).

  The programme of measures which the MSFD requires to be operational by 2016 in order to achieve or maintain good environmental status in marine waters "shall include spatial protection measures, contributing to coherent and representative networks of marine protected areas, adequately covering the diversity of the constituent ecosystems" (Article 13.4). While the Directive does not require marine spatial plans, marine protected areas are a typical feature of such plans. Moreover, a marine spatial plan may facilitate the achievement or maintenance of GES by specifying the environmental standards to be complied with in any activities or marine developments for which a licence or consent is granted in accordance with the plan.

  It will be seen therefore that from an assessment and data collection perspective, there are potential synergies between implementation of the MSFD and the establishment of a MSP system in Ireland.

- The **Water Framework Directive** (WFD): The WFD (2000/60/EC) is a key initiative aimed at improving water quality throughout the EU. It applies to rivers, lakes, groundwater, and coastal waters. "Coastal water" means surface water on the landward side of a line, every point of which is at a distance of one nautical mile on the seaward side from the nearest point of the baseline from which the breadth of territorial waters is measured.

- The **Habitats Directive** (92/43/EEC) placed an obligation on Member States of the EU to establish the Natura 2000 network. The network is made up of Special Protection Areas, established under the **Birds Directive** (79/409/EEC), and Special Areas of Conservation (SACs),

established under the Habitats Directive. The 25 Irish species which must be afforded protection under the Habitats Directive include salmon and cetaceans. Under the OSPAR Convention to Protect the Marine Environment of the North East Atlantic, Ireland committed to establishing marine protected areas to protect biodiversity. Ireland (like other OSPAR contracting Parties) established a number of its SACs as OSPAR Marine Protected Areas for marine habitats.

- **Strategic Environmental Assessment (SEA) Directive 2001:** The SEA Directive (2001/42/EC) requires that most spatial plans or programmes should be assessed to determine whether implementation would be likely to have significant effects on the environment. The Directive involves consultation with designated environmental authorities and with the public, and the preparation of an environmental report in tandem with consultation on a draft plan or programme. While this entails additional resources and time during the plan preparation process, the benefits include (a) embedding principles of sustainable development from the outset, thus creating greater certainty for prospective developers at a later stage, and (b) providing benchmark data for the preparation of Environmental Impact Statements on behalf of developers at the project stage.

Appropriate Assessment of draft marine spatial plans may also be required under the Birds and / or Habitats Directives, and screening for such assessment should be carried out.

## THE STATE'S BASELINES

As outlined above, the seas of the State are measured from the low water mark (normal baseline) on the east coast; on the west and south coasts, where the coastline is deeply indented and cut into, or where there is a fringe of islands along the coast, the method of straight baselines joining appropriate points is used, as shown on Fig. 3.2 below. The State's straight baselines were set out in the Maritime Jurisdiction Act (Straight Baselines) Order 1959, but the Order did not specify which chart datum is to be used, which can result in some uncertainty at the margins of the territorial seas and internal waters. The Task Force considers that for the avoidance of doubt such uncertainty should be remedied, and understands that legal and technical issues related to straight baselines are currently under review by the Department of Foreign Affairs and Trade (the Minister for Foreign Affairs and Trade has primary responsibility for establishing the State's international boundaries, including its maritime boundaries, and is the responsible Minister under the State's Maritime Jurisdiction legislation).

## TASK FORCE RECOMMENDATION:

(6) Any proposed MSP legislation needs to be framed in the context of all of Ireland's existing obligations under international (including EU) law. This should be informed by the review of such obligations carried out by the MSP legal research team (see chapter 6).


FIGURE 3.2: IRELAND'S STRAIGHT BASELINES. BASED ON MARITIME JURISDICTION ACT, 1959 (STRAIGHT BASELINES) ORDER, 1959.

# CHAPTER 4 RELEVANT EU AND IRISH MARITIME POLICY DEVELOPMENTS

As an EU Member State, Ireland's maritime policies – including the possible creation of a marine spatial planning framework – have been developed in the context of European policies. This also reflects the fact that the seas around Ireland are shared with other Member States, and that marine ecosystems are not confined to national marine waters.

## DEVELOPMENT OF EU MARITIME POLICIES

There is a wide range of EU maritime policies, such as the Common Fisheries Policy, marine environment (such as the Directives listed in the previous chapter), offshore renewable energy, marine transport, and research. In 2007, the EU Integrated Maritime Policy (EU-IMP) sought to provide a more coherent approach through increased coordination between marine sectors. The EU-IMP has led to further policy development, notably:

- Guidelines published by the Commission in 2008 on integrated maritime governance and stakeholder consultation, which influenced the establishment of the Marine Coordination Group here in 2009 and which was followed by publication of Harnessing Our Ocean Wealth in 2012 (see below); and
- The European Strategy for the Atlantic (2011) which is one of a number of sea basin strategies designed to implement the EU-IMP. The Atlantic Strategy involves Ireland, Spain, Portugal, France and the UK. The Commission has recently adopted an Action Plan (May 2013) which aims to help create sustainable growth in coastal regions through the "Blue Economy" while preserving the environmental and ecological stability of the Atlantic Ocean. One of the objectives proposed by the Action Plan is to contribute to Member States marine spatial planning and coastal management processes, for example by sharing best practice and facilitating cross-border coordination.

The EU has also developed maritime policies with a more spatial focus, beginning in 2002 with a recommendation of the European Parliament and of the Council concerning the implementation of Integrated Coastal Zone Management (ICZM) in Europe. This urged Member States to take a strategic approach to the management of their coastal zones based on a series of principles identified in an ICZM demonstration programme sponsored by the Commission (including the Bantry Bay Charter project).

The 2007 EU-IMP identified marine spatial planning (MSP) as a cross-sectoral implementation tool, and in the following year the Commission published a Roadmap for MSP which also proposed ten key principles derived from emerging best practice:

(1) Using MSP according to area and type of activity: A maritime spatial plan may not need to cover a whole area (e.g. the Exclusive Economic Zone of a member state). For densely used or particularly vulnerable areas, a more prescriptive maritime spatial plan might be needed, whereas general management principles might suffice for areas with lower density of use.

(2) Defining objectives to guide MSP: These objectives should allow arbitration in the case of conflicting sectoral interests.

(3) Developing MSP in a transparent manner: This will allow full information to all parties concerned and therefore improve predictability and increase acceptance.

(4) Stakeholder participation: In order to achieve broad acceptance, ownership and support for implementation, it is equally important to involve all stakeholders, including coastal regions, at the earliest possible stage in the planning process. Stakeholder participation is also a source of knowledge that can significantly raise the quality of MSP.

(5) Coordination within Member States — Simplifying decision processes: Coordinated and crosscutting plans need a single or streamlined application process and cumulative effects should be taken into account. The internal coordination of maritime affairs within member states proposed in the Guidelines for an Integrated Approach to Maritime Policy should also benefit the implementation of MSP.

(6) Ensuring the legal effect of national MSP: In the same way that terrestrial planning set up a legally binding framework for the management of land, MSP should be legally binding if it is to be effective.

(7) Cross-border cooperation and consultation: Cooperation across borders is necessary to ensure coherence of plans across ecosystems. It will lead to the development of common standards and processes and raise the overall quality of MSP.

(8) Incorporating monitoring and evaluation in the planning process: MSP operates in an environment exposed to constant change. It is based on data and information likely to vary over time. The planning process must be flexible enough to react to such changes and allow plans to be revised in due course.

(9) Achieving coherence between terrestrial and maritime spatial planning — relationship with ICZM: Coastal zones are the “hinge” between maritime and terrestrial development.

(10) A strong data and knowledge base: MSP has to be based on sound information and scientific knowledge. Planning needs to evolve with knowledge (adaptive management).

The Roadmap Communication launched a debate on MSP in the EU. Five workshops on MSP were held in 2009 to discuss the principles of the Roadmap with Member States, regions, NGOs and industry. The overall result was a general agreement that the ten principles of the Roadmap were appropriate and comprehensive and provided an important basis for the further development of MSP at EU level, which was broadly welcomed.

The Commission published proposals for a MSP Framework Directive in March 2013[7] with a view to making maritime spatial planning and coastal management processes obligatory while allowing Member States to tailor them to their specific situations, starting points and legal systems. It is important to emphasise that there is no certainty at this stage that such a Directive would be adopted by the Council and European Parliament, or that the contents of any such Directive would follow the Commission proposals. Member States are currently negotiating the need for such a Directive and considering its legal basis. However, the Task Force considers that the Commission's proposal should be taken into account in any MSP framework developed by Ireland.

The operational objectives of the proposed Directive focus on procedures. Member States will be required to develop and implement coherent processes to plan human uses of maritime space and to ensure sustainable management of coastal areas, and to establish appropriate cross-border cooperation between them. A key element of the proposal is to support land-sea connectivity by requiring coherence between MSP and coastal management.

The explanatory memorandum accompanying the proposal states that details of planning and the determination of management objectives are left to Member States and that the EU will not take part in these processes. The scope of the proposal is limited to waters within the jurisdiction of Member States and to the terrestrial side of coastal zones, to be defined by the Member States. Article 1 of the proposal states that the provisions of the Directive shall be without prejudice to the competence of Member States for town and country planning.

The aim of the proposed Directive is that Member States would establish a process or processes that cover the full cycle of problem identification, information collection, planning, decision making, management, monitoring of implementation and stakeholder participation. Member States will need to identify medium and long term objectives. Most importantly, the proposal requires that Member States aim at coherence of management across sea basins, through trans-boundary cooperation in the same maritime region or sub-region and appropriate data collection and exchange.

Some of the more detailed elements of the proposal for a Directive include:

- Each Member State shall, within a period of 36 months after the Directive comes into force, take the necessary steps to set up Maritime Spatial Plans and Integrated Coastal Management Strategies, which shall pursue the objectives listed below.
- Maritime spatial plans and integrated coastal management strategies shall apply an ecosystem-based approach to facilitate the co-existence and prevent conflicts between competing sector activities in marine waters and coastal zones, and shall aim to contribute to, *inter alia*:
  - securing the energy supply of the Union by promoting the development of marine energy sources, the development of new and renewable forms of energy, the interconnection of energy networks, and energy efficiency;
  - promoting the development of maritime transport and providing efficient and cost-effective shipping routes across Europe, including port accessibility and transport safety;

7 http://ec.europa.eu/maritimeaffairs/policy/maritime_spatial_planning/documents/com_2013_133_en.pdf

- fostering the sustainable development and growth of the fisheries and aquaculture sector, including employment in fisheries and connected sectors;
- ensuring the preservation, protection and improvement of the environment as well as the prudent and rational use of natural resources, notably in order to achieve good environmental status, halt the loss of biodiversity and degradation of ecosystem services and reduce marine pollution risks;
- ensuring climate resilient coastal and marine areas.

○ Maritime Spatial Plans and Integrated Coastal Management Strategies shall:

- be mutually coordinated, provided they are not integrated;
- ensure effective trans-boundary cooperation between Member States, and between national authorities and stakeholders of the relevant sector policies;
- identify the trans-boundary effects of maritime spatial plans and integrated coastal management strategies on the marine waters and coastal zones under the sovereignty and/or jurisdiction of third countries in the same marine region or sub-region and deal with them in cooperation with the competent authorities of these countries.

○ Maritime spatial plans shall contain at least a mapping of marine waters which identifies the actual and potential spatial and temporal distribution of all relevant maritime activities in order to achieve the objectives set out above.

○ When establishing maritime spatial plans, Member States shall take into consideration, at least, the following activities:

[a] Installations for the extraction of energy and the production of renewable energy;

[b] Oil and gas extraction sites and infrastructures;

[c] Maritime transport routes;

[d] Submarine cable and pipeline routes;

[e] Fishing areas;

[f] Sea farming sites;

[g] Nature conservation sites.

○ Integrated coastal management strategies shall contain at least, an inventory of existing measures applied in coastal zones and an analysis of the need for additional actions in order to achieve the objectives set out above. The strategies shall provide for integrated and cross-sectoral policy implementation and consider interactions between terrestrial and maritime activities.

○ Public participation shall ensure that the relevant stakeholders and authorities and the public concerned are consulted on the draft plans and strategies and have access to the results once elaborated.

## DEVELOPMENT OF IRISH MARITIME POLICY

As in other EU Member States, responsibility for marine matters in Ireland is spread across a number of government Departments and agencies. In recognition of the need for better coordination, the Government, through the inter-Departmental Marine Coordination Group, published ***Harnessing Our Ocean Wealth – An Integrated Marine Plan for Ireland*** (HOOW) in 2012, following an extensive stakeholder consultation process. Three high-level goals, of equal importance, based on the concept of sustainable development have been developed:

**Goal 1** focuses on a thriving maritime economy, whereby Ireland harnesses the market opportunities to achieve economic recovery and socially inclusive, sustainable growth. In particular, HOOW set two economic targets:

- Double the value of our ocean wealth to 2.4% of GDP by 2030.
- Increase the turnover from our ocean economy to exceed €6.4bn by 2020.

**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.

39 actions, including the establishment of this Task Force, were identified to support implementation of these goals.

Since the publication of HOOW last year, there have been a number of relevant policy developments:

- The **National Ports Policy 2013** designates Tier 1 and 2 ports of national significance. The Policy also notes that efficient hinterland connections are critically important to any port's ability to facilitate large volumes of traffic; the interconnections between the national primary network and the commercial port network will continue to be of primary importance.
- **Offshore Renewable Energy Development Plan**
- New **Common Fisheries Policy:** The Irish Presidency recently secured agreement on the EU's new Common Fisheries Policy, which will lead to more sustainable management of fish stocks. There will be a completely new regionalised decision-making process (hitherto decision-making was centralised in Brussels), and there will be additional protection for the sensitive fishing grounds off the south-west coast of Ireland known as the "Irish Box"; both may have implications for development of a MSP framework for Ireland.

## TASK FORCE RECOMMENDATIONS:

(7) Any proposed MSP framework for Ireland should be informed by (i) the ten MSP principles established by the European Commission in its 2008 Roadmap, and (ii) the proposal for a MSP Framework Directive (see Annex B) as it is negotiated over the coming years.

(8) The identification of relevant Irish marine policy documents should be based on those reviewed for Harnessing Our Ocean Wealth (2012) and policies published since then.

# CHAPTER 5 MARINE SPATIAL PLANNING IN EUROPE AND THE UK

## INTRODUCTION

Part 1 of this chapter illustrates how MSP has developed in a number of EU countries (Sweden, Belgium and France); the research study on MSP best practice (summarised in chapter 7) includes case studies in The Netherlands, Germany, Norway and the Baltic Sea.

Part 2 deals with the UK, where the overall architecture of marine spatial planning is based on the Marine and Coastal Access Act 2009. The chapter concludes with a brief outline of how MSP is being developed in England, Scotland, Northern Ireland and Wales, all of whom share marine boundaries with Ireland.

## 1. MSP IN SELECTED EUROPEAN COUNTRIES

**Sweden:**

MSP legislation was introduced in 2011; it provides that a national state marine plan:

- Is intended for public authorities and municipalities
- Should give direction for uses of the sea areas and the resources of the sea
- Should guide, direct or be binding in relation to decisions in sea areas according to other legislation. National interests must always be taken into account in licensing decisions; licenses and permits must not be issued contrary to binding provisions of the plan.

National MSP must be carried out in collaboration with municipalities. Marine plans extend from the coastal baseline, but municipal plans extend from the land out to the 12 nm limit (the territorial sea); there is thus shared responsibility for the territorial sea. Marine plans should facilitate municipal planning of coastal and sea areas; municipalities must be invited to participate in the MSP process and to give their opinion on the marine plan.

MSP in Sweden is led by the Sea and Water Management Agency, with support from County Administrative Boards. These three Boards provide regional planning data, and coordinate municipalities within each area; they also supervise implementation of marine plans by the municipalities. Marine plans are prepared for 3 areas: the Gulf of Bothnia, the Baltic Sea proper, and the Skagerrak / Kattegat. Agencies are required to review national sectoral plans in accordance with the marine spatial plan. The Agency updates the marine plan and adopts minor amendments; substantial amendments have to be adopted by the Cabinet.

The timetable for the preparation and adoption of marine spatial plans in Sweden is as follows:

- Programme stage: approx.: 18 months, followed by consultation
- Plan preparation stage: 18-24 months, followed by consultation
- Examination stage: approx. 6 months
- Decision stage: approx. 6 months
- Total: 48-54 months.

**Belgium:**
Belgium's North Sea coastline is only 66 km in length, but both the coast and the adjoining sea are intensively used. MSP began in 2003 with the appointment of a "North Sea" Federal Minister responsible for the Belgian part of that Sea. A Government "Master Plan" that year used zoning to allocate marine space for specific uses, including offshore wind energy and sand-and-gravel extraction. The zoning for the latter provides for management measures with rotation among the most intensively exploited areas and seasonal closures to facilitate fish spawning. Another driver of MSP was the need to designate Natura 2000 sites within the Exclusive Economic Zone. The carrying out of most human activities at sea takes place within a system of environmental permits based on a scientific evaluation of their impact on the marine environment.

One of the functions of the Federal Minister is to coordinate the roles of Federal, regional and coastal authorities in relation to MSP and coastal zone management, within the framework of North Sea management. The Minister also has responsibility for the economic development of harbours and the safety of marine transport.

**France:**
The Irish and French EEZs share a common border in the Atlantic. However, France has yet to develop an integrated MSP process at national level. Coastal local authorities have been involved for over 30 years in spatial planning tools called "Schémas de mise en valeur de la mer" which can extend out to 12 nautical miles, although only four such schemes, covering a fraction of the French coastline, have been approved. The schemes were designed to facilitate coastal development while protecting the environment.

At national level, MSP is focused on (i) marine protected areas, and (ii) promotion of offshore wind energy. As an EU Member State, France will also prepare a marine strategy under the Marine Strategy Framework Directive.

## 2. MSP IN THE UNITED KINGDOM:

**The Marine and Coastal Access Act 2009**
While the Act is a complex piece of legislation, only Part 3 (sections 44 – 61) is concerned with marine spatial planning. This provides the statutory basis for MSP throughout all UK marine waters, which are divided into inshore regions (0 to 12 nautical miles) and offshore regions (from 12 to 200 nautical miles, or to the median line with other jurisdictions, such as Ireland). UK marine waters bounding Irish waters are shown in Fig.5.1. The Act has since been supplemented by subsidiary legislation in Scotland (2010 Act) and Northern Ireland (Bill due to be enacted in late 2013).


FIGURE 5.1: INDICATION OF UK MARINE WATERS

The 2009 Act provides for the adoption by all UK governments of a Marine Policy Statement (MPS), whose contents are outlined below, and requires all public authorities taking authorisation or enforcement decisions that affect, or might affect, the UK marine area to do so in accordance with the MPS unless relevant considerations indicate otherwise. The MPS will be reviewed by the four governments involved in the light of changing circumstances.

English, Scottish, Welsh and Northern Ireland Ministers are designated as marine plan authorities, with responsibility for preparing and adopting marine plans for marine regions within their respective jurisdictions. Such marine plans must be in accordance with the MPS unless relevant considerations indicate otherwise; once adopted, marine plans will have the same effect on authorisation or enforcement decisions in the UK marine area as the MPS. Where the decision is not taken in accordance with the MPS and the relevant marine plan, the public authority must state its reasons.

Marine plans will set out how the MPS (which is not a spatial plan) will be implemented in specific marine regions; they will provide detailed policy and spatial guidance for an area. The MPS provides an overarching framework for development of marine plans throughout the UK to ensure necessary consistency in policy goals, principles and considerations that must be taken into account, including in decision-making. Coordination will include planning for activities which extend across national or marine plan areas and the sharing of data between marine plan authorities; coordination will also be needed with other countries (including Ireland) sharing the same regional seas.

The MPS and marine planning systems will sit alongside and interact with existing terrestrial planning regimes across the UK, including planning legislation, guidance and development plans. The 2009 Act requires marine plan authorities to consult local planning authorities whose areas adjoin the marine plan area. The inshore marine plan area will physically overlap with that of terrestrial plans between the high and low water marks, which is intended to encourage the two planning systems to work effectively together.

The structure and detailed content of marine plans is not prescribed by the Act, but official guidance suggests that plans might comprise a folder of linked documents, including:

- A Strategy Document, setting out plan policies and objectives linked to each policy
- A Policy Map, which is the spatial expression of the Strategy Document, and
- A Delivery Framework, setting out the plan's monitoring and implementation regime and updated by subsequent monitoring reports.

The Act also provides for the establishment of a network of marine protected areas that will contribute to the conservation or improvement of the marine environment in the UK marine area. The network will comprise Natura 2000 sites, sites designated under the Ramsar Convention, sites of Special Scientific Interest, and Marine Conservation Zones.

**Marine Policy Statement 2011**

The MPS was adopted by the British Government, the Scottish Government, the Northern Ireland Executive and the Welsh Assembly Government in 2011, and is based on a number of high-level marine objectives jointly agreed by the four administrations in 2009:

- Achieving a sustainable marine economy
- Ensuring a strong, healthy and just society
- Living within environmental limits

- Promoting good governance
- Using sound science responsibly.

The MPS also set out the basis on which marine plans would be developed, including:

- Consistency with requirements under EU and international law
- Consistency with other relevant national plans and programmes
- Based on an ecosystem approach
- Participative and informed by data provided by consultees, stakeholders, regulators and relevant experts
- A streamlined and efficient process, e.g. by making effective use of existing management arrangements where appropriate.

The MPS sets out economic, social and environmental considerations, both at a strategic level and for individual issues (such as climate change) and for individual marine sectors (such as offshore energy or ports). At the strategic level, the MPS noted that:

[a] Properly planned developments in the marine area can provide environmental and social benefits as well as drive economic development, provide opportunities for investment and generate export and tax revenues. The marine planning system will help promote these benefits in contributing to the achievement of sustainable development. There will therefore be a presumption in favour of sustainable development in the marine planning system; and

[b] The UK's marine environment is extremely rich and varied, supporting a wide range of species of national and international importance. It provides vital ecosystem goods and services including provision of food and regulation of the climate. A healthy marine ecosystem is fundamental to supporting sustainable development. There is a wide range of legislative provisions at the international and national level that marine plans need to take into account.

**Marine planning in England**

In England the marine plan authority is the Secretary of State for the Environment, who has delegated responsibility for preparing marine plans to an executive agency known as the Marine Management Organisation (MMO). The Secretary of State has reserved certain functions, notably the approval of a draft marine plan prior to public consultation and the formal adoption of a plan following such consultation.

The MMO will prepare 10 marine plans for the English marine regions; each plan is expected to take about 2.75 years, assuming two plans (inshore and offshore) are drafted at the same time. The first draft plans – for the East inshore and offshore regions – went out for public consultation in July 2013. Each draft plan is accompanied by a Strategic Environmental Assessment report and an Appropriate Assessment report (if required, which is usually the case). The MMO also prepares a Statement of Public Participation for each draft plan, showing how stakeholders and the general public can participate in the plan-making process. Apart from formal consultation procedures (for example, at the draft plan stage), the MMO arranges informal workshops with interested groups from the earliest stages (draft vision and objectives), and also liaises with a wide range of public bodies such as relevant local authorities, government departments and statutory consultees. When approved by the Secretary of State, marine plans will be evaluated after three years to see if a review of the plan is warranted.

The MMO devotes considerable resources to developing the evidence base for marine plans, i.e. the socio-economic and environmental information that underpins the formulation of marine plan policies and objectives (see also chapter 11, below). In particular, it provides layers of spatial data on a web portal which not only can be accessed by stakeholders and members of the public, but which is capable of receiving additional information (e.g. about specific local coastal areas). All information collected by the MMO from a range of official and other sources has to be standardised and quality-assured before being incorporated into their Geographic Information System database and used as evidence.

The MMO also has a range of marine licensing and enforcement functions, in addition to plan making.

**Marine planning in Scotland**

Under the Marine (Scotland) Act 2010, the Scottish Government is the marine plan authority for Scottish seas. Consultation on a draft National Marine Plan, which extends out to 200 nautical miles, has commenced[8]; in 2014, the Plan as modified following consultation will be laid before the Scottish Parliament prior to adoption. The evidence base for the draft plan is Scotland's Marine Atlas. The Plan must be consistent not only with the UK-wide Marine Policy Statement but also with Scotland's (terrestrial) National Planning Framework 2 (broadly equivalent to Ireland's National Spatial Strategy). Marine plans are prepared on behalf of the Scottish Government by Marine Scotland, an executive agency.

The Scottish Government also aims to develop a series of regional marine plans; public consultation has already taken place in relation to identifying appropriate marine regions, which will not extend beyond 12 nm from the coast. Such plans will be more spatially detailed than the National Marine Plan, reflecting their smaller scale, the input of local stakeholders and local knowledge, and the complexity of marine activity that often occurs in coastal zones. The Scottish Government intends to devolve responsibility for such plans to regional marine planning partnerships, although final approval of any regional marine plan will remain with Ministers.

Under the Marine (Scotland) Act 2010 the Scottish Government is responsible for the new marine licensing system for activities carried out in the Scottish inshore region (0-12 nautical miles). Under the UK Marine and Coastal Access Act 2009, they are also the licensing and enforcement authority for the Scottish offshore region (12-200 nautical miles), other than for reserved matters[9]. Marine Scotland's Licensing Operations Team administers the licensing system on behalf of the Scottish Government[10]. Licensable activities include:

- Coastal and marine developments
- Windfarms
- Wave and tidal power
- Removal and disposal of marine dredged material at sea.

Licensing decisions are currently made in accordance with the Marine Policy Statement where relevant, and will also be made in accordance with Scottish marine plans as the plans are adopted. In the case of large complex or potentially controversial projects Scottish Ministers may cause an inquiry to be held in connection with a marine licence application. Licence application fees are based on full cost recovery and are determined by the scale and complexity of the project and therefore the time the Licensing Team needs to deal with the application.

8 http://www.scotland.gov.uk/Publications/2013/07/9185/0

9 The UK Secretary of State is the licensing authority in Scottish offshore waters for oil and gas-related activities, defence matters and shipping pollution.

10 See chapter 14 for further details of the work of the Licensing Operations Team.

Where a marine project requires consent under Section 36 of the Electricity Act 1989, a marine licence will also be required. The Licensing Team can, where appropriate, process these applications together, since the information required for both is similar. It may also process other consents that are needed for a project (e.g. wildlife licences) at the same time. The implementation of the one-stop-shop is an opportunity to provide a holistic consenting regime and promotes a close working relationship with statutory consultees (such as Scottish Natural Heritage) by running Section 36 and marine licence applications simultaneously.

**Marine planning in Northern Ireland**

The UK 2009 Act established Northern Ireland's Department of the Environment (DOENI) as the plan authority for the offshore region and the marine licensing authority for the inshore region; the current NI Marine Bill (due to be enacted autumn 2013) enables DOENI to prepare a marine plan for the inshore region also. However, given the relatively small extent of Northern Ireland's marine waters, the intention is to prepare a single plan covering both inshore and offshore waters. DOENI has stated that it will work with Ireland and the Isle of Man so that any possible implications of the marine plan process – including any transboundary issues – can be considered at an early stage.

DOENI was also responsible for the launch of an Integrated Coastal Zone Management Strategy for the entire coastline of Northern Ireland in 2006.

**Marine planning in Wales**

As can be seen from the map of EEZ boundaries, Wales and Ireland share an extensive boundary between their marine jurisdictions in the Irish Sea.

Under the UK 2009 Act, Welsh Ministers are responsible for marine plans in both the inshore and offshore regions (with the agreement of the Secretary of State if the plan affects non-devolved matters). The Welsh Government published a consultation document in 2011 regarding their approach to marine planning; their aim is to develop two parallel national plans for the inshore and offshore areas, with the possibility of embedding more local detail into the inshore plan at a later stage. As with Northern Ireland, engagement with Ireland and the Isle of Man during the preparation of the national plans is envisaged, primarily through the mechanism of the British-Irish Council.

While a Marine Team has been appointed, no draft marine plan has yet been published.

## TASK FORCE RECOMMENDATION:

(9) The development of an MSP framework for Ireland should facilitate linkages with existing MSP systems in adjacent EU Member States, having regard to our mutual policy objectives and MSP processes.

# PART B SUMMARY OF THE MAIN CONCLUSIONS OF THE MSP RESEARCH STUDIES

Tenders were invited in relation to two research studies which would assist the Task Force in recommending a MSP framework for Ireland. The two studies were:

(1) National, international and EU legal instruments relevant to the development of a marine spatial planning framework in Ireland. This study was carried out by a team comprising Anne-Michelle Slater and Alison Kennedy of the School of Law, University of Aberdeen; Dr. Berna Grist BL of the School of Geography, Planning and Environmental Policy UCD; and Jerry Barnes and Sybil Berne of MacCabe Durney Barnes, Town Planning Consultants; and

(2) Best MSP practice of relevance to Ireland. This study was carried out by Dr. Wesley Flannery of Queen's University Belfast.

Chapters 6 and 7 summarise the key conclusions of the two studies in relation to the development by the Task Force of a recommended framework for the introduction of MSP in Ireland. In addition to these two commissioned studies, research carried out by Kevin Fee, BL in association with the Office of the Attorney General on *The Law Required to Support a Marine Spatial Planning Framework in Ireland* was also completed and will be a very valuable resource for the preparation and implementation of an MSP framework in Ireland.

**Any recommendations in chapters 6 and 7 are those of the researchers, and not necessarily those of the Task Force.**

# CHAPTER 6 NATIONAL, INTERNATIONAL AND EU LEGAL INSTRUMENTS RELEVANT TO THE DEVELOPMENT OF A MSP FRAMEWORK IN IRELAND: SUMMARY OF MAIN FINDINGS

## INTRODUCTION

A research team comprising Jerry Barnes and Sybil Berne of MacCabe Durney Barnes, Town Planning Consultants, Anne-Michelle Slater and Alison Kennedy of the School of Law, University of Aberdeen; Dr. Berna Grist BL, was commissioned to carry out a study on the legal aspects of MSP. The full research report will be available at http://www.marine.ie/home/research/. This is a summary of the key findings.

The study had three main elements:

(1) A review of the existing national, international and European legal framework relevant within Irish waters;

(2) A review of the development, implementation and practice of MSP for five key jurisdictions; and

(3) Options for implementing MSP in Ireland.

The report is supported by extensive appendices which detail the research and aspects of the research process.

### 1. Existing national, international and European legal framework relevant to the development of a MSP framework in Ireland

The study began by setting out broad definitions of the ecosystem approach[11] and of marine spatial planning. There followed an outline of a State's rights and duties under the 1982 United Nations Convention on the Law of the Sea (UNCLOS), which is the most important international treaty applicable in the marine area. UNCLOS provides coastal states with international authority to legislate for the marine environment, and delimits ocean space stipulating the geographical limits and jurisdictional authority of States (see also chapter 3). There are also extensive EU laws relevant to MSP. Other international Conventions, such as the Aarhus Convention[12] and the Convention on Biological Diversity, have been adopted at a European level. Finally, the study team analysed the specific implications of UNCLOS, EU Directives, and other international Conventions for four marine sectors:

- Marine aggregates
- Aquaculture
- Offshore renewable energy, and
- Offshore oil and gas.

11 i.e. a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use in an equitable way.

12 1998 Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

## 2. Case studies

The case studies identified for the project were Germany (North Sea), The Netherlands, USA, Canada and the UK, including the separate arrangements in England and the devolved administrations of Scotland, Wales and Northern Ireland.

The case studies highlight not only the various ways of introducing MSP, but also how one approach can be replaced by another over time. Ireland has particular challenges to address, as set out in *Harnessing Our Ocean Wealth,* and these are not exactly replicated in any of the case studies reviewed. Canada demonstrates that notwithstanding the recognition of particular issues and the passing of legislation to address them, implementation can be difficult. In particular Canada's approach to sectoral plans has lessons for Ireland. The United States is proposing a voluntary approach at Regional level, but in the context of sophisticated advice and guidance at national level. This is not an approach that was considered in any detail for Ireland. No one model emerged from the case study review as an option, but aspects of all them assisted with the development of the 5 possible options and how they were evaluated. The final five options were:

- Do Nothing
- Full MSP regime
- Forward Planning (Minimal Parallel) system
- Overlapping system
- Extended terrestrial system.

The Full MSP was particularly influenced by the experience of the UK and Germany. The overlapping system drew on the approach of The Netherlands. The extended terrestrial system replicates in part what happens in Germany to 12 nautical miles. The minimal parallel system drew on aspects of the Canadian regime, but with particular reference to implementation of this option, the detailed comparison of the Marine and Coastal Access Act and the Marine (Scotland) Act 2010 was very instructive.

It soon became apparent that a detailed comparison of the Marine and Coastal Access Act 2009 and the Marine (Scotland) Act 2010 was extremely helpful in teasing out the issues that were emerging in the testing of the options and in particular the initial recommendations in relation to the preferred options[13].

## 3. Legal framework options for implementing MSP in Ireland

The research team evaluated the five different options for implementing MSP in Ireland, benchmarking each option against eleven criteria. The criteria can be categorised under three main subject headings:

[a] Spatial planning principles

[b] Governance, and

[c] International (including EU) law and policy.

### Option 1. Do nothing

The existing situation would remain and there would be no specific introduction of marine spatial planning through legislation at national, regional sea basin, territorial sea or intertidal areas. There would be no requirement through legislation to prepare a marine plan or plans for Irish waters. Marine development proposals / activities would be assessed for licensing / permitting against any existing or future sectoral plans. Existing departments and responsibilities for the marine environment would continue as at present or under future reorganised arrangements.

13 This exercise is included at Appendix VI of the full research report.

**Option 2. Full MSP regime**

This option would be implemented through primary and secondary legislation, and would guide all marine spatial planning activities for Irish waters extending from the high water mark to the continental shelf. It would define the scope and objectives of an overarching national marine spatial plan with mandatory regional sea basin and integrated coastal zone management (ICZM) plans. It would integrate forward marine planning, marine planning/licensing, enforcement, and conservation management. A new marine planning body would be established or created from existing departments and bodies. This could take place on a gradual basis, initially it could provide 'front door access' guiding developers through the process, but in time it could take over responsibility for consents, act as the data exchange and a repository for expertise in planning skills and implementation. It would source, coordinate, and share marine data for the purposes of marine planning policy development, decision making and marine conservation.

**Option 3. Forward Planning System (Minimal Parallel System)**

This option involves the introduction of a marine planning system through primary legislation, which would operate in parallel with the existing terrestrial system. While it would be separate from the land based planning system and policies, the MSP system would be coordinated with the terrestrial system, as required. There would be no change to the marine consenting regime. The main focus of the legislation would be the statutory requirement for the preparation of a hierarchy of plans, with a statutory role for the plan in the decision making/ licensing process. The marine spatial planning system would immediately abut the terrestrial planning system at the high water mark and would extend to the continental shelf. The hierarchy would consist of a mandatory National Marine Spatial Strategy aligned to the National Spatial Strategy (NSS). There would be discretionary regional sea basin plans and ICZM plans. An existing body with the appropriate expertise would be responsible for the preparation of the plans, but could coordinate with regional or local authorities as appropriate, particularly for ICZM plans.

**Option 4. Overlapping System**

This option would be a mix of a statutory and non-statutory system, where there is an overlap between the marine and terrestrial forward planning, or at least a requirement that during the preparation of plans (both marine and terrestrial) the other one is taken into account. The existing permitting/consenting regime would remain in place. It would have a hierarchical system of plans, with a national marine strategy, regional sea basin plans and ICZM for the foreshore area/territorial waters. A government department or designated body would be responsible for the preparation of a non-statutory national marine strategy and regional sea basin plans which could extend from the continental shelf up to the high water mark, while local and regional authorities would have a statutory overlapping plan making function for the foreshore area (out to 12nm).

**Option 5. Extended Terrestrial Planning System**

This option involves the extension of the existing terrestrial planning system into the marine area. Spatially it would cover all land and the marine area up to the boundaries of the continental shelf. It ensures full integration between the land use planning system and the marine planning regime. It would have a hierarchical system of plans with the NSS covering the marine area, regional sea plans related to terrestrial regions and planning for ICZM for areas of high pressure at either the regional or local level. Consenting / licensing and marine conservation could also be integrated into the system.

### Preliminary evaluation of MSP options

Each of the five options was tested against a range of criteria, including governance, international / EU law and policy, and spatial planning principles. The matrix shown in Fig. 6.1 below is a visual representation of how each option scored against each of the eleven criteria.

| TEST CRITERIA | OPTIONS | | | | |
|---|---|---|---|---|---|
| | DO NOTHING | FULL MSP SYSTEM | FORWARD PLANNING (MP) SYSTEM | OVER-LAPPING SYSTEM | EXTENDED TERRESTRIAL PLANNING SYSTEM |
| Ensures effective implementation of the IMP and relevant Government policy | | | | | |
| Promotes sustainable development (economic, environmental, social) | | | | | |
| Ensures public and stakeholder participation | | | | | |
| Secures spatial and sectoral integration for the benefit of licensing/consenting and management | | | | | |
| Supports ecosystem based approach in the management of competing uses/activities | | | | | |
| Ensures evidence based policies that can be implemented, monitored and reviewed | | | | | |
| Effectively ensures compliance with existing EU/International legal obligations | | | | | |
| Provides mechanisms for international coordination of marine plans | | | | | |
| Allows for the coordination of national marine and terrestrial planning systems | | | | | |
| Achieves the economic vision of the IMP | | | | | |
| Time effective in the context of the IMP | | | | | |

| Key: | Very Probable | Probable | Possible | Not Probable |
|---|---|---|---|---|

FIG. 6.1 EVALUATION OF MSP IMPLEMENTATION OPTIONS. MACCABE DURNEY BARNES ET AL (2013)

This evaluation showed that only two options, the full MSP System and the Forward Planning System, provide the most potential to achieve the vision and goals set in HOOW. The Do Nothing Option scored the lowest with the Overlapping System and Extended Terrestrial System scoring poorly. The next step of the process was to undertake a compare and contrast exercise of the two systems with most potential in order to reach a final conclusion.

**Further analysis of the Full MSP and the Forward Planning Systems**

Both systems have the ability to achieve the vision and goals of HOOW through the introduction of new legislation; it is recommended that primary rather than secondary legislation is used, and that any subsequent marine spatial plans should be subject to Oireachtas approval.

HOOW envisages a "planning and licensing framework, underpinned by robust legislation and regulation" that "can support sustainable development and create a degree of certainty, as well as a safe and stable environment for business and consumers". The Full MSP System would provide all of this, as both the forward planning regime and the consenting system are incorporated into this option. The Forward Planning System does not include the consenting process, although a phased approach could lead ultimately towards a Full MSP System.

In the interim, in order to secure spatial and sectoral integration for the benefit of licensing/consenting and management; support the ecosystem-based approach in the management of competing uses/activities; ensure evidence based policies that can be implemented, monitored and reviewed; and effectively ensure compliance with existing EU/International legal obligations, a statutory obligation would need to be imposed upon the plan making authority to "assess the condition of the area at the time of preparation, prepare a summary of significant pressures and impacts of human activities and set economic, social and ecosystem objectives"[14]. A statutory obligation could be placed on all Departments that exercise a function within the marine environment and on local authorities to provide the plan-making authority with the necessary data. The requirement to create a marine knowledge and data exchange could be included in the legislation or be developed through policy.

As the plan-making authority would also be required to identify areas of high pressure use, the legislation could impose a statutory obligation for a regional plan to be prepared for such areas. However, in order to clarify this obligation clear criteria would have to be set out in the legislation to identify precisely how 'high pressure use' is defined.

Existing consenting authorities would also be placed under a statutory obligation to take marine plans into account during the decision making process. The obligation could be worded in such a way that if a consenting authority identified reasons why the plan should be disregarded for a particular application, the consenting body would have to provide a written explanation of the reasons for this[15]. This would facilitate transparency in the decision making process.

Both the Full MSP and the Forward Planning options could promote sustainable development by creating a statutory obligation for this objective to be incorporated into the plans created. The legislation could also place a general duty on all public authorities, when exercising any function capable of impacting on the marine environment or other users, to have regard to relevant marine plans and create a statutory obligation to further the

14 This obligation is included in the Marine Scotland Act 2010 see s.5 (4)

15 This could be similar to the legislation introduced in Scotland where a "public authority must take any authorisation or enforcement decision in accordance with the appropriate marine plans, unless relevant considerations indicate otherwise. If a public authority makes an authorisation or enforcement decision otherwise than in accordance with the appropriate marine plans, it must state its reasons" (Marine Scotland Act 2010 s. 15 (1) and s. 15 (2)).

objectives of sustainable development. Relevant marine plans would be defined in the legislation.

Public and stakeholder participation would be ensured in both options during the plan making process. "Interested parties" could be defined to include anyone affected by the policies proposed to be included in the plan and the general public. This would also ensure the co-ordination of national marine plans and terrestrial plans by creating the statutory obligation for the marine planning body to inform the adjacent terrestrial planning authority that they are considering preparing a marine plan and again invite the authority to make representations as to what should be included. A similar provision should be inserted into the terrestrial planning system to ensure that this is a mutual obligation and the marine planning body is informed of changes to/new terrestrial plans at the earliest opportunity. This also facilitates the 'buy in' to the system from all parties.

In terms of providing mechanisms for international co-ordination of marine plans, both systems could include this in the legislation. This could be worded in such a way that, where the plan making authority considers a proposed marine plan could impact upon another jurisdiction, or at a national local level it could affect another planning area, the plan making authority would be obliged to notify that jurisdiction or the appropriate authority of its intention to prepare a marine plan. Other mechanisms are available for international co-ordination for example through the OSPAR Commission or the Atlantic Forum.

If the Forward Planning System is introduced as described above it will facilitate achieving the economic goals of HOOW. To further facilitate in this regard, the plan making body could also eventually have a statutory role in guiding developers through the consent system providing 'front door access'.

Finally, in terms of the time-frames identified within HOOW, the Forward Planning System could be delivered quicker than the Full MSP System as it initially regulates only the forward planning process and leaving the current consenting regime in place. It is recognised, however, that the consenting regime could be transferred in due course to any new marine consenting body or an existing designated department.

# CHAPTER 7 BEST MSP PRACTICE OF RELEVANCE TO IRELAND: SUMMARY OF MAIN FINDINGS OF THE RESEARCH STUDY

## INTRODUCTION

This is a summary of the key findings of a research study by Dr. Wesley Flannery of Queen's University Belfast. The aim of the study is to contribute to the development of an MSP framework for Ireland by using a set of criteria to evaluate eight international case studies, and by identifying how the key best practice lessons could be applied in an Irish context. The full research report will be available at http://www.marine.ie/home/research/

## CASE STUDIES

A total of eight case studies were agreed with the Research Steering Group as being capable of offering useful lessons for Ireland. The case studies are drawn from a wide range of locations, ranging from Scotland to Australia; both national and sub-national scales are represented; and types of governance vary from MSP pilot projects to statutory marine spatial plans.

The case studies were as follows:

(1) **Canada's Eastern Scotian Shelf Integrated Management (ESSIM) initiative**: Canada has implemented its Large Ocean Management Areas programme to plan and manage marine activities in five different areas. ESSIM was the longest running and most developed initiative. The Eastern Scotian Shelf was also chosen for the application of integrated ocean management because it contains an extensive range of living and non-living resources, has areas of high biological diversity, and has multiple and conflicting human activities.

(2) **The BaltSea Project:** The BaltSea Plan Project was implemented between January 2009 and April 2012. The German Federal Maritime and Hydrographic Agency led the EU-sponsored project, which had fourteen partners in total drawn from across the EU Baltic Sea Region. The project was intended to demonstrate the potential of MSP. As it was mainly a research project, it did not produce legally binding plans.

(3) **German marine spatial plan for its North Sea EEZ:** In Germany, MSP occurs at both Federal and State levels and has been facilitated by extending terrestrial planning legislation to cover the marine environment. The objectives of the Federal plan for the North Sea EEZ reflect Germany's commitments under international conventions and EU Directives as well as national objectives for specific sectors such as shipping and wind energy.

(4) **Great Barrier Reef Marine Park (GBRMP)**: The overall objectives for the GBRMP are derived from the Great Barrier Reef Marine Park Act 1975, including conservation of the Reef (a UNESCO World Heritage site) while allowing reasonable use of the region, and the preservation of parts of the Reef for scientific research. A programme in 1998 entailed rezoning of the entire Marine Park; zones range from "general use" (include shipping) to "preservation" (where virtually no use is

allowed). Sudden transitions from highly protected zones are avoided by means of "buffering" (i.e. a gradation in zone types).

(5) **Norwegian marine spatial plan for the Barents Sea – Lofoten area**: MSP in Norway is being developed by means of integrated management plans. A management plan has been developed for the Lofoten–Barents Sea, mainly as there was a push from the petroleum industry to gain access to this region. The Norwegian Parliament approved the plan in 2006 and revised it in 2011. The planning area is delimited by the Norwegian Sea in the southwest, by the Arctic Ocean in the north and by the Russian part of the Barents Sea in the east, with the landward boundary set at 1nm from the coastal baseline.

(6) **Clyde and Shetland pilot MSP plans**: In 2002 the Scottish Government developed an initiative, including pilot projects, to test MSP options for the sustainable development of its marine resources. Two of the pilot projects were reviewed by Dr. Flannery. There was a strong sectoral focus in the Clyde plan, whereas the objectives of the Shetland plan focused more on issues. The latter will be formally adopted as part of the local development plan for the Shetlands.

(7) **UK marine plans**[16]: The planning process in England is at a more advanced stage than in the other jurisdictions. Therefore, this review primarily focused on MSP in England but also made reference to the other UK jurisdictions where applicable. In England, the Marine Management Organisation has begun a rolling programme of plan-making with MSP being at its most advanced in the East Planning inshore and offshore areas.

(8) **MSP in The Netherlands**: The Dutch Government has developed an Integrated Management Plan for its territorial waters and EEZ in the North Sea. The plan was given legal effect under legislation in 2008/09; a revised plan was adopted in 2011, and focuses on three overarching themes – Healthy Sea, Safe Sea and Profitable Sea. The plan introduces a number of management approaches and objectives with the aim putting the vision of the North Sea into practice. These include: Integrated assessment framework for permitting, which introduces spatial considerations to the permitting process, including the development of opportunity maps for key sectors; protection of area-specific natural features, which focuses on the protection of four key ecological areas; and optimisation of the performance of management tasks, wherein Ministries outline cooperative tasks so as to increase effectiveness and efficiency.

## EVALUATION CRITERIA

Each of the case studies was evaluated (as far as practicable) under the same criteria:

(1) Ecosystem-based Approach & Environmental Assessment

(2) Setting Objectives and Scope of Planning Process & Plans

(3) Governance, Legislative and Political Issues

(4) Implementation, Enforcement & Review

(5) Stakeholder Participation

(6) Data, Tools (including zoning) & Resources

(7) Boundary and Scale Issues

16 See also chapter 5 for further details of the MSP system in the UK.

**Summary of the evaluation of the case studies**
The tables in Annex C present some of the key findings from evaluation of the eight case studies. As these are necessarily compressed for the purposes of this report, readers needing more detail are referred to the complete study (see http://www.marine.ie/home/research/).

**Initial lessons for marine spatial planning in Ireland**
A number of key lessons from the review of international best practice were identified and suggested how they might be implemented in an Irish context, under the same headings as used for the evaluation criteria:

(1) **Ecosystem-based approach and environmental assessment:**

- MSP should begin by building on Ireland's Marine Atlas being constructed as part of the Marine Strategy Framework Directive and should identify data gaps through the planning process. Similarly, researchers at the Coastal and Marine Research Centre (UCC) have developed the Marine Irish Digital Atlas (MIDA), and researchers at Socio-Economic Marine Research Unit (NUI Galway) will map the marine socio-economic data they have collected and analysed. Useful spatial datasets from these projects should be incorporated into any future marine atlas.
- The marine planning team should develop a research engagement strategy.
- The ecosystem-based approach appears to be difficult to put into practice, and if used it must be clearly defined in the objective-setting phase in terms of how it would be implemented.

(2) **Setting objectives:**

- The process of developing high-level objectives adopted in the Baltsea Project is very useful. It evaluated: 1) the impact of existing national policy documents on the use of marine space; and 2) trends and pressures in key marine sectors and their spatial implications. The necessary research to adopt this approach in Ireland has been conducted as part of the HOOW initiative, but needs updating.
- It is vitally important that proper consideration be given to the manner in which objectives are to be achieved, e.g. through the use of the SMART principles (Specific, Measurable, Achievable, Realistic and Time-bound).
- It is important to avoid MSP being perceived as an "environmental" management regime and equal emphasis should be placed on all three elements of sustainable development.
- MSP should concentrate on mediating the aspirations and objectives of different stakeholders as opposed to developing individual sectoral policies.

(3) **Scope of planning process and plans:**

- The Canadian, Clyde, UK, Great Barrier Reef and Norwegian examples illustrate the value in developing documents that outline the planning principles, objectives and practices that will be adopted during the MSP process and of explaining the participation process to stakeholders.

(4) **Governance, legislative and political issues:**

- That MSP needs to be undertaken on a statutory basis is clear from the case studies.
- In Ireland, legislation needs to provide the lead agency for MSP with the authority to hold departments and agencies responsible for their actions in the planning area and to make them comply with marine plans. In time, the experience of the Marine Management Organisation could be explored in this regard.
- Many of the case studies have an inter-departmental group steering the overall MSP process, although one department often oversees the entire process. One agency, which reports to that department, typically leads the development of plans.

(5) **Implementation, enforcement and review:**

- It is clear from the ESSIM experience that an implementation strategy based on sectoral action plans is likely to inhibit coordinated implementation of marine spatial plans.
- Implementation, enforcement and review should be treated as an inherent part of the overall planning process and should be developed in conjunction with plan objectives.
- Depending on the approach adopted in Ireland, there could be a number of agencies involved in the implementation, enforcement and monitoring of marine plans. As demonstrated by the Dutch example, it is important that clear inter-agency communication strategies are developed early in the planning process.

(6) **Stakeholder participation:**

- Many of the initiatives built on existing coastal partnerships or stakeholder fora. Ireland should develop national or regional marine stakeholder fora and explore if these can be funded through the European Marine and Fisheries Fund.
- Stakeholder fora should be tasked with developing coastal strategies to ensure that some of the benefits of HOOW accrue to coastal populations.
- The process of conflict analysis should be included in the stakeholder analysis process (see example below), and should result in specific tasks for marine planners (e.g. which sectors need to be separated spatially).
- It is also important to differentiate between sectoral stakeholders and governance stakeholders in participation processes, as failure to do this led to conflict in the Canadian ESSIM initiative. It is important that both sets of stakeholders are involved in a meaningful manner and not solely tasked with commenting on draft plans.
- It may be necessary for the designated MSP body to engage with some sectors to help them build capacity to participate in the MSP process. The type of assistance groups might need would be identified through the stakeholder analysis process.

| Stakeholder group | Interest, Expectations | Input | Network | Organisation | Resources | Willingness | Experience | Voice | Preferable techniques |
|---|---|---|---|---|---|---|---|---|---|
| Small sized NGO, nature Conservation | • Protect certain species<br>• Conflict with sand gravel extraction | Knowledge about sightings of species and habitats | University, Local press | | | | | | Local meetings, Bilateral communication, workshops |

FIG. 7.1 STAKEHOLDER ANALYSIS MATRIX (ADAPTED FROM PENTZ, 2012)[17].

**7. Data, tools (including zoning) and resources:**

- Data should be presented in a spatial format, where possible. Most MSP initiatives recognised the importance of collecting socio-economic data to inform the development of marine plans.
- The possibility of establishing a Scientific Steering Committee for MSP in Ireland should be explored. The committee should comprise natural and social scientists as well as planning experts.
- In terms of expertise, the marine planning team should have expertise/previous experience of MSP planning principles; detailed knowledge of sectors, good relationship with sectors; ability to organise a stakeholder engagement process; experience with appropriate planning software (such as GIS); and a good relationship with the research community.

**8. Boundary and scale issues:**

- There is a hierarchy of plans in most countries undertaking MSP; there is usually a national plan / policy which is implemented through regional / local initiatives. In Ireland, a national marine strategy could be developed to guide the overall spatial planning process, and which could identify high-use or high-value priority areas.
- At sub-national level, detailed spatial measures would be developed within the plan for intensely used or valuable areas and less detailed measures for less intensely used areas. However, by incorporating both areas, the plan would recognise the relationship between these two areas and avoid new development being pushed into less developed and possibly more vulnerable areas. It would also encourage co-location of activities and ensure that "free space" is maximised.

17 The use of such a traffic light scheme helped to assess how to improve stakeholder capacity to participate in the planning process.

- It would be important to ensure that both the national strategy and sub-national plans are taken into account when terrestrial strategies and plans are being delivered and vice versa. This is particularly important if coastal communities are to reap the benefits outlined in HOOW.

- In terms of opportunity mapping the Dutch case study indicates that, while this is a valuable exercise, it is important that it is not solely left to stakeholders and that there is strong government steering during the process.

- The Dutch example illustrates that a number of different landward boundaries were being used, depending on different management functions. The MSP Framework for Ireland needs to be cognisant of the different regime boundaries and foster positive interplay between MSP and other resource management regimes.

Finally, the report concludes that a significant amount of pre-planning research and analysis will need to be undertaken for MSP in Ireland. In Northern Ireland, pre-planning data gathering and stakeholder engagement began before MSP legislation was finalised. In Ireland, analysis of the spatial implications of policies, trends and pressures, stakeholder analysis, ecological and socioeconomic data collation and mapping could be undertaken prior to the MSP process being formalised.

# PART C: MARINE SPATIAL PLANNING – HOW IT COULD BE IMPLEMENTED IN IRELAND

# CHAPTER 8 MSP GOALS AND OBJECTIVES

## INTRODUCTION

Marine spatial planning (MSP) is future-oriented; it translates societal goals for marine resources and the marine environment into measurable objectives. If the objectives are not capable of being monitored and evaluated, it is difficult to know whether the plan has achieved its goals, or whether it needs to be modified to take account of implementation issues and changing circumstances.

Indicative MSP goals and objectives are suggested to illustrate the potential scope of marine plans.

## DEFINITIONS

The UNESCO guide to marine spatial planning offers the following definitions:

- Goal: a statement of general direction or intent. Goals are high level statements of the desired outcomes that are hoped to be achieved. Goals provide the umbrella for development of all other objectives and reflect the principles on which the objectives are based.

- Objective: a statement of desired outcomes or observable behavioural changes that represent the achievement of a goal. A good objective is one that is SMART (specific, measurable, achievable, results-focused, and time-bound).

## INDICATIVE GOALS FOR IRISH MARINE SPATIAL PLANS

Many plans, such as *Harnessing Our Ocean Wealth*[18] (HOOW), begin with an overarching vision statement, which in turn sets the context for the formulation of high-level goals. The Task Force proposes the following MSP vision statement to facilitate the identification of indicative goals:

> *Marine spatial planning will facilitate the sustainable use and development of Ireland's oceans and seas by creating an integrated, evidence-based planning process which will provide more certainty for investors and a robust policy context for marine licensing / consent authorities.*

Many policy goals, such as those in HOOW, are available to steer the MSP process. The task of any MSP body is firstly to identify relevant plans and policies, and secondly to analyse their spatial implications for the marine area selected as the basis for the plan (see chapter 8). However, it may illustrate the potential scope of marine spatial plans if the Task Force set out some indicative goals.

18 "Our ocean wealth will be a key element of our economic recovery and sustainable growth, generating benefits for all our citizens, supported by coherent policy, planning and regulation, and managed in an integrated manner." (HOOW, p. ii)

The goals in *Harnessing Our Ocean Wealth* provide the starting point:

**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.

The next step is to identify marine policies (both Irish and EU) – other than the overarching HOOW plan - and marine sectors likely to be central to MSP in Ireland:

| SECTOR | KEY POLICY DOCUMENTS |
|---|---|
| Aquaculture | • Food Harvest 2020<br>• National Strategic Plan 2014-2020 (forthcoming)<br>• National Biodiversity Plan 2011-2016<br>• CFP EU Strategic Guidelines<br>• Seafood Operational Programme (under development) |
| Marine aggregates (sand and gravel) | • EU Blue Growth Strategy* |
| Marine and coastal tourism and leisure (including angling) | • Tourism Product Development Strategy 2007-2013<br>• Development plans, coastal counties |
| Natura 2000 sites | • National Biodiversity Plan 2011-2016 |
| Offshore oil and gas | • Irish Offshore Strategic Environmental Assessments & 2011 Atlantic Margin Licensing Round |
| Offshore renewable energy (wind, waves, tides) | • Offshore Energy Development Plan (forthcoming)<br>• Strategy for Renewable Energy 2012-2020<br>• Proposed DCENR Strategic Policy Framework for the export of electricity from renewable energy |
| Ports, harbours and maritime transport / cruise tourism | • National Ports Policy 2013 |
| Sea fisheries | • EU Common Fisheries Policy 2013<br>• Food Harvest 2020<br>• Seafood Operational Programme (under development) |
| Infrastructure (Gas, telecoms, electricity, bridges, tunnels, coastal defence works, etc.) | • National Development plans<br>• Grid 25 |
| Climate change | • National Climate Change Adaptation Framework 2012 |
| Marine environmental quality | • Ireland's Marine Strategy Framework Directive Implementation 2012<br>• Water Framework Directive<br>• OSPAR Agreements |
| Underwater archaeology | • Framework and Principles for the Protection of the Archaeological Heritage[19] |
| Integrated coastal zone management | • Recommendation of the European Parliament and Council 2002 |

*Note: the EU Blue Growth Strategy also covers a number of maritime economic activities.

19 http://www.archaeology.ie/media/archeologyie/PDFS/FileDownload,100,en.pdf

A national marine spatial plan would provide an overarching policy framework for sectoral spatial plans, such as aquaculture or offshore energy; any existing sectoral spatial plans should be checked for consistency with adopted marine spatial plans.

Based on HOOW and other marine-related policy documents, the Task Force proposes the following indicative high level goals and objectives for an Irish MSP process.

# INDICATIVE HIGH LEVEL GOALS AND OBJECTIVES FOR AN IRISH MSP PROCESS

## A. MSP POLICY GOALS:

Sustainable development was defined by the UN Brundtland Commission in 1987 as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs." Sustainable development has three pillars - economic, environmental and social – each of which is reflected in marine policy objectives.

### A1. MSP ECONOMIC GOALS:

- To promote a thriving maritime economy as set out in "Harnessing Our Ocean Wealth"; in particular, to double the value of our ocean wealth to 2.4% of GDP by 2030 and to increase the turnover from our ocean economy to exceed €6.4 billion by 2020
- To facilitate the provision of essential offshore and onshore strategic infrastructure for harnessing our ocean wealth

### A2. MSP ENVIRONMENTAL GOALS:

- To protect and conserve our rich marine biodiversity and ecosystems
- To support the achievement of "Good Environmental Status" in Irish marine waters by 2020, as required by the Marine Strategy Framework Directive
- To mitigate the adverse effects of climate change on the marine environment
- To protect our cultural heritage, such as underwater archaeology.

### A3. MSP SOCIAL GOALS:

- To promote societal wellbeing, particularly that of coastal communities, through the sustainable use and development of marine resources.
- To facilitate the creation of a diverse range of employment opportunities in coastal towns and villages

## B. OBJECTIVES FOR THE MSP PROCESS:

To deliver the MSP policy goals through a business-friendly yet robust governance, policy and planning framework by:

- Encouraging active participation by stakeholders and the general public
- Developing a rigorous evidence base to support policies and to facilitate the environmental assessment of both plans and projects as required by EU Directives

- Spatially organising in a rational manner marine-related sectoral policies for the benefit of consent and licensing authorities, investors and society as a whole
- Allocating space to facilitate the efficient management of current and potential conflicting uses in the marine environment
- Providing greater certainty for prospective investors in the marine economy
- Incorporating effective monitoring and enforcement regimes within plan implementation
- Reviewing plans periodically to ensure they are kept up-to-date
- Fostering co-operation with coastal local authorities, particularly in relation to integrated coastal zone management and the provision of essential onshore infrastructure, and to achieve consistency between marine and landuse plans
- Fostering co-operation with national organisations responsible for managing, regulating or licensing strategic transport, energy or other infrastructure to ensure spatial requirements are identified and allocated in a balanced, fair and transparent manner
- Fostering co-operation with national organisations responsible for the managing, regulating or licensing activities in the marine environment to ensure spatial requirements are identified and allocated in a balanced, fair and transparent manner
- Providing a mechanism for co-operation with other marine administrations who share regional oceans and seas with Ireland
- Ensuring compliance with Ireland's obligations under international and EU laws and conventions.

## INDICATIVE MSP OBJECTIVES

The identification of specific MSP objectives could be based on existing marine sectoral plans and policies, but examples based on the indicative goals set out above include:

| GOAL | OBJECTIVE |
|---|---|
| To facilitate the sustainable development of offshore renewable energy | To provide for the offshore generation of c.xxxx MW of electricity off the East coast |
| To support the achievement of "Good environmental status" in Irish marine waters by 2020, as required by the Marine Strategy Framework Directive | To specify development criteria to be achieved by offshore windfarm developments |

# TASK FORCE RECOMMENDATION:

(10) One of the first tasks of any MSP body should be to analyse the spatial implications of existing and emerging marine-related plans and policies.

(11) A national marine spatial plan would provide an overarching policy framework for sectoral spatial plans. Any existing sectoral spatial plans should be checked for consistency with adopted marine spatial plans.

# CHAPTER 9 STAKEHOLDER CONSULTATION AND PARTICIPATION

## INTRODUCTION

"Governance" refers to more than formal decision-making by public authorities; it also embraces the concepts of accountability and legitimacy. Such decisions are more likely to be implemented effectively if they are broadly understood and accepted by those affected by the decisions. MSP best practice indicates that the MSP process needs to be transparent and easily understood by the public; the decision-making process, and the rationale for decisions, should be clear and accessible. One of the ten evaluation principles identified in *Harnessing Our Ocean Wealth* was "inclusive stakeholder participation"; a consultation document generated almost 200 submissions from stakeholders, including a call for continued public consultation and participation in marine governance.

The Aarhus Convention (1998) established a number of rights of the public with regard to the environment, including the right of access to information, public participation in environmental decision-making, and access to justice in environmental matters. These rights have since been enshrined in relevant EU Directives, including the 2001 Directive on Strategic Environmental Assessment (SEA). That Directive requires public authorities to make available draft plans or programmes, together with an environmental assessment report, to the public for comment; such comments are to be taken into account prior to finalising the plan or programme, and information is to be provided as to how such comments influenced the decision. All these requirements apply to marine spatial plans. Article 9 (re public participation) of the proposal from the Commission in March 2013 for a Directive on marine spatial planning and integrated coastal management mirrors the SEA Directive requirements.

However, there are cogent reasons for going beyond the minimum mandatory requirements and for actively encouraging stakeholder participation in marine spatial planning, which are well summed up in the 2008 EU Roadmap on MSP:

> "In order to achieve broad acceptance, ownership and support for implementation, it is important to involve all stakeholders, including coastal regions, at the earliest possible stage in the planning process. Stakeholder participation is also a source of knowledge that can significantly raise the quality of MSP."

This chapter explores ways of embedding stakeholder participation in the MSP process, in which such participation is seen as a two-way exchange of information and ideas.

## IDENTIFICATION OF STAKEHOLDERS

As outlined above, any member of the public has a right to participate in environmental decision-making, but certain individuals, groups and organisations are more likely than others to be affected as a result of decisions based on marine spatial plans. In particular, while plans should seek to promote as much shared use of marine waters as possible, increasing demands on marine resources make it likely that some demands will be restricted or relocated as a result of conflicting demands. Also, it is essential that marine licensing and consent authorities, who may be required to have regard to marine plans in their decision-making, are actively and iteratively involved in the MSP process.

As stakeholder participation, though valuable, tends to be resource-intensive, it is worth identifying categories of stakeholder whose involvement should be facilitated from the earliest stage in the formulation of marine spatial plans (i.e. setting goals and objectives):

- Users of the marine environment, such as fisheries, maritime transport, renewable energy, recreational sailors, etc.
- Marine-related businesses, such as tourism and leisure, manufacturers, etc.
- Non-governmental organisations, academic and research institutes, professional bodies, community groups, etc.

Some indication of the range of likely MSP stakeholders may be gleaned from the feedback from the 2012 consultation document ***Our Ocean Wealth: Seeking your views***, which fed into the preparation of ***Harnessing Our Ocean Wealth***. Existing stakeholder groups / networks should be utilised as much as possible.

Identification of major stakeholders should therefore be one of the earliest tasks taken on by any new MSP body.

In addition, the development of a MSP framework should identify potential statutory consultees who will be involved in the plan-making process, such as central and local government, NPWS, major ports, the Naval and Coastguard Services, etc. (Consultation with transnational and cross-border authorities is addressed in chapter 16).

## BENEFITS OF STAKEHOLDER PARTICIPATION

There are two main reasons why stakeholder participation should be actively promoted as an integral part of any new MSP process:

(1) Those who are likely to be most affected by marine management decisions are more likely to support MSP implementation if they are given full access to the evidence base for marine plans and have an opportunity to shape policies and management measures based on that evidence. In particular, they need to be involved in any consideration of potentially conflicting marine uses within a given area and of ways of resolving such conflicts.

(2) Some stakeholders will be in a position to contribute specialist and / or local knowledge which might not otherwise be available to the MSP body. Local knowledge is likely to be of particular value in preparing local marine plans and coastal management strategies.

## SUGGESTED METHODS

MSP experience in the EU and the UK shows that there is a wide range of methods for facilitating stakeholder participation; different methods will suit different stakeholders at different stages in the plan-making process. Methods include:

- Face-to-face meetings with representative groups: This is a good way of establishing the views of such groups and exchanging relevant information.
- Workshops with groups of stakeholders: These can be useful in bringing different users together, particularly with a view to resolving current or potential conflicts.

- Informal drop-in centres: These can be arranged for short periods in different coastal areas.
- E-participation: This web-based tool allows people to participate at a time and place of their choice; individuals and groups can be facilitated in uploading spatial data to the MSP authority's Geographic Information System (see chapter 11).
- Consultation papers: As in the case of HOOW, such papers can stimulate stakeholder responses in a structured topic-by-topic manner.
- Liaison with coastal local authorities: Meetings with local elected representatives can be an efficient way of gauging the public's views on specific issues. Local authority websites and newsletters can provide additional channels of communication to coastal residents and communities.
- Liaison with Departments, agencies, licensing and regulatory authorities.

Whatever methods are used, it is important that consultation takes place at formative stages during plan preparation, that the views of stakeholders are recorded, and that the MSP body gives feedback to participants as to how their input has been taken into account. In the UK, MSP plan authorities are required under the 2009 Marine and Coastal Access Act to prepare a Statement of Public Participation at the beginning of the plan process, setting out the context of the plan, the process and timescales involved, and how individuals, groups and organisations can contribute.

Ultimately, success in implementing a marine spatial plan cannot rest on enforcement alone; much will depend on the understanding and consent of those whose livelihoods are most affected by the provisions of the plan, and this is why effective stakeholder engagement is important.

## TASK FORCE RECOMMENDATIONS:

(12) Early and meaningful participation by statutory consultees, stakeholders (building on existing groups and networks), and by the general public is essential for the successful implementation of MSP.

(13) An MSP body should review and seek to implement international best practice in promoting such participation; this would be an important aspect of the framework.

# CHAPTER 10 SPATIAL EXTENT OF MARINE PLANS

## INTRODUCTION

Ultimately, it is a matter for Government to decide the geographic extent of marine plans, and, if there is to be more than one plan, which plan should be prepared first. As with terrestrial spatial plans, there is a potential hierarchy of plans, from national to local. The purpose of this chapter is to explore the options, having regard to the pros and cons of each.

## HIERARCHY OF MARINE SPATIAL PLANS

The potential hierarchy of marine spatial plans includes:

- National marine plans or strategic frameworks (depending on the level of detail – see below), which would set the spatial policy context for:
- Sub-national plans, each covering a defined area within Ireland's marine waters.

Coastal management strategies complement marine spatial plans, but are partly terrestrial, as they include the land area which is functionally or physically related to the coast (see chapter 15).

## PLANNING AT NATIONAL LEVEL

*Harnessing Our Ocean Wealth* (HOOW) is an integrated marine plan for Ireland which sets out Government policy across all maritime sectors. However, it is not a spatial plan which deals (inter alia) with potentially increased demand for marine space for different purposes, and indeed the development of a marine spatial planning framework is one of HOOW's key governance actions.

There are a number of factors which would support initial planning at national level:

- This approach facilitates the inclusion of national-level policies (such as HOOW) and the integration of Ireland's international obligations (UN, EU, OSPAR, etc.)
- The national level is best suited to dealing with "wider sea" issues such as climate change, migratory fish stocks, renewable energy, maritime transport, etc.
- These international and national objectives can then set the policy context for regional marine plans
- The national level facilitates transnational co-operation on plan-making with neighbouring countries on relevant marine spatial planning issues.

However, as noted in HOOW, taking our seabed into account, Ireland is one of the largest EU states, with sovereign or exclusive rights over one of the largest sea-to-land ratios of any EU states.

The Task Force considers that any national marine spatial plan should apply to Ireland's internal waters (sea area), territorial seas, EEZ and Continental Shelf, as shown on Fig. 10.1 below, with the outer boundary following the EEZ and Continental Shelf consistent with Marine Waters defined under the Marine Strategy Framework Directive, also shown on Fig. 10.1 below. In this regard it is important to note the Agreement of 28 March 2013 between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland establishing a Single Maritime Boundary

between the Exclusive Economic Zones of the two countries and parts of their Continental Shelves. This agreement has not yet entered into force but the MSP area will be amended accordingly when it does.

The large size of our marine waters raises a number of practical considerations which need to be taken into account in deciding whether a spatial plan or spatial strategy would be more appropriate at the national level. Firstly, marine spatial plans are required where there are potential synergies between users, or where there are existing or potential conflicting demands on marine space, or a conflict between marine conservation and marine activities. For large parts of Ireland's EEZ, such conflicts do not exist and are unlikely to arise in the foreseeable future. Secondly, the more detail a marine spatial plan contains, the greater the demand for scientific data and evidence to underpin both the plan itself and its associated Strategic Environmental Assessment. Finally, a broad-brush spatial plan is likely to remain more flexible and adaptive.


FIG. 10.1 PROPOSED MSP AREA[20]

20 Subject to change on entry into force of Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland establishing a Single Maritime Boundary between the Exclusive Economic Zones of the two countries and parts of their Continental Shelves – 28 March 2013.

It may make more sense, therefore, to consider a more strategic, broad-brush approach to planning at marine waters level. An analogy can be drawn with the terrestrial National Spatial Strategy 2002 (NSS). It analysed the spatial implications of key sectors such as transport, energy and telecommunications, and combined these into a national framework.

A national marine spatial strategic plan could facilitate integration with the forthcoming review of the NSS. Such a framework plan could also incorporate the kind of high-level policy objectives found in the UK's Marine Policy Statement published in 2011

## MARINE PLANNING AT SUB-NATIONAL LEVEL

Marine spatial plans for specific areas within an EEZ are often prepared as a result of increasing spatial demands on such areas, and this type of plan tends to be more detailed than at the EEZ level. This approach has been adopted in Germany, for example (North Sea and Baltic Sea plans) and will be followed in Scotland, where a national spatial plan will set the policy context for a series of regional plans.

## CONSIDERATION OF OPTIONS

There would appear to be three broad options open to the Government in terms of prioritising marine spatial plans:

(1) Single detailed national marine spatial plan,

(2) Broad-brush national marine spatial plan (based on HOOW), to be followed by one or more detailed sub-national plans, or

(3) One or more sub-national marine plans, relying on HOOW to provide the national policy context.

The strengths and weaknesses of each of these options may be summarised as follows:

| OPTION | PROS | CONS |
|---|---|---|
| **Option 1:** Single detailed national marine spatial plan | • Would obviate need for subsequent sub-national marine plans<br>• Potential to complement any successor to the National Spatial Strategy<br>• Level of detail could be varied as required from area to area | • Amount of data and level of consultation required could significantly delay completion of the plan<br>• National plan may not be able to offer sufficient policy clarity for consent authorities or potential investors within specific marine areas |
| **Option 2:** Broad-brush national marine spatial plan (based on HOOW), to be followed by one or more detailed sub-national plans | • Only strategic-level data would be required, thus reducing the preparation time<br>• Consultation would be less time-consuming<br>• HOOW provides policy platform<br>• Potential to complement any successor to the NSS<br>• Work could commence in parallel in identifying priority area for sub-national plan | • Would result in some delay to completion of first sub-national plan |
| **Option 3:** One or more sub-national marine spatial plans, relying on HOOW to provide the national policy context | • First sub-national plan likely to be completed faster compared with either of the options above<br>• HOOW provides policy platform | • HOOW is not a marine spatial plan, and thus may not provide a robust national context<br>• Opportunity lost to complement successor to NSS |

## TASK FORCE RECOMMENDATION:

(14) The Task Force considers that the second option (national marine spatial plan) offers more advantages than the other two. A broad-brush strategic approach could be prepared in a relatively short period, compared with a detailed national marine plan, and could be supplemented at a later stage with sub-national marine plans set within the context of the overarching strategy. The broad-brush approach also offers the potential for synergies with any proposed successor to the current terrestrial National Spatial Strategy, for example in relation to:

- Location of Ports of National Significance (Tiers 1 and 2), including road / rail access
- Planned extensions to the National Electricity Grid, including preferred locations for connections to offshore grids
- National or regional coordinated approaches to coastal zone management (see chapter 15).

# CHAPTER 11 MSP KNOWLEDGE AND DATA EXCHANGE

## INTRODUCTION

The terms of reference of the Task Force, in developing a MSP framework, include examination of:

> "A national maritime spatial planning capacity and responsibility for data coordination and exchange. This system will facilitate decision support through the visualisation of ecosystem features and existing and proposed activities in our ocean space."

A MSP data coordination and exchange facility would enable relevant quality-assured data to be input from a range of different public and private sector providers, and all made available to such providers, marine users, and the general public as freely as possible through an MSP web portal.

According to UNESCO, MSP data should be up-to-date, objective, reliable, relevant and comparable, in order to provide a robust evidence base to support marine spatial plans and subsequent marine licence / consent decisions. This chapter considers the kind of data required for such plans, the availability of relevant data, and the need for adequate analytical resources within a MSP body.

## EU POLICY CONTEXT

The European Commission published a Green Paper "Marine Knowledge 2020" in 2012 which argued that knowledge about the present and likely future state of Europe's seas is essential to ensure the expansion of the blue economy. In order to realise this potential, there is a need to lower costs, reduce risks and stimulate innovation by companies; marine knowledge should be easily accessible, interoperable, and free of restrictions on use. The Commission estimated that existing users would save €300 million a year if marine data were properly integrated and managed.

The INSPIRE (Infrastructure for Spatial Information in Europe) Directive mandates all EU Member States to provide environmentally-related datasets so that they can be easily accessed by other public organisations within their own country, in surrounding European countries and by the European Commission for Europe-wide policy making. INSPIRE is based on a number of common principles:

- Data should be collected only once and kept where it can be maintained most effectively.
- It should be possible to combine seamless spatial information from different sources across Europe and share it with many users and applications.
- It should be possible for information collected at one level/scale to be shared with all levels/scales; detailed for thorough investigations, general for strategic purposes.
- Geographic information needed for good governance at all levels should be readily and transparently available.
- It should be easy to find what geographic information is available, how it can be used to meet a particular need, and under which conditions it can be acquired and used.

While the INSPIRE principles represent the ideal, their application in practice requires significant expertise.

The Irish Spatial Data Exchange is a Discovery Service guided by the INSPIRE Directive. A discovery service makes it possible to search for spatial datasets, services and applications on the basis of the content of the corresponding metadata (i.e. description) and to display the content of the metadata.

## MSP DATA AND INFORMATION REQUIREMENTS

As outlined in chapter 2 on the MSP process, the preparation of a marine plan involves the collection and analysis of spatial data relating to the existing and projected future status of the area which is the subject of the plan. The UNESCO guidance suggests that at least three categories of spatial information are relevant:

(1) Biological and ecological distributions,

(2) Human activities, and

(3) Oceanographic and other physical environmental features.

Spatial information that facilitates mapping the spatial and temporal distribution of species and habitats is essential so that the cumulative pressures of existing and proposed activities can be assessed. The next category of spatial data relates to human activities in the area of the marine spatial plan, including the adjacent coast. This is required so that the interactions between such activities and between activities and the ecological features can be mapped in space and time. Such maps will allow the cumulative pressures of different activities to be examined and will also provide information on conflicts and synergies between activities to be identified. Priority should be given to economically valuable activities and/or activities that exert significant pressures on ecological features.

Oceanographic, bathymetry, currents and sediments data and mapping is fundamental to understanding the physical environmental of the marine plan area. It is the canvas upon which all spatial plans will be developed.

## DATA AND INFORMATION SOURCES

In essence, MSP data can be categorised as:

[a] Baseline data, which relates to current marine environmental conditions and current human demands on marine space; and

[b] Data relating to future conditions, i.e. human impacts on the marine environment and changing demands on marine space.

## BASELINE MSP DATA

A significant amount of data is already being collected by various bodies; one of the first tasks of any MSP body charged with preparing a marine plan will be to identify what types of information are essential, and then to match its requirements against existing available spatial data.

The main existing Irish marine spatial data sources include:

**1. Ireland's Marine Atlas**

The preliminary work on Ireland's initial assessment under the Marine Strategy Framework Directive (MSFD) involves collating and assessing useful spatial information and data that will be an important input to a national marine spatial planning framework and subsequent marine spatial plans. The requirement under the MSFD to determine what Good Environmental Status

(GES) should be for Ireland's marine area and to establish targets and indicators to measure current and future progress towards GES will form the environmental pillar of any marine planning framework. Under the MSFD, where additional measures are needed to achieve GES these will be established. It is envisaged that such measures will be implemented through sectoral policies and regulations such as the Common Fisheries Policy and relevant energy, transport and foreshore regulations. The preparation of marine spatial plans and subsequent implementation will need to be consistent with achieving GES and the MSFD targets and indicators will inform the plan process.

As part of the initial assessment, a web based atlas Ireland's Marine Atlas has been developed, which includes the collation of all relevant information into a central Geographical Data and Information System of activities, pressures and characteristics that operate in our marine environment. The Atlas is available and:

- Is a web-based tool, with a supporting structured data store and associated metadata and documentation portal;
- Provides a national marine data infrastructure, complementing other existing data infrastructures, and will be capable of long term maintenance, enhancement, and active use;
- Is a valuable tool, providing a good foundation for future Marine Spatial Planning; and
- Is available to the public via the web[21]. It will enable the public to supply feedback and to identify additional data and sources of information.

**2. INFOMAR**

The INFOMAR programme is a joint venture between the Geological Survey of Ireland and the Marine Institute. The DCENR funded programme is tasked with ***IN****tegrated Mapping* ***FO****r the Sustainable Development of Ireland's* ***MA****rine* ***R****esource*, and is focussed on creating a range of spatial data and map products[22] of the physical, chemical and biological features of Ireland's seabed extent. In essence it is the national marine mapping programme and provides Ireland's bathymetric/hydrographic data for updating hydrographic charts, which are produced by the UK Hydrographic office.

In Phase 1 (2006-2015), activities are concentrated on 26 bays and 3 priority areas, with remaining unmapped seabed to be targeted thereafter during Phase 2 (to 2026). INFOMAR is focussed on delivery of three key programme areas:

- Data Acquisition, Data Management, and Interpretation (seabed survey)
- Data Exchange and Integration (web map services / products / data)
- Value Added Exploitation (research coordinator / funder / business development)

INFOMAR provides key baseline data to support coastal and inshore infrastructural and economic development across the entire marine sector, including shipping and transport, marine tourism and leisure, marine renewable energy, and fisheries and aquaculture. Data collected are critical to underpin current, wave, pollution and carrying capacity modelling, in support of existing and evolving marine activities.

21 http://atlas.marine.ie/

22 Data produced by INFOMAR is made available free via series of linked websites:

www.infomar.ie The programme website, for overview, reports, images, maps, blog etc.
Web mapping sites (Online GIS systems) http://spatial.dcenr.gov.ie/imf/imf.jsp?site=INFOMAR
http://geos2.marine.ie/infomar/Metadata Site http://catalogue.isde.ie/#/

**3. Marine Data Online 2.0** is a GeoNetwork-based data catalogue hosted by the Marine Institute. Marine Data Online 2.0 is an INSPIRE-compliant data discovery service that provides quick and easy access[23] to available data resources of relevance to the marine community.

**4. Existing Strategic Environmental Assessment (SEA) reports**

A number of SEA reports have been prepared in recent years for marine-related plans and programmes, and these reports contain a wealth of data – much of it spatial – likely to be of value for MSP purposes. The SEA reports include:

- The Offshore Renewable Development Plan (DCENR, forthcoming). The SEA is based on the main proposals set out in the Development Plan for the development of up to 4,500MW from offshore wind and 1,500MW of wave and tidal energy within Irish waters.
- Oil and gas activity in Ireland's offshore waters, including the Slyne, Erris and Donegal Basins (IOSEA1), the Porcupine Basin (IOSEA2), the Rockall Basin (IOSEA3), and the Irish and Celtic Seas (IOSEA4). The reports were published by DCENR between 2006 and 2010[24].
- Grid 25 Implementation Programme 2011-2016 (Eirgrid)[25].
- Development plans for coastal counties.

**5. MIDA (Marine Irish Digital Atlas)**

The online atlas[26], which was developed at Coastal Marine Research Centre in UCC, over a number of projects, is a comprehensive resource for coastal and marine information and spatial data in Ireland. It contains an overview of topics related to the Irish coast, as well as an interactive atlas where you can choose layers from various organisations to view and query.

In addition, baseline data relating to the Atlantic Ocean and regional sea basins is available, or is likely to become available in the near future, from international organisations, EU projects, and UK marine authorities (see MSP data exchange, below). The Socio-Economic Research Unit at NUI Galway is also producing relevant data.

**Future data and information sources**

Baseline data, to be of value, must be kept up-to-date; this will require an ongoing commitment of resources by the MSP body. New technology, for example, in the field of offshore renewable energy, will continue to emerge; changes in the size and nature of coastal settlements will also influence the type of human interactions with the sea. Data obtained from monitoring the effects of implementing marine spatial plans (as required under the SEA Directive) and from monitoring under the Marine Strategy Framework Directive will also provide important data in the future.

**MSP data and information management issues**

The designated MSP body will need to address a number of data management issues, such as:

[a] Role of Geographic Information Systems (GIS): The MSP body will require significant GIS capability. GIS allow us to view, understand, question, interpret and visualise data in many ways that reveal relationships, patterns and trends in the form of maps, reports and charts. Apart from its role in preparation of marine plans, consideration might also be given to the use of GIS in stakeholder consultation and the publication of marine plan maps, given the potential complexity of spatial data in certain marine areas under significant development pressures.

23 Data download Site https://jetstream.gsi.ie/iwdds/index.html
http://catalog.marine.ie/geonetwork/srv/en/main.home

24 http://www.dcenr.gov.ie/Natural/Petroleum+Affairs+Division/

25 http://www.eirgrid.com/media/GRID25%20Implementation%20Programme.pdf

26 http://mida.ucc.ie/contents.htm

[b] Filling data gaps: Notwithstanding the extent of existing data, experience in the UK and Europe suggests the likelihood of some data gaps. The MSP body can fill these gaps incrementally over time, e.g. by commissioning research and by monitoring implementation of the plan.

**MSP data and information coordination and exchange**

The primary aim of a GIS database held by the designated MSP body should be to support the preparation of marine spatial plans, including the Strategic Environmental Assessment of such plans.

Data used in statutory marine plans should be of appropriate quality and should be up-to-date, objective, reliable, relevant and comparable. Where baseline data is gathered from a wide variety of sources, the MSP body would need to verify that the data is robust and compatible with other spatial data sets. Procedures adopted by the UK Marine Management Organisation (such as Memoranda of Understanding with other public bodies holding spatial data) may be helpful in this regard.

Data from monitoring is also likely to come from a variety of sources, such as monitoring by public bodies and marine developers. It is recommended that licensing /consent authorities should be required to send spatially-referenced copies of decisions based on marine plans to the MSP body; likewise, marine developers should be required to submit digital copies[27] of Environmental Impact Statements, including spatially referenced data and information collated during the assessment and subsequent monitoring data and reports, to the MSP body.

However, a MSP GIS-based portal could facilitate a two-way exchange of information. Firstly, MSP data is likely to be of value to developers preparing Environmental Impact Statements (this is one of the potential economic benefits of MSP – see chapter 13). Secondly, spatially-referenced data held by companies, organisations and voluntary groups could be used by the MSP body in the plan preparation process. Examples of such data include:

- Hydrocarbon exploration companies gather data on seabed geology and undersea resources. While this data may be commercially sensitive at first, it could be held by the MSP authority on a confidential basis for an agreed period before being published.
- Organisations and representative groups could supply detailed local information on activities such as recreational sailing, angling and diving; such information would be difficult and possibly costly to acquire by the MSP body on its own.
- Environmental NGOs may have both national and local data, e.g. on bird species.
- Socio-economic data.

While there will be a need for the MSP body to store large volumes of data and derived spatial information, it is not necessary that all the data be held centrally by the MSP body; in many cases, a better approach is the use of distributed databases where data and associated metadata information (i.e. about the source, nature and quality of data) is accessed, with online links to the relevant contributing databases. Data from external contributors should comply with relevant INSPIRE and ISO metadata standards, and would need to be quality-assured and fit for purpose to the satisfaction of the MSP body (perhaps with specialist support from Departments or agencies).

27 i.e. in GIS-usable format

What is important is that access to the MSP data and information should be as freely available as possible, once it has been verified as fit-for-purpose and quality-checked to the standards set by the MSP body. An MSP portal should offer convenient facilities to web users to search the data, e.g. for the purposes of preparing environmental assessments of plans and projects.

It is also essential that any MSP GIS should be compatible with relevant international and national databases, such as:

- The European Marine Observation and Data Network (EMODnet), which is a network of 112 marine organisations providing a single entry point for accessing and retrieving marine data derived from observations, surveys or samples from the hundreds of databases maintained on behalf of agencies, public authorities, research institutions and universities throughout the EU. The second phase of EMODnet will provide access to a digital map of all European waters by the end of 2014. This will show the depth of water, as well as the nature of sediments, the whereabouts of minerals, zones of human activity and the type of habitat. Under Article 19 of the Marine Strategy Framework Directive, there is a requirement for Member States to provide access to data resulting from the assessments and monitoring. EMODnet will be used to enable this access.
- Linked to EMODnet is a portal called Global Monitoring for Environment and Security (GMES), launched in 2009 as one of the preparatory actions of the EU Marine Knowledge 2020 initiative. It provides access to seamless layers of bathymetric, geological, physical, chemical, biological, and habitat data for selected sea basins.
- The International Council for the Exploration of the Seas (ICES) advises the European Commission, Member States and Regional Seas Conventions; it coordinates and promotes marine research on oceanography, the marine environment, and on living marine resources in the North Atlantic. The ICES data centre is part of a global network.
- In the UK, the Marine Environmental Data and Information Network (MEDIN), promotes sharing of, and access to, marine data held by 16 sponsoring organisations. The Crown Estate has developed its Marine Resource System (MaRS) which holds 500 GIS layers.

## TASK FORCE RECOMMENDATIONS:

(15) Great importance is attached to the range and quality of data and information required to support MSP and to maintain confidence in decisions based on marine spatial plans.

(16) Maximum use should be made of existing relevant spatial data and information, building on the data collected for Ireland's Marine Atlas.

(17) An early task of an MSP body will be to identify any significant data and knowledge gaps and to consider how best such gaps might be filled over time.

(18) A GIS system is essential for mapping spatial data.

(19) The MSP authority body should facilitate data exchange with and between marine organisations and users. Developers should be required (under the terms of relevant consents / licences) to submit copies of any environmental impact statements, compiled spatial data and information and of relevant monitoring data in GIS-usable format to the MSP body.

# CHAPTER 12 MSP GOVERNANCE AND INSTITUTIONAL CAPACITY

This chapter deals with two related issues:

[a] The role of various public bodies, including central and local government, in setting the policy framework, participating in the plan preparation process, and implementing marine spatial plans; and

[b] The capacity likely to be required by the public body charged with the preparation of marine spatial plans.

## A. MSP GOVERNANCE

"Governance" is a wide-ranging concept which involves:

(1) Coordination or integration of government functions both horizontally (i.e. between Departments and agencies) and vertically (i.e. from national to local) in relation to the preparation and adoption of marine spatial plans;

(2) Effective consultation with stakeholders and the general public during plan preparation (see chapter 9); and

(3) More streamlined marine consent / licensing procedures (see chapter 14).

### HORIZONTAL AND VERTICAL INTEGRATION

Marine spatial planning involves a cross-sectoral approach to the sustainable development of the marine environment (i.e. horizontal integration), and its successful implementation will require a governance framework at every level from national to local (i.e. vertical integration). To ensure the legitimacy of marine spatial plans, there needs to be democratic accountability; the political system needs to make the fundamental policy choices which will underpin MSP goals and objectives.

As an MSP framework is being developed arising from a commitment in ***Harnessing Our Ocean Wealth,*** it should be noted that the Government has assigned overarching responsibility for implementation of HOOW to the Marine Coordination Group (MCG).

The government system is likely to play a significant decision-making role at the following stages:

(1) A statutory MSP framework will need a lead Minister to take responsibility for drafting the legislation and bringing it through the Oireachtas.

(2) The Government would need to designate a public body to administer the MSP process (see Institutional capacity, below). If that body is not a Government Department, a Minister would have to have oversight of the designated body in relation to its MSP functions, and the allocation of public funds.

(3) It is suggested that the Government should be ultimately responsible for ensuring co-ordination of cross-Departmental marine-related policies (should any conflicts between policies arise) when high-level MSP goals and objectives are being framed at the outset of the plan preparation process. The MCG would be likely to have a role in supporting the Government in achieving such co-ordination. As the MCG is a high-level (Assistant Secretary) group, some consideration may need to be

given to optimal horizontal coordination mechanisms.

(4) There is likely to be a need for consultation during plan preparation with MSP authorities in the UK including the Devolved Administrations (and possibly to a much lesser extent with France), and this may require the involvement of one or more Departments.

(5) Following the preparation of a draft marine spatial plan (including public consultation as appropriate), ideally there should be a Government decision approving the final plan, which could be followed by formal publication of the plan by the relevant Minister on behalf of the Government.

Other public bodies likely to be involved at various stages in the MSP process include:

- Statutory consultees, i.e. bodies at central, regional and local levels who should be consulted by the MSP authority during the preparation of draft marine spatial plans
- Marine licensing, consent and regulatory authorities[19]
- Marine research bodies.

**TABLE INDICATING POTENTIAL ROLE OF PUBLIC AUTHORITIES IN THE MSP PROCESS:**

| MSP STAGE | ROLE OF PUBLIC AUTHORITIES |
|---|---|
| Setting high-level policy goals (may involve resolving potential policy conflicts) | Government |
| Preparation of draft marine spatial plan | Designated MSP body (Dept. or agency) |
| Input of data / information about relevant plans and programmes | Relevant Departments and agencies<br>Coastal local authorities<br>Port / harbour authorities<br>Marine research bodies |
| Consultation on draft marine plan<br>[*Note: Sectoral interest groups, NGOs, and the general public will also be involved at this stage. There will also be consultation with designated environmental authorities under the SEA Directive. Appropriate Assessment under the Habitats and Birds Directives may be required.]* | Government or designated Minister<br>Relevant Departments and agencies<br>Coastal local authorities<br>Port / harbour authorities |
| Finalisation of the plan in the light of submissions received | Designated MSP body (Dept. or agency) |
| Formal adoption of the plan | Government or designated Minister |
| Implementation of the plan | Designated MSP body (Dept. or agency)<br>Relevant marine consent / licensing authorities<br>Coastal local authorities (as appropriate)<br>Port / harbour authorities (as appropriate) |

28 Chapter 14 will address the need for streamlining current licensing and consent processes.

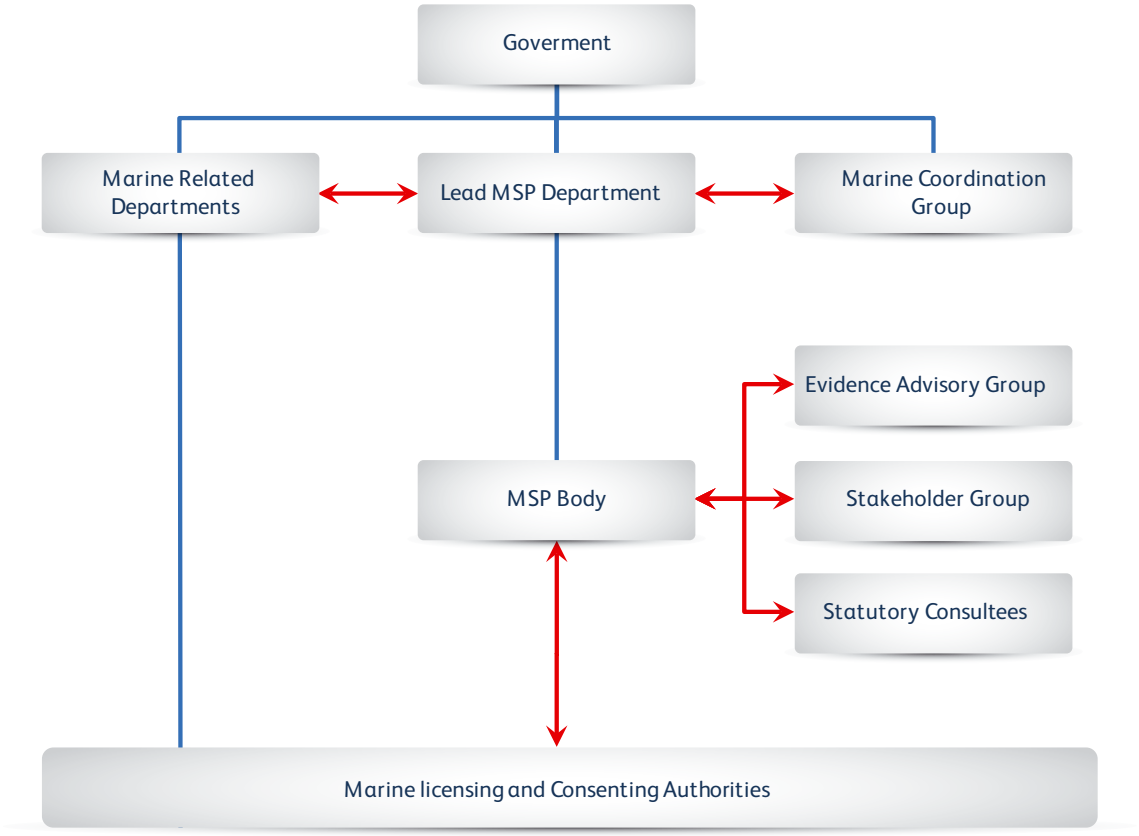



FIGURE 12.1 SUGGESTED MSP GOVERNANCE STRUCTURE
[*Note: Blue lines indicate reporting relationships; red lines indicate information flows*]

## A. INSTITUTIONAL CAPACITY

As outlined in chapter 2, MSP is a long-term, cyclical process. Institutional capacity is needed:

(1) To prepare, monitor and review marine spatial plans, and

(2) To oversee and monitor implementation of such plans.

As implementation is likely to be largely achieved through marine licensing and consent authorities, whose decisions will be influenced in varying degrees by MSP policies and spatial management measures, the issue of new institutional capacity mainly centres on the need to designate an MSP body charged with the preparation, monitoring and review of marine spatial plans.

The EU Commission recently published a proposal for a MSP framework Directive. While the proposed Directive will be the subject of negotiation with Member States, it is worth noting that Article 14 would require each Member State to designate for its marine region and coastal zone the authority or authorities competent for the implementation of the Directive, including cooperation with other

Member States; such designation would be required within 18 months following entry into force of the Directive, and the Commission would have to be provided with a list of such authorities.

The EU MSP Roadmap strongly recommends a legal framework to ensure the effectiveness of MSP, and if this recommendation is followed here, any MSP body would have designated statutory functions.

Having regard to the pressures on the public finances, it appears likely that MSP functions should be assigned to an existing Department or agency, rather than establishing a new body.

## TASK FORCE RECOMMENDATIONS:

(20) The Government should designate and resource a lead Minister to oversee introduction of a MSP process.

(21) The Government should facilitate co-ordination of cross-Departmental marine-related policies when high-level MSP goals and objectives (building on HOOW) are being framed at the outset of the plan preparation process. The Marine Coordination Group would be likely to have a role in supporting the Government in achieving such co-ordination.

(22) The Government should designate an existing Department or public body which will be charged with responsibility for the preparation, monitoring and review of marine spatial plans.

(23) Following the preparation of a draft marine spatial plan (including public consultation as appropriate), ideally there should be a Government decision approving the plan, which could be followed by formal publication of the plan by the relevant Minister on behalf of the Government.

(24) If the Government decides to assign certain executive MSP functions to an existing State agency, that agency should establish an MSP body and should report, with regard to such functions, to the Minister with legislative and policy responsibility for MSP

(25) The MSP body will need access to a wide range of relevant spatial data and information, and will need both specialist staff and ICT resources to analyse and manage such data. The body will also require a range of other expertise.

(26) As there is no current MSP system in Ireland, MSP skills capacity will need to be developed in Ireland, and there will be opportunities for new 3rd level training courses (e.g. by building on existing courses) for existing professional staff in cognate disciplines.

# CHAPTER 13 ESTIMATED ECONOMIC BENEFITS OF SETTING UP MSP IN IRELAND

## INTRODUCTION

The purpose of this chapter is to provide a broad-brush estimate of the likely economic benefits of establishing a marine spatial planning system in Ireland, as compared with the option of not introducing such a system. As such, it is not intended as a substitute for the robust economic and financial appraisal of any new measures arising from the implementation of ***Harnessing Our Ocean Wealth***; as stated in HOOW, this will be a matter for the lead Departments concerned.

## POLICY CONTEXT

HOOW identified good governance and cross-government action as essential in achieving its vision and goals:

> "Managing our ocean wealth requires an overarching national marine 'spatial' plan underpinned by an efficient and robust planning and licensing framework. Such an approach can provide a governance structure and blueprint for national, regional and local planning of our ocean wealth. This will 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."

The economic value of MSP has also been endorsed in a study published by the European Commission in 2011[29], which viewed MSP as creating a framework for society to operate in such a way that unwanted effects are minimised and desired effects are maximised. The study (see below) concluded that MSP can have a significant and substantial positive economic effect on Europe's maritime economy.

## POTENTIAL ECONOMIC BENEFITS OF MSP

The 2011 EU study identified three main economic benefits from a properly managed MSP process:

- ***Coordination efficiency*** for governments is likely to result due to improved and integrated decision making
- Proper MSP leads to ***reduced transaction costs*** for maritime activities (economic terminology for search, legal, administrative and opportunity costs) operating in the maritime arena
- Societies benefit from the enhanced certainty resulting in an improved ***investment climate***.

*Coordination efficiency for governmental organisations:* MSP aims to lower the costs of non-coordination, mainly because it can enhance coordination systems by integrating and aligning governmental procedures. A clear example of increased coordination is the one-stop-shop model which can, if set up and governed properly, integrate procedures into a single processing desk so that maritime activities have single-desk access for obtaining information, applying for permits and subsidies, etc. However, governments should be aware that, at least in the first phase of setting up and implementing MSP, this process can involve setting-up costs.

29 DG Mare, "Study on the economic effects of maritime spatial planning" (2011)

*Reducing transaction costs for activities in the maritime arena:* Significant clarity and certainty are likely to cause a decrease in transaction costs for activities in the marine areas of Europe. The first dimension concerns search costs. Adequate application of key MSP principles is likely to establish a common knowledge base in which the following information is included:

- Detailed properties of relevant sea areas (e.g. depth, availability of natural resources, etc.)
- The characteristics of the current maritime activities in the sea area
- Knowledge of any planned activities in the area (e.g. wind farms)
- The environmental impact of current and planned activities in the sea area.

A reduction of 1% in transaction costs should be considered as the minimum MSP can generate, specifically for upcoming industries, such as the renewable energy industry and offshore aquaculture. Such costs can be substantial: according to the UK's Crown Estate, developers of a typical 500 MW wind farm can spend 4% of the total capital cost of c. £60 million on getting planning consent[30].

*Improved investment climate:* Economists commonly agree on the positive relationship between the degree of certainty and the investment climate of a country. The application of the MSP principles is likely to enhance certainty and predictability for maritime activities, which may lead to two effects:

(1) Acceleration of economic activity: Optimised procedures, increased legal certainty and subsequent lower transaction costs may motivate investors to accelerate their investments. The potential for acceleration applies to those activities such as aquaculture and offshore renewable energy which are currently limited in their expansion. For example, the designation of locations for wind energy will decrease search costs.

(2) Economic growth: In addition, MSP can be of value if its effects lead to investments that would otherwise not be made.

The Regulatory Impact Assessment prepared by the Scottish Government in relation to the Marine (Scotland) Bill in 2008[31] found that:

> "Marine planning could significantly reduce the costs of conflicts, delays and compensatory measures associated with the current system, which can cost from several hundred thousand pounds to millions of pounds per development. Marine related goods and services (excluding oil and gas) are estimated to contribute over £2 billion annually to the Scottish economy. If reducing conflicts and delays were to increase gross added value by 1%, this would be equivalent to around £20 million for the Scottish economy. Marine planning would also create a more stable marine environment in the long-term, making it more attractive to invest in Scotland. For example, the value of the Scottish marine renewable energy generation is forecast to reach over £200 million by 2017. If marine planning resulted in more rapid approval of marine energy projects, so that this value was achieved by 2015 instead of 2017, the net present value would be increased by around £5.5 million."

30 "A guide to an offshore wind farm" (BVG Associates on behalf of the Crown Estate, 2011)

31 Final Regulatory Impact Assessment, p. 10

### COMPARISON WITH THE DO-NOTHING OPTION

Continuing with the current system of sectoral allocation and licensing of marine uses would avoid the costs involved in establishing a MSP system. However, the Scottish Regulatory Impact Assessment (2008) identified potential risks associated with this option:

- Sectoral conflicts
- Modified, delayed or refused development applications
- Cumulative impacts (resulting in unsustainable development through lack of integrated assessment)
- Less efficient use of marine space (spatial planning can investigate the potential to maximise the sustainable economic revenue(s) from a particular resource or site)
- Deterioration of the marine environment
- Lack of preparation and long-term vision
- Inefficient collection and use of data (e.g. developers would not have access to a MSP database when compiling Environmental Impact Statements for marine projects).

Lack of a MSP system underpinned by a streamlined consent / licensing system (see chapter 14), would reduce the likelihood of the economic targets set by ***Harnessing Our Ocean Wealth*** being realised. There would also be costs, such as increased transaction costs, to the private sector.

## TASK FORCE RECOMMENDATIONS:

(27) Acknowledging the preliminary nature of the analysis outlined above, the Task Force considers that the medium / long-term economic benefits of introducing MSP will significantly exceed the likely short-term costs. Those benefits will accrue to both the State and to investors in the marine economy.

(28) Continuation of the current fragmented process is unlikely to facilitate delivery of the economic development goals set by *Harnessing Our Ocean Wealth*.

(29) Potential funding opportunities should be identified, and active participation should be pursued if considered advantageous in relation to developing MSP structures, expertise and networks for Ireland.

# CHAPTER 14 MARINE LICENCES AND CONSENTS

## INTRODUCTION

The Task Force's terms of reference require it to examine (inter alia) "international best practice on developing integrated marine planning and licensing, benchmarking Ireland's marine regulatory framework".

Any statutory marine spatial plans in Ireland are likely to be implemented mainly through relevant marine licences and consents. However, the feedback from the *Harnessing Our Ocean Wealth* consultation found that:

"An effective licensing system was viewed by many submissions as the single most important contribution the public sector can make to the development of the marine sector. Numerous submissions regarded the current licensing systems as a barrier to growth (e.g. foreshore and aquaculture licensing and planning permission). It was felt that such systems must be fit-for-purpose, quick, consistent, efficient and transparent in order to attract investment."[32]

The purpose of this chapter is firstly to highlight the importance of marine licences and consents in implementing marine spatial plans, and secondly to make proposals, for consideration by the Marine Coordination Group, as to how the current systems might be streamlined.

## OUTLINE OF CURRENT MARINE LICENCES AND CONSENTS LIKELY TO BE OF RELEVANCE IN THE CONTEXT OF MSP

The following marine sector licences and consents are likely to be of relevance in implementing any MSP system:

- Planning permission (including for Strategic Infrastructure Development and local authority development on the foreshore that requires Environmental Impact Assessment [EIA] and / or Appropriate Assessment)
- Foreshore leases and licences
- Aquaculture and fishery licences
- Dumping at Sea permits
- Petroleum Prospecting Licences, Licensing Options, Exploration Licences, Lease Undertakings, Petroleum Leases, Reserved Area Licences
- Permission for groups of generators of electricity from offshore renewables to connect to the national grid.

## IMPLEMENTATION OF MSP THROUGH MARINE LICENCES AND CONSENTS

A plan-led consent system offers the potential for greater consistency and predictability in decision-making, which tend to be highly valued by stakeholders (developers, NGOs, and the public concerned). Ensuring that the system is plan-led requires that consent decisions are obliged to have regard to relevant plan policies and objectives.

32 HOOW, page 61

For example, the UK Marine and Coastal Access Act 2009[33] provides that:

"(1) A public authority [such as the MMO] must take any authorisation or enforcement decision in accordance with the appropriate marine policy documents[34], unless relevant considerations indicate otherwise.

(2) If a public authority takes an authorisation or enforcement decision otherwise than in accordance with the appropriate marine policy documents, the public authority must state its reasons."

## NEED FOR STREAMLINING OF THE CURRENT MARINE LICENSING / CONSENT SYSTEMS

The recent DECLG Consultation Paper, *A New Planning and Consent Architecture for Development in the Marine Area* (2013), identified a number of key concerns with the existing foreshore regime, as articulated by stakeholders. The concerns, which might apply to a greater or lesser extent to some other types of marine consent regimes, were summarised as follows[35]:

- The lack of a plan-led approach to development on the foreshore and beyond leading to the perception that the current licensing and regulation for foreshore activity is carried out on a sectoral and demand-driven basis;
- No statutory objective time frame for determinations, uncertainty about the process and a perceived lack of transparency;
- Duplication of effort, as most projects require both terrestrial planning permission and foreshore consent; and
- Enforcement of the legislation could be more effective.

Such issues are not confined to Ireland. An EU guidance paper on integrated maritime governance (2008)[36] noted that the expertise to deal with the multiple challenges of maritime affairs, and also the powers to tackle them, are spread between numerous public and private players at different levels of governance, and advocated a more integrated approach, starting with policy-making. Based on a review of international experience, the Commission concluded that coordination was generally preferred to centralisation, and recommended that Member States should consider creating internal coordinating structures for maritime affairs within their government frameworks[37].

## LEARNING FROM SCOTTISH EXPERIENCE

In streamlining the current consent / licensing system in Ireland, some useful experience can be learned from Marine Scotland's Licensing Operations Team (MS-LOT), which administers the licensing system on behalf of the Scottish Government. Licensable activities include:

- Coastal and marine developments
- Windfarms
- Wave and tidal power
- Removal and disposal of marine dredged material at sea.

MS-LOT may request a pre-meeting with developers and will offer expert advice about the process, and may have knowledge of, and access to, some extensive datasets and information sources that could be of use to developers. A pre-screening meeting may be held to determine whether

33 Section 58 (1) and (2)

34 i.e. the UK Marine Policy Statement or an approved marine spatial plan

35 Consultation Paper, page 10

36 Communication from the Commission, "Guidelines for an integrated approach to maritime policy: Towards best practice in integrated maritime governance and stakeholder consultation" (2008)

37 In Ireland the inter-Departmental Marine Coordination Group was established in 2009.

the project is likely to require Environmental Impact Assessment. Where EIA is required, public authorities must make available to the developer any relevant environmental information in their possession. The developer can also ask MS-LOT for their opinion on what information needs to be included in the environmental statement ("scoping"). After the developer has prepared an Environmental Impact Statement – which can take between 2 and 5 years for a major development – MS-LOT will carry out a "gatecheck" to ensure all necessary documentation for an application is complete. On receipt of a complete application, MS-LOT aims to reach a decision within 9 – 12 months.

MS-LOT provides a "one-stop-shop" to facilitate dialogue with statutory consultees, and publishes a range of advisory guidelines and manuals to assist prospective applicants.

## SPECIFYING PERFORMANCE CRITERIA FOR MARINE CONSENT SYSTEMS FOR IRELAND

One way of improving current licensing systems is to devise performance criteria for a totally new system, starting from scratch, and then to consider how such criteria could be applied to existing systems.

(1) Legislation governing the consent process should be readily accessible, not least on the websites of consent authorities. Ideally, where there have been numerous amendments to the legislation (Acts or Regulations), it should be codified.

(2) The marine consent process should be plan-led where appropriate. This requires the availability of up-to-date, evidence-based marine and / or terrestrial spatial plans for the area in which the proposed activity or development will be located. Such plans should:

- Provide prospective applicants with a clear idea as to whether their proposal is likely to be acceptable in any given location, and if so, under what conditions; and
- Provide consent authorities with a clear policy basis for assessing applications.

(3) Marine consents should be assessed on the basis of policy goals and objectives contained in the spatial plans, unless material considerations indicate otherwise, in which case the consent authority should specify such considerations (e.g. that another plan or policy is more appropriate in the particular circumstances).

(4) Application fees should be based on cost-recovery by the consent authority.

(5) Consent authorities should aim to decide applications within a specified period, subject to all necessary information being submitted by the applicant.

(6) The application process should enable effective consultation with public authority stakeholders and interested members of the public. Any person or body likely to be affected by the decision should be given an opportunity to comment on the application and to have such comments taken into consideration by the consent authority[38].

(7) Applications which are deemed likely to have only minor localised effects should be decided locally (the DECLG proposes to devolve certain foreshore licensing functions to local authorities, for example).

38 In some cases, such as EIA developments, such consultation is already mandatory.

(8) Applications deemed likely to have significant effects (such as those requiring EIA and / or Appropriate Assessment) should be decided by a consent authority with the requisite skill sets.

(9) The number of such higher-level authorities should be kept to an absolute minimum.

(10) Where the application requires EIA, only one consent authority should assess the EIS.

(11) The number of separate consents required for a single complex project should be kept to an absolute minimum, with lesser consents being integrated within larger consents where possible, e.g. a consent to engage in mineral extraction could include property conditions currently dealt with in foreshore leases / licences. For a combined development consent and foreshore lease or licence for major offshore developments, it would be important to provide some assurance for an applicant with regard to "property" rights before he or she embarks on a potentially lengthy and expensive process of preparing an Environmental Impact Statement (and possibly a Natura Impact Statement also)[39]. A first step in this regard is the planned introduction of a maritime option through legislation.

(12) Where multiple consents for a single project are decided by different authorities, one authority should be designated as the "lead" authority, and charged with ensuring effective coordination with the other authorities and relevant statutory consultees, e.g. by providing applicants with a "one-stop-shop". Such coordination should also be required by legislation and implemented by means of operational protocols between the consent authorities and consultees, e.g. regarding electronic exchange of data and timescales for responses.

(13) All consent authorities should publish advice manuals for applicants on their websites, and should have designated contact staff for pre-application consultations. For significant developments, especially those with potential to create employment, such consultations should be arranged within 2 weeks.

(14) All consent decisions should be published on the authority's website, and should be capable of being appealed to an independent body.

(15) Consents should be monitored for compliance with conditions, and any significant breaches of conditions should be enforced, to maintain public confidence in the integrity of the consent system.

39 As the MSLOT experience has shown, preparation of environmental impact statements can take between 2 and 5 years. According to the UK Crown Estate, the cost of preparing an EIS for a typical offshore windfarm averages about £4 million.

## ENVIRONMENTAL IMPACT ASSESSMENT

In any new marine consent system, consideration should be given in the first instance as to whether the MSP body could ultimately become the environmental impact assessment (EIA) consent authority (if it has the requisite skill sets) because:

- The MSP body can facilitate access by applicants to the datasets assembled in the preparation of the relevant marine spatial plan; and
- The MSP body is likely to benefit from direct experience arising from implementation of the plan (such as project EIA data), which can feed into any review of the current plan.

However, in the current economic position, it is more likely that any MSP system in Ireland would be implemented in the first instance through current licensing / consent authorities. In that scenario, it would be important to build in feedback loops into such consent processes, so that the designated MSP body:

- Could monitor the impact of marine spatial plans in terms of the nature and location of consent and licence decisions (including refusals, if made on plan policy grounds); and
- Could access project EIA data, thus updating its own plan-making datasets.

## APPROPRIATE ASSESSMENT

An Appropriate Assessment of a proposed development will be required if the likelihood that such development would impact significantly on a Natura 2000 site (Habitats and Birds Directives) cannot be ruled out. This can be a source of particular concern to developers because, if the Assessment confirms the possibility of such an impact and the impact cannot be avoided or mitigated, consent cannot be granted for the development (except where there are "imperative reasons of overriding public interest" under the Habitats Directive). Moreover, carrying out surveys for a Natura Impact Statement may take up to a year, which adds to the time required for consent processes.

Attention is drawn to two recent initiatives which, while not directly addressing such concerns, may nonetheless be of benefit to prospective applicants:

(1) In January 2011 the EU Commission published guidelines on the implementation of the Birds and Habitats Directives in estuaries and coastal zones. These guidelines are a useful aid to stakeholders. However, the Department of Transport sees additional merit in seeking to initiate a national, port-specific engagement between relevant stakeholders, so that the European perspective is given national relevance. Regulation 40 of the EC (Birds and Habitats) Regulations 2011 provides for such engagement by allowing for administrative agreements between the Minister for Arts, Heritage and the Gaeltacht and public authorities, such as port companies. It is expected that this agreement will be concluded in 2013[40].

(2) In 2010 the Environmental Protection Agency published guidance[41] on how best to integrate the methodological processes for Appropriate Assessment with Strategic Environmental Assessment and Environmental Impact Assessment. The guidance emphasises the value of using Geographic Information Systems in relation to the spatial distribution of habitats and species, and recommends that where a project is subject to multiple consents, different competent authorities should assess the proposal in an integrated manner to ensure that all relevant information is taken into account in addressing the requirements under each of the Directives.

40 National Ports Policy 2013, pp. 49-50

41 EPA "STRIVE" Programme 2007-2013, "Integrated biodiversity impact assessment - Streamlining Appropriate Assessment, Strategic Environmental Assessment and Environmental Impact Assessment: Best practice guidance" (2010)

## COMPLIANCE WITH MARINE CONSENTS AND LICENCES

Effective and efficient enforcement systems need to strike the right balance between:

[a] Maintaining the credibility and effectiveness of consent processes. The relevant consent authorities need to ensure that any unauthorised offshore development is brought under control, that any undesirable effects of such development are remedied, and that legal action is taken, where warranted, against those who ignore or flout legislation; and

[b] Framing regulations so that they achieve the greatest levels of compliance without excessive enforcement and compliance costs. In this regard, experience elsewhere has shown that effective consultation with stakeholders in the preparation of marine spatial plans can result in greater "buy-in" and support for implementation of such plans.

If, as proposed in the DECLG General Scheme of Maritime Area and Foreshore (Amendment) Bill 2013[42], An Bord Pleanála will be the consent authority for strategic infrastructural development offshore, a new enforcement system will need to be devised to ensure compliance with such consents, as the Board has no such function at present.

## APPEALS PROCEDURES

According to the chart of regulatory principles in the Government White Paper *"Regulating Better"* (2004), there should be well publicised, accessible and equitable appeals procedures that balance rights of appeal with the need for speedy action, in a fair manner. Where regulatory decisions are referred to the courts, applicants are likely to face issues of additional legal costs and delays in obtaining a hearing date.

## THE WAY FORWARD – SHORT TERM AND LONG TERM MEASURES

The Task Force is aware that as part of the wider reform and efficiency agenda, public bodies are continuing to bring about positive changes to a variety of processes. Recent administrative measures introduced as far as marine licensing is concerned include the introduction of a compulsory pre-application process and an application prioritisation framework. Other initiatives under consideration include an examination of the foreshore valuation mechanism with a view to a more standardised and transparent approach.

The drafting of a Maritime Area and Foreshore (Amendment) Bill was approved by the Government in July 2013. It is expected that the Bill will be published in 2014 andwill propose the introduction of significant changes to the foreshore consent process, as well as additional efficiencies. The proposed Bill has three main aims:

- To align the foreshore consent system with the planning system,
- To provide for a single Environmental Impact Assessment for projects, and
- To provide a coherent mechanism to facilitate and manage development in the EEZ and on the Continental Shelf.

Consideration should be given as to how this system could be further modified in the longer term to move towards a one-stop-shop approach for marine-related developments.

42 General Scheme of Maritime Area and Foreshore (Amendment) Bill 2013. Available from http://www.environ.ie/en/Publications/DevelopmentandHousing/Foreshore/FileDownLoad,34315,en.pdf

## TASK FORCE RECOMMENDATIONS

(30) The Marine Coordination Group should initiate a review of all marine-related licences and consents with a view to streamlining the processes, having regard to the criteria set out above. While such a review would facilitate implementation of MSP, streamlining is vital in its own right in order to achieve the economic targets specified in Harnessing Our Ocean Wealth.

(31) The Task Force attaches particular importance to:

- The need for statutory time limits in determining applications for licences and consents, subject to all relevant information being supplied by the applicant; and
- The need to designate a lead authority and to provide a one-stop-shop service in cases of major development projects requiring multiple consents / licences.

(32) The review should also consider how better integration can be achieved with the granting of foreshore licences or leases, where such licences or leases are also required.
For example, a Dumping at Sea permit usually requires the applicant to obtain a foreshore licence also, although this is set to change[43].

(33) The review panel should include some representatives from the development sectors involved, to provide the applicant's perspective.

(34) Licensing / consent authorities should also carry out periodic stakeholder surveys to ensure that statutory processes minimise the administrative burden on applicants and on decision-makers.

(35) Where multiple licensing / consent authorities administer the same statutory process (such as local authorities in relation to certain proposed foreshore licences), the supervisory Department should ensure consistency of approach, for example, by issuing procedural guidelines.

(36) Where an applicant is required to apply for a renewal of consent after a specified period, he or she should be entitled to apply before the existing consent expires, to facilitate business continuity in the event of the new consent being granted.

43 It has been decided to exempt projects holding a Dumping at Sea licence to also obtain a foreshore licence. This change will be introduced by the proposed Maritime Area and Foreshore (Amendment) Bill.

# CHAPTER 15 LINKAGES WITH TERRESTRIAL SPATIAL PLANNING AND INTEGRATED COASTAL ZONE MANAGEMENT

## INTRODUCTION

Activities in the marine environment can impact on land and terrestrial planning, and vice versa, and thus any MSP framework needs to address the relationship between the two systems. Integrated Coastal Zone Management (ICZM) could play a role here. Some offshore strategic infrastructural developments rely on connections to land; on the other hand, the location and scale of major ports will determine the position and width of shipping lanes. Many Natura 2000 sites are to be found along our coasts, together with bathing beaches, scenic landscapes, and water-based recreational areas. Small coastal communities may be highly reliant on sea fishing and aquaculture. All of these factors have prompted calls for a more integrated approach to coastal zone management, and the principles and approach developed under ICZM have an important role in the coordination between marine and terrestrial spatial planning.

From a policy perspective, the European Commission has strongly emphasised the need to achieve coherence between terrestrial and maritime spatial planning, especially in the coastal zone, and its recent proposal for a Directive on MSP would require that marine spatial plans and integrated coastal management strategies should at least be mutually coordinated, if they are not integrated from the outset.

## A. LINKAGES WITH THE TERRESTRIAL (LANDUSE) SPATIAL PLANNING SYSTEM

The terrestrial planning system is based on a hierarchy of plans, whereby higher level plans set the policy context for plans below them:

(1) National Spatial Strategy (NSS) 2002-2020

(2) Regional planning guidelines (reviewed every six years)

(3) City and county development plans (ditto)

(4) Local area plans (as required).

Most of the NSS Gateway cities and towns are located along the coast; Dublin, Cork and Shannon/Foynes have recently been designated as Tier 1 Ports of National Significance in the National Ports Policy 2013, while Waterford and Rosslare Europort have been designated as Tier 2 Ports. The NSS showed the National Transport Framework, including strategic road and rail corridors and international sea and air routes, and also flagged strategic infrastructural priorities for the electricity and gas grids. Having regard to the significant socio-economic changes which have affected Ireland since the NSS was adopted in 2002, the Department of the Environment, Community and Local Government is currently developing proposals for a successor to the NSS, but until this is adopted by Government and the Oireachtas, the existing NSS continues to serve as the national spatial planning framework.

## COASTAL SPATIAL PLANNING POLICIES

Spatial planning policies for coastal zones are set out in statutory city and county development plans, and cover a wide range of issues of relevance to the specific characteristics of the zone within the area of the plan, including:

**(a) Ports:**
The National Ports Policy 2013[44] states that the sustainable development of the port sector depends to a large extent on the relationship and interaction between the sector and the planning system; locational indications regarding the specific location of future port capacity developments are incorporated within the existing planning and development hierarchy. This also needs to be reflected in any MSP system. The Policy advocates the desirability of port master-planning for all Tier 1 and 2 ports of national significance. The Policy also notes that efficient hinterland connections are critically important to any port's ability to facilitate large volumes of traffic; the interconnections between the national primary network and the commercial port network will continue to be of primary importance.

**(b) Biodiversity:**
Ireland has some 80 coastal and near-shore Special Areas of Conservation (SAC)[45]; there are also many coastal Special Protection Areas (SPA). Proposed developments which may impact on such Natura 2000 sites will generally require Appropriate Assessment in addition to a development consent, and for this reason the location of SACs and SPAs is indicated on development plan maps.

**(c) Coastal amenities:**
Development plans also indicate coastal scenic views and prospects, bathing beaches, and recreational facilities such as marinas. The leisure and tourism sector is frequently an important component of the local economy in rural areas, as are small fishery harbours, and coastal planning authorities often seek to enhance and protect such facilities and amenities in their development plans[46].

**(d) Coastal flooding and erosion:**
Planning Guidelines issued by DECLG in 2009 require planning authorities to ensure that flood risk – including coastal flooding - is integrated into the planning process, in terms of both plan policies and decisions on individual planning applications. The loss of natural coastal defences, such as sand dunes, due to erosion (or mechanical removal of sand) can increase the risk of flooding in coastal areas

While at present the functional area of coastal local authorities extends only as far as the high water mark, the recent DECLG Consultation Paper[47] stated that consideration is being given to the devolution of certain foreshore consent functions to local authorities in the context of proposed legislation.

## B. INTEGRATED COASTAL ZONE MANAGEMENT

According to the recent EU Commission proposal for a MSP Directive, ICZM is a tool for the integrated management of all policy processes affecting the coastal zone, addressing land-sea interactions of coastal activities in a coordinated way with a view to ensuring the sustainable development of coastal and marine areas. It ensures that management or development decisions are taken coherently across sectors. ICZM may be seen as complementary to, rather than an integral part of, marine spatial planning, mainly because the coastal zone has both terrestrial and marine components.

44 Dept. of Transport, Tourism and Sport, "National Ports Policy" (2013), chapter 4

45 National Biodiversity Plan 2011-2016, objective 5 ("To conserve and restore biodiversity and ecosystem services in the marine environment")

46 See, for example, the Cork County Development Plan 2009-2015, chapter 4

47 "A new planning and consent architecture for development in the marine area" (DECLG, 2013), p. 7

## EU POLICY DEVELOPMENT

During the 1990s the Commission funded a number of ICZM demonstration projects, including the Bantry Bay Charter project. A review of these projects resulted in the identification of 8 key principles for ICZM which were enshrined in a Recommendation issued by the Council and Parliament in 2002[48]:

(1) A broad overall perspective

(2) A long-term perspective

(3) Adaptive management

(4) Local specificity

(5) Working with natural processes

(6) Involving all parties concerned

(7) Support of relevant administrative bodies, and

(8) Using a combination of instruments.

## DEVELOPMENT OF ICZM IN IRELAND

Throughout the 1990s a number of ICZM initiatives emerged. In 1997 the Government published a discussion document: ***Coastal Zone Management, a Draft Policy for Ireland***[49]. Also in the late 1990s the Bantry Bay Charter project sought to involve local and national stakeholders in devising and implementing a shared vision for the sustainable development of the Bay.

In 2004 the Heritage Council published a review of ICZM and principles of best practice which had regard to the 2002 EU Recommendation. The review, carried out by the Coastal and Marine Resources Centre in UCC, examined relevant Irish and international experience, and proposed a number of measures to engage stakeholders and public bodies in the ICZM process.

In 2006 the Department of the Environment in Northern Ireland published a non-statutory ICZM strategy for the period 2006-2026, based on the EU's 2002 Recommendation:

> "The strategy forms the basis for a new approach to the management of the coastal area and will provide a useful framework for all users, planners, managers and developers in deciding how best to balance competing resource demands with environmental needs. It will also aid the development of an integrated programme of social, environmental, and economic improvements for future generations." (page 7)

The recent draft Strategic Integrated Framework Plan for the Shannon Estuary 2013-2022 is an inter-jurisdictional land and marine based framework plan to guide the future economic development and environmental management of the Estuary, which is designated as both a SAC under the Habitats Directive and as a SPA under the Birds Directive. The project is being overseen by a multi-agency steering group comprising the local authorities and development agencies in the area, together with other key stakeholders. The Strategic Framework Plan is non-statutory, but will be adopted through variations of the relevant County and City development plans.

48 Recommendation of the European Parliament and of the Council of 30 May 2002 concerning the implementation of ICZM in Europe 2002/413/EC, OJ L 148, 6.6.2002

49 Brady Shipman Martin, (1997). Coastal Zone Management, a Draft Policy for Ireland - Discussion Document. Government of Ireland, Dublin.

## TASK FORCE RECOMMENDATIONS

(37) Any proposed MSP body and coastal planning authorities should have reciprocal consultee status when preparing their spatial plans. The aim would be to ensure consistency between marine and landuse spatial plans along their common boundary.

(38) Under the Government programme for reform of local government[50], the three new regional assemblies will be given responsibility for preparing Regional Spatial and Economic Strategies, which will replace the current regional planning guidelines. Such Strategies could include coastal management strategies, which would promote consistency between adjoining coastal authorities, including consistency with any future marine spatial plans.

(39) The proposed national marine spatial plan (covering all of Ireland's marine jurisdiction) would set broad policy objectives for coastal waters, e.g. in relation to national ports and shipping channels, SACs and SPAs, offshore renewable energy, water quality (interaction between the Marine Strategy Framework Directive and the Water Framework Directive), fisheries and aquaculture, etc. ICZM strategies would be expected to adhere to such national policies. Subsequent sub-national marine spatial plans would be expected to have more detailed coastal objectives.

50 Putting People First" (DECLG, 2012), p. 89

# CHAPTER 16 CROSS-BORDER AND TRANSNATIONAL COOPERATION

## INTRODUCTION

Irish marine waters are subject to a range of international legal conventions and EU Directives, some of which mandate cooperation with other States whose jurisdiction adjoins ours. Such cooperation in relation to MSP issues could be shared between existing Departments / agencies and any new MSP body. Apart from such mandatory liaison, best practice indicates that sharing of data across common sea basins would be mutually beneficial. Finally, particular issues arise in relation to territorial seas between the Republic and Northern Ireland, such as Carlingford Lough and Lough Foyle[51].

## RELEVANT EU DIRECTIVES

- **Strategic Environmental Assessment (SEA) Directive:** This requires consultation with another Member State if implementation of a plan or programme would be likely to have transnational environmental effects. A copy of the draft plan (such as a spatial plan), together with the SEA report on the draft plan, must be sent to the relevant authorities in the Member State, and sufficient time afforded to those authorities to make a submission, should they wish to do so. When the plan is adopted following the consultation process (which also involves designated environmental authorities in Ireland and the general public), the plan-making authority must publish a report indicating how submissions were taken into account in finalising the plan.

- **Habitats and Birds Directives:** One of the main objectives of these Directives is to create a EU-wide network of protected habitats and feeding grounds (Natura 2000 sites). While statutory designation of such sites is the responsibility of the Minister for Arts, Heritage and the Gaeltacht, the MSP body could have a role in liaising with UK marine planning authorities (such as the Marine Management Organisation) in relation to spatial management measures for non-coastal sites within the Exclusive Economic Zone.

- **Marine Strategy Framework Directive (MSFD):** Article 4 requires Member States, when implementing their obligations under the Directive, to take due account of the fact that marine waters covered by their sovereignty or jurisdiction form an integral part of marine regions, such as (in our case) the North-east Atlantic Ocean and, within that marine region, subdivisions such as the Celtic Seas. Article 5.2 requires Member States sharing a marine region or subregion to ensure that implementation measures are coherent and coordinated across those shared waters. In order to achieve such coordination, Article 6 requires Member States, where practical and appropriate, to use existing regional institutional cooperation structures, such as OSPAR in the case of the North-east Atlantic.

51 Any outstanding maritime boundary issues, such as Continental Shelf or territorial seas boundaries, are the responsibility of the Department of Foreign Affairs and Trade. MSP would operate within agreed boundaries.

## PROPOSAL FOR A DIRECTIVE ON ESTABLISHING A FRAMEWORK FOR MARITIME SPATIAL PLANNING AND INTEGRATED COASTAL MANAGEMENT

In March 2013 the European Commission published a proposal for a MSP / ICZM Directive. As noted in chapter 4, there is no certainty at this stage that such a Directive would be adopted by the Council and European Parliament, or that the contents of any such Directive would follow the Commission proposals. Member States are currently negotiating the need for such a Directive and its legal basis. However, the Task Force recommends that regard should be had to the Commission's thinking with regard to the proposed Directive, in order to "future-proof" any recommended MSP framework for Ireland.

Subject to those caveats, it is worth noting those provisions of the proposal which relate to transnational cooperation. As with the MSFD, Member States, when establishing marine spatial plans and coastal management strategies, would be required to give due regard to the particular features of the marine regions and subregions involved (Article 4). Article 6 would mandate effective trans-boundary cooperation between Member States, including the identification of trans-boundary effects of spatial plans and coastal strategies. Article 12 specifies that each Member State bordering a coastal zone or maritime area of another Member State shall cooperate to ensure that plans and strategies are coherent and coordinated across the coastal zone or marine region / subregion involved. Such cooperation should in particular take into account issues of a transnational nature, such as cross-border infrastructure, and could be achieved through either:

[a] Regional institutional cooperation structures covering the coastal zone or the marine region / subregion concerned, or

[b] A dedicated network of Member States' competent authorities covering the marine region / subregion involved.

## ATLANTIC STRATEGY

The Atlantic Strategy (see chapter 4) was adopted by the European Commission in 2011 as part of its "Blue Growth" strategy; the recent Atlantic Action Plan aims to revitalise the marine and maritime economy in the Atlantic Ocean area. The Action Plan encourages Member States to work together in areas where they were previously working individually. They will now be able to share information, costs, results and best practices, including cooperation in the areas of MSP and coastal zone management.

## VOLUNTARY TRANSNATIONAL COOPERATION BETWEEN MSP AUTHORITIES

Apart from the types of mandatory coordination outlined above, voluntary cooperation between MSP authorities sharing marine waters, and between a MSP body and international bodies such as OSPAR, is likely to be mutually beneficial, particularly in terms of:

[a] Exchange of data: It clearly makes sense to "join-up" national marine atlases along shared marine boundaries, such as in the Celtic Seas. At a wider international scale, data about climate change, ocean currents, etc. is highly relevant in the preparation of marine spatial plans[52]; and

[b] Exchange of MSP best practice: A network of MSP bodies could share experience of MSP methodologies, such as consultation with stakeholders or monitoring implementation of plans.

52 Such as the EU's EMODnet marine data sharing project.

## FORA FOR MSP COOPERATION

There are various existing cooperation mechanisms, especially between Ireland and the UK, which could be built upon or adapted for MSP purposes, such as:

- The British / Irish Council[53], which already has relevant workstreams. Both Northern Ireland Executive and the Welsh Assembly Government have stated in consultation documents that they see the British-Irish Council as the main channel for liaising with Irish authorities in relation to the preparation of their national marine plans; and
- Informal but regular contacts between terrestrial spatial planning administrations in Dublin, London, Edinburgh, Cardiff and Belfast.

## CROSS-BORDER COOPERATION WITH NORTHERN IRELAND

Because Irish territorial seas immediately adjoin those of Northern Ireland – at Lough Foyle and Carlingford Lough[54] – with potential effects on coastal zone management in both jurisdictions, even closer collaboration would seem warranted with the Northern Ireland Department of the Environment (DOENI, which has responsibility for marine spatial planning[55], and which hosts the NI Inter-departmental Marine Co-ordination Group). The NI Marine Bill 2013 requires DOENI to notify "relevant authorities" – including whichever Department here will have responsibility for marine planning – of its intention to make a marine spatial plan.

DOENI also leads on Integrated Coastal Zone Management in Northern Ireland, and launched their ICZM strategy in 2006. The non-statutory strategy reflects a commitment to ensuring that coastal areas and the activities taking place within them are managed in an integrated and holistic way. The development of the Northern Ireland marine plan will aim to incorporate ICZM principles, thereby contributing to the achievement of the strategy.

## THE ISLES STUDY

The governments of Ireland, Scotland and Northern Ireland have commissioned the Irish-Scottish Links on Energy Study (ISLES) on the feasibility of creating an offshore interconnected electricity grid based on renewable sources (wind, wave and tidal). The study has been part funded by the EU's INTERREG IVA Programme, with the balance coming from the partner governments; it is led by the Scottish Government and has been overseen by a Steering Group drawn from the three jurisdictions. The British-Irish Council has been regularly updated on the study findings.

53 The British-Irish Council was established in 1998, and is made up of representatives of the Irish and British Governments, and of the devolved administrations in Northern Ireland, Scotland, Wales, the Isle of Man, Guernsey and Jersey.

54 The Loughs Agency of the North South implementation body has statutory responsibility for managing aquaculture, marine tourism and other activities.

55 The UK Marine and Coastal Access Act 2009 established DOENI as the authority responsible for the development of marine plans in the offshore region (beyond the 12 mile limit) and as the marine licensing authority for the inshore region. The Marine (Northern Ireland) Bill, which is due to be enacted shortly, includes a provision to establish DOENI as the marine plan authority for the inshore region. It is the intention of DOENI to have a single marine plan covering both the inshore and offshore regions, supplemented with local marine plans, if considered appropriate.

## TASK FORCE RECOMMENDATIONS:

(40) Any MSP system should provide mechanisms for both formal and informal liaison with MSP authorities in adjoining jurisdictions, to comply with the requirements of EU Directives, to enable comments to be made on draft marine spatial plans, and to facilitate the exchange of data and best practice experience.

(41) Particularly close liaison with the Northern Ireland Department of the Environment, which has responsibility for MSP there, is recommended.

# PART D MSP FRAMEWORK FOR IRELAND

# CHAPTER 17 RECOMMENDED MSP FRAMEWORK FOR IRELAND

## 17.0 INTRODUCTION

The Task Force's terms of reference require it to recommend an appropriate MSP framework for Ireland within which the scope and objectives of an overarching national marine spatial plan will be defined. The recommended framework set out below is based on discussions and deliberations by the Task Force, and on the relevant policy documents, presentations, and research studies considered by the Task Force since its establishment in January 2013.

## 17.1 TASK FORCE'S OVERVIEW OF MSP

The Task Force views MSP as a valuable tool for the sustainable development of Ireland's extensive marine resources. As such, it considers that any MSP framework for Ireland should:

- Be based on all three pillars of sustainable development – economic, environmental and social
- Aim at facilitating the sustainable development and management of all marine sectors and at achieving efficient and, where possible, shared use of marine spaces
- Promote early and meaningful participation by public authorities, stakeholders and the general public throughout the process of plan making and implementation. It should be based on the best available data and information on how human activities interact with each other and with the marine environment
- Reduce the regulatory burden on both current and potential users of marine space, particularly by incorporating an efficient licensing and consent system
- Reduce the administrative burden on decision makers.
- Be flexible and adaptive, and should identify opportunities for new and developing marine uses
- Have a statutory basis to ensure maximum effectiveness.

## 17.2 RATIONALE FOR ESTABLISHING A MSP FRAMEWORK

The case for establishing a MSP framework for Ireland has already been made in ***Harnessing Our Ocean Wealth*** (HOOW, page 32), in terms of good governance and coordinated cross-government action to achieve the Government's "Blue Growth" targets. Additional benefits identified by the Task Force include:

- Creating more certainty for potential applicants and for the general public by identifying and coordinating the spatial implications of marine sectoral plans and policies

- Lessening the risk of judicial challenges to proposed developments by integrating robust environmental assessment and managing potential conflicts at the plan-making stage
- Enabling Ireland to comply more effectively with its obligations under international / EU legal commitments, including any future Directive mandating the introduction of a MSP system
- Facilitating liaison with UK authorities (particularly in Northern Ireland) in coordinating marine spatial planning in our shared seas and oceans. The UK has begun the process of implementing a statutory MSP system throughout its marine jurisdiction
- Promoting the efficient and shared use of space, data and information.

## 17.3 RECOMMENDED OBJECTIVES OF AN MSP FRAMEWORK FOR IRELAND

Building on HOOW, the Task Force recommends that an MSP framework should have the following high-level objectives:

(1) It should promote the sustainable use of Ireland's extensive marine resources, by managing the spatial interaction of human activities with each other and the marine ecosystem. Robust environmental assessment of draft plans is vital in this regard.

(2) It should promote spatial coordination between all relevant marine sectoral plans and policies.

(3) It should facilitate early and meaningful participation throughout the preparation and implementation of marine spatial plans by all relevant public bodies, stakeholders, NGOs, and the general public. In particular, there needs to be a key input from coastal local authorities.

(4) It should coordinate - and where necessary integrate - Ireland's existing obligations under international / EU law, and should facilitate mutual coordination with existing and proposed UK marine spatial plans for shared seas and oceans.

(5) It should be underpinned by a streamlined licensing and consent system, with the lead licensing authority facilitating contact between the applicant and the other regulating authorities involved – the so called "front-door approach". This could, over time progress into the designated MSP body providing a "one-stop-shop" facility for applicants

(6) Implementation of marine spatial plans should be monitored to assess their effectiveness.

(7) Plans should be responsive to changing circumstances and technologies in the marine environment, and should be reviewed periodically.

## 17.4 SPATIAL EXTENT OF A NATIONAL MARINE SPATIAL PLAN

The Task Force recommends that the initial national marine spatial plan should apply to Ireland's marine waters (internal sea areas, territorial, Exclusive Economic Zone, and agreed Continental Shelf) as shown on Fig. 10.1, and should adopt a broad strategic approach which would facilitate (a) the subsequent development of more detailed sub-national plans for areas under current or foreseen pressures, and (b) spatial coordination with any proposed successor to the terrestrial National Spatial Strategy.

A window of opportunity for coordinating terrestrial and marine spatial plans at national level is likely to arise during 2014/15 when DECLG will consider proposals for a successor to the National Spatial Strategy.

## 17.5 RECOMMENDED SCOPE AND IMPLEMENTATION OF MSP

The Task Force envisages that implementation of MSP will be achieved through:

(1) Providing a plan-led, cross-sectoral, spatial policy framework which will guide both applicants and consent authorities in relation to specified marine licences and consents; and

(2) Providing an overarching and integrated national spatial marine plan with which marine sectoral plans and coastal landuse development plans can be aligned.

The Task Force, having reviewed the various options for implementing MSP as set out in chapter 6, recommends that the first step should be the preparation and adoption of statutory marine spatial plans, as this could be implemented within a reasonably short period and without major administrative changes. Ultimately, significant operational synergies could be achieved by combining forward planning and at least some marine consent processes. However, current consent and licence processes need to be reviewed and streamlined; integrating existing processes within a new plan-led system would be difficult to administer, and would not deliver efficiencies for marine users.

At the same time as the initial marine spatial plan is being prepared and adopted, existing marine consent and licensing processes should be reviewed and streamlined, building on work already carried out by DECLG in relation to foreshore consents and licences. Details of such a phased approach are outlined opposite:

**PHASE 1:**

- Government designates a lead Department to prepare MSP legalisation and (if appropriate) a body to prepare a national marine spatial plan
- Designated Department or MSP body prepares a statutory national marine spatial plan
- In parallel, parent Departments review and streamline existing consent / licence processes (see indicative timetable in chapter 18), with coordination of the review being undertaken by the Marine Coordination Group. Criteria for such a review have been proposed in chapter 14. The aims would be to:-

  Achieve greater coordination between licensing / consent authorities particularly where, under current systems, several different types of permit for a single proposed development or activity are required.

  Reduce transaction costs by reducing the number of licences and consents required,

  Reduce time required for decision making through the introduction of timeframes for decision.

- Government, or Minister of the designated lead Department, adopts the statutory national marine spatial plan (see 17.6 below)
- Marine licensing / consent authorities implement the plan through their respective marine consents and licences
- Existing sectoral plans and programmes with spatial objectives or implication are reviewed by parent Departments or Agencies to ensure consistency with the national marine spatial plan.

**PHASE 2:**

- The designated MSP body prepares a sub-national marine spatial plan for an area (or areas) where existing or foreseen:-

  Spatial demands for the use of sea space are greatest,

  Environmental pressures from activities need to be reduced

  Opportunities for sustainable development have been identified.

- During the first cycle implementation of the national marine spatial plan and following the streamlining of marine consent / licence processes, it is recommended that the Marine Coordination Group consider the benefits to be achieved from further integration of marine consenting and licensing into one consenting authority and if necessary make a recommendation to Government and/or designated MSP Minister

- If further integration is deemed necessary, consideration should be given to devolving some marine consent / licence functions to the MSP body, in order to achieve maximum synergy between the preparation / review and implementation of marine spatial plans (notably the two-way exchange of data outlined in chapter 11).

Chapter 18 provides an overview of indicative timeline for the recommended scope and implementation framework for establishing MSP in Ireland.

## 17.6 RECOMMENDED GOVERNANCE ARRANGEMENTS

The Task Force recommends that the Government should designate a lead Department to oversee the implementation of MSP, including the preparation of any necessary legislation (see 17.12, below). Following such designation, an interim project team should be established to begin the preparation of the initial marine spatial plan (see chapter 18 re next steps). That team could constitute a Division within the lead Department, or alternatively, executive responsibility for preparing marine spatial plans could be devolved to an existing State agency with access to the requisite marine data, skillsets, GIS capacity and resources. In either case, the Minister would be responsible for setting overall MSP policy and for the formal adoption (following Government agreement) of marine spatial plans.

It is essential, as recognised in HOOW, that a cross-sectoral approach should be adopted in the preparation and implementation of marine spatial plans. To this end, the Task Force recommends that the Marine Coordination Group should:

- Facilitate the introduction of the recommended MSP framework through beneficial cross-sectoral coordination, for example, by ensuring that existing national and sectoral plans and policies with spatial implications are taken into account in preparing marine spatial plans and *vice versa*

- Advise the Minister prior to publication of a consultation draft marine spatial plan, or prior to the proposed adoption of such a plan following public consultation

- Provide oversight for the coordinated implementation of marine spatial plans.

As with existing landuse spatial plans, relevant Departments and agencies should be designated as consultees in any MSP legislation, so that they can input as appropriate to the preparation and environmental assessment of draft marine spatial plans. Coastal city and county councils, whose administrative area adjoins the area of a draft

marine spatial plan, should be similarly designated. Conversely, the MSP body should be added under the Planning and Development Acts as a statutory consultee in the case of the NSS, coastal draft development plans / local area plans and of planning applications for specified forms of coastal development deemed likely to have a significant interaction with adjacent marine waters.

The MSP Division or body should be enabled to establish (a) an evidence advisory committee, and (b) a stakeholder advisory panel (see also chapter 18).

## 17.7 MSP KNOWLEDGE AND DATA

Robust, up-to-date spatial data and information is essential for the preparation and environmental assessment of marine spatial plans, and will help underpin the validity of key consent decisions based on such plans. The Task Force considers that a substantial amount of relevant spatial data has already been collected for other purposes (such as for the Marine Strategy Framework Directive); one of the primary tasks of any MSP team would be to collate and analyse such data. While it is likely that there will be some data gaps, these can be filled incrementally with the support of an evidence advisory committee and by establishing an MSP data exchange, whereby marine users can contribute additional data, subject to quality assurance criteria. In turn, MSP data should be made available to applicants preparing environmental impact statements for marine licence / consent applications. Maintaining the currency of marine spatial data and information will be an ongoing requirement, having regard to potentially significant changes in the marine environment (such as climate change) and in the scale and nature of human interactions with that environment (such as new technologies).

The Task Force considers that excellent Geographic Information System (GIS) facilities are a prerequisite for effective MSP implementation, having regard to the huge area of Ireland's marine jurisdiction, the volume of spatial data likely to be involved, and the need to analyse and present such data in map form. In particular, GIS-based mapping and analysis can facilitate greater understanding of potential synergies or conflicts between marine uses, and between users and marine ecosystems in a given area; such understanding can in turn underpin more meaningful consultation with stakeholders and the public. In addition, an accurate and current GIS system can improve communication and coordination between marine licensing and enforcement authorities thus reducing administration costs.

## 17.8 PARTICIPATION IN MSP PROCESSES

The Task Force recommends that effective participation of relevant Departments, agencies, marine sectors and stakeholders should be an integral part of any MSP framework, in order to build support and gather user data for marine spatial plans. Consultation needs to begin at the earliest possible stage in the plan preparation process, and not just when draft plans are put on public display. The form and timing of participation will depend on the various roles of those engaging in the MSP process:

- Statutory consultees will be involved (as appropriate) in setting MSP goals and objectives on the basis of existing national / sectoral plans and policies, in contributing spatial data in preparing draft plans and environmental assessments, in formally commenting on such draft plans and assessments, in implementing plans as licensing / consent authorities, and in providing monitoring data (where relevant)

- Sectoral stakeholders and NGOs will also be involved in helping to define MSP goals and objectives, in identifying potential synergies

and conflicts between marine uses, in supplying additional user and / or environmental data, and in commenting on draft plans / environmental assessments

- The general public will primarily be involved at the draft plan stage, but should be kept informed throughout the process.

The Task Force recommends that, within the limits of staff and other resources, the MSP Division or agency should take whatever steps it can to raise public awareness of MSP and to increase the capacity of stakeholders and NGOs to participate actively in plan-making and implementation.

## 17.9 LINKAGES BETWEEN MARINE AND TERRESTRIAL SPATIAL PLANNING SYSTEMS

Marine and terrestrial spatial planning systems should align with each other at the low water mark, and should be coordinated within the coastal zone, i.e. the zone of varying width on either side of the coast where activities or developments on land are influenced by the sea and *vice versa*.

As outlined in para. 17.6, the MSP body and coastal planning authorities should consult each other when draft marine or terrestrial spatial plans are being prepared, and in the case of relevant planning applications. As proposed in the recent DECLG Consultation Paper on modernising foreshore legislation, coastal development plans could include relevant development objectives, which should be consistent with any marine spatial plan for adjacent marine waters. Similarly, marine spatial plans should reflect relevant development plan objectives, such as the designation of scenic coastal landscapes, road / rail access to major ports, etc.

The Task Force also recommends that non-statutory coastal management strategies should set a long-term vision for particular stretches of coastline; such strategies could take their policy direction from relevant marine and terrestrial spatial plans. If considered appropriate, coordination could be provided by the relevant Regional Assembly; alternatively, networks of local stakeholders could be created, as in the recent case of the Strategic Integrated Framework Plan for the Shannon Estuary.

## 17.10 TRANSNATIONAL MSP COOPERATION

Northern Ireland, Wales, England, and Scotland, all of whose marine jurisdictions share a common boundary with Ireland, are each in the process of preparing statutory marine spatial plans. Marine strategies are also being prepared by Ireland and the UK Administrations under the Marine Strategy Framework Directive. The Task Force recommends that any new MSP body should develop links with the relevant MSP authorities in Northern Ireland and Britain, as a means of facilitating comments on relevant draft marine spatial plans, and as a mechanism for the exchange of MSP data, information and best practice. Networking should also be fostered with other EU Member States which have developed, or are developing, MSP systems.

## 17.11 OUTLINE OF PROPOSED MSP LEGISLATION

It is recommended that MSP should be introduced by way of primary legislation and that the MSP Bill should include the following elements:

[a] General provisions:

- Definition and overall objectives of marine spatial planning (such as the promotion of the sustainable management and development of Ireland's marine resources)

- Extent of marine waters within which marine spatial plans may be made
- International conventions / EU Directives given effect in the Bill
- Powers and duties of the Minister responsible for MSP, including an obligation to make one or more marine spatial plans and the power to delegate certain plan-preparation functions to an MSP body

[b] Marine spatial plans:

- Purposes, contents and format of marine spatial plans
- Need to have regard to relevant plans and policies (as may be specified from time to time by the Minister), including relationship with development plans of coastal city and county councils and with any marine spatial plans in adjoining jurisdictions
- Power of Minister to issue MSP policy directives and guidelines
- The statutory process of preparing national and, where necessary, sub-national marine spatial plans
- Data collation and analysis / MSP research / MSP data exchange / duty to maintain currency of MSP database
- Participation by stakeholders / designation of statutory consultees / consultation with such consultees and with the general public during plan preparation
- Formal adoption and publication of marine spatial plans
- Amendment of marine spatial plans
- Monitoring and review of marine spatial plans

[c] Environmental assessment of plans:

- Strategic Environmental Assessment of draft marine spatial plans or of proposed amendments of such plans
- Appropriate Assessment (if required) of draft marine spatial plans or of proposed amendments of such plans
- Duty of applicants to submit copies of Environmental Impact Statements and relevant monitoring data in geospatially-referenced format to the MSP body

[d] Implementation of marine spatial plans:

- Minister to specify by Regulations from time to time which marine consent / licensing decisions shall have regard to the relevant provisions of marine spatial plans
- Relevant licensing / consent authorities to have regard to such provisions in deciding whether to grant such licences or consents, unless material considerations (which shall be specified in the decisions) indicate otherwise
- Duty of such authorities to supply copies of such decisions to the MSP body, and to monitor implementation of relevant decisions to ensure compliance with the objectives of marine spatial plans, and to notify the MSP body if a material departure from the marine spatial plan is proposed
- Minister to specify by Regulations from time to time which marine sectoral spatial plans, city or county development plans, or regional planning guidelines, should have regard to the relevant provisions of marine spatial plans.

# CHAPTER 18 INDICATIVE MSP IMPLEMENTATION TIMETABLE/ NEXT STEPS

## INTRODUCTION

This report is submitted for consideration by the Marine Coordination Group (MCG). If, following such consideration, the Government decides to establish MSP on a statutory basis, legislation would need to be drafted and enacted. It is assumed that this would take about two years. In the interim, a MSP project team could be established within the public service on a non-statutory ("shadow") basis, in order to begin preparatory work on the first (national) marine spatial plan.

However, MSP extends beyond the preparation and adoption of marine spatial plans; effective implementation of such plans will not be achieved unless the current fragmented system of marine licences and consents is streamlined. Chapter 17 set out how such a review could be carried out in parallel with the timetable for the preparation and adoption of a national marine spatial plan.

- Part 1 of this chapter sets out an indicative timetable for the phased implementation of MSP and for the recommended overhaul of sectoral consents and licences;
- Part 2 proposes a series of practical steps which could be taken by the designated MSP Minister to progress implementation of plan preparation pending enactment of MSP legislation.

**1. Indicative timeline and actions required for the establishment of the proposed MSP framework, its implementation and supporting actions required**

| YEAR | ESTABLISHMENT OF MSP FRAMEWORK | MSP BODY | SUPPORTING ACTIONS OF RELEVANT DEPARTMENTS AND LICENSING AUTHORITIES |
|---|---|---|---|
| Year 1 | • Government decision to implement MSP; designation of lead Minister and (if appropriate) of an MSP body<br>• Lead Minister resources "shadow" MSP Body<br>• Lead Department drafts MSP Bill<br>• MCG establishes review of current licensing and consenting processes and, in the interim, considers the possibility of the lead consent authority operating a "front-door" facility to guide applicants where more than one consent is required | • MSP "shadow" Body recruits staff, establishes office, IT and working arrangements.<br>• Spatial implication of all relevant marine sectoral policies and plans analysed<br>• Synergies, conflicts and gaps identified and communicated to Departments<br>• Building on Ireland's Marine Atlas, MSP database and GIS established<br>• Policy, regulatory, sectoral and NGO stakeholder map prepared.<br>• Initial contact with UK and NI MSP authorities<br>• Contact with EU and OSPAR MSP networks<br>• Initiate collection of spatial use/ activity information<br>• Interaction with lead Department on MSP Bill<br>• Interact with Departments on consent streamlining as required | • All marine sectoral policies plans identified to MSP Body<br>• Policy point of contacts with MSP established<br>• Facilitate operational point of contact between relevant consenting authorities and agencies and the MSP Body<br>• Facilitate consultation point of contacts between relevant sectors, NGOs and MSP Body<br>• Drafting and enactment of proposed Maritime Area and Foreshore (Amendment) Bill<br>• Review and where necessary initiate reform and modernisation of licensing and consents (building on work already carried out by DECLG) |

| YEAR | ESTABLISHMENT OF MSP FRAMEWORK | MSP BODY | SUPPORTING ACTIONS OF RELEVANT DEPARTMENTS AND LICENSING AUTHORITIES |
|---|---|---|---|
| Year 2 | • MSP Bill introduced by lead Minister and enacted<br>• Report and recommendations on the benefits of further streamlining of licensing and consents considered | • Establish an Evidence Advisory Group, a Stakeholder Advisory Group and Statutory Consultation Group.<br>• Prepare draft report on existing spatial use/activity for consultation with Evidence, Stakeholder and Consultation Groups.<br>• Undertake Stakeholder consultation workshops on existing and projected uses<br>• Prepare draft report on future spatial demands for consultation with Evidence, Stakeholder and Consultation Groups.<br>• Prepare, consult and publish procedural and guidance documents on MSP<br>• Establish website with public feedback capabilities for communication of GIS, guidance and consultation documents. | • Input to and feedback on current and future consultation reports<br>• Input and feedback procedural and guidance reports<br>• Establish monitoring and feedback mechanisms on consenting decisions of relevance to the marine spatial plan<br>• On-going modernisation and streamlining of consenting processes where required |
| Year 3 | • MSP Division/Body established on a statutory basis<br>• Lead Minister/MCG considers preliminary draft marine spatial plan and environmental reports and lead Minister approves for publishing<br>• Consideration by the MCG of benefits for further integration of consenting and if necessary make recommendation to Government on the implementation of a "one-stop-shop" approach to marine consents.<br>• MCG considers report on need for sub-national plan and (if appropriate) agrees definition of suitable area | • Prepare preliminary draft marine spatial plan and environmental reports for consultation Evidence, Stakeholder and Consultation Groups.<br>• Finalise draft National Marine Spatial Plan and environmental reports and submit to lead Minister<br>• Publish draft National Marine Spatial Plan and environmental reports for consultation.<br>• Undertake transnational consultation on draft National Marine Spatial Plan and environmental reports.<br>• Consider need for sub-national marine spatial plan and identify relevant area<br>• Preliminary work begins on first sub-national marine spatial plan (subject to agreement of MCG) | • Feedback on draft National Marine Spatial Plan and environmental reports<br>• Prepare draft consents monitoring report on the basis of draft National Marine Spatial Plan.<br>• On-going modernisation and streamlining of consenting processes where required |

| YEAR | ESTABLISHMENT OF MSP FRAMEWORK | MSP BODY | SUPPORTING ACTIONS OF RELEVANT DEPARTMENTS AND LICENSING AUTHORITIES |
|---|---|---|---|
| Year 4 | • Lead Minister/ MCG considers National Marine Spatial Plan and Environmental reports and lead Minister approves final Plan for adoption by Minister/ Government<br>• First National Marine Spatial Plan adopted | • Finalise National Marine Spatial Plan and Environmental Reports and submit to lead Minister<br>• Prepare draft report on existing spatial use/activity within area of sub-national plan for consultation with Evidence, Stakeholder and Consultation Groups.<br>• Undertake Stakeholder consultation workshops on existing and projected uses<br>• Prepare draft report on future spatial demands for consultation with Evidence, Stakeholder and Consultation Groups. | |
| Year 5 | • Consideration by the MCG of benefits for further integration of consenting including the possible transfer of certain consents to MSP Body and if necessary make recommendation to Government | • Draft sub-national marine spatial plan and environmental report(s) published for consultation, including consultation with any relevant transnational authorities | • Implementation of National Marine Spatial Plan in consenting decisions<br>• Ensure new and existing sectoral policies and plans and consistent with National Marine Spatial Plan<br>• Ongoing monitoring and reporting on consents on the basis of National Marine Spatial Plan |
| Year 6 | Lead Minister/ MCG considers sub-National Marine Spatial Plan and Environmental reports and lead Minister approves final Plan for adoption by Minister/ Government<br>First sub-National Marine Spatial Plan adopted | Finalise sub-National Marine Spatial Plan and Environmental Reports and submit to MCG / Minister | |
| Year 7 onw-ards | | Review (say after 6 years for the first possibly 10 years for subsequent) the National Marine Spatial Plan<br>Review sub-national Marine Spatial Plans on a 6 year cycle. | Implementation of sub-national Marine Spatial Plan commences<br>Ongoing monitoring and reporting on consents on the basis of National and sub-national Marine Spatial Plan |

**Indicative Timeline for Implementing Marine Spatial Planning in Ireland**

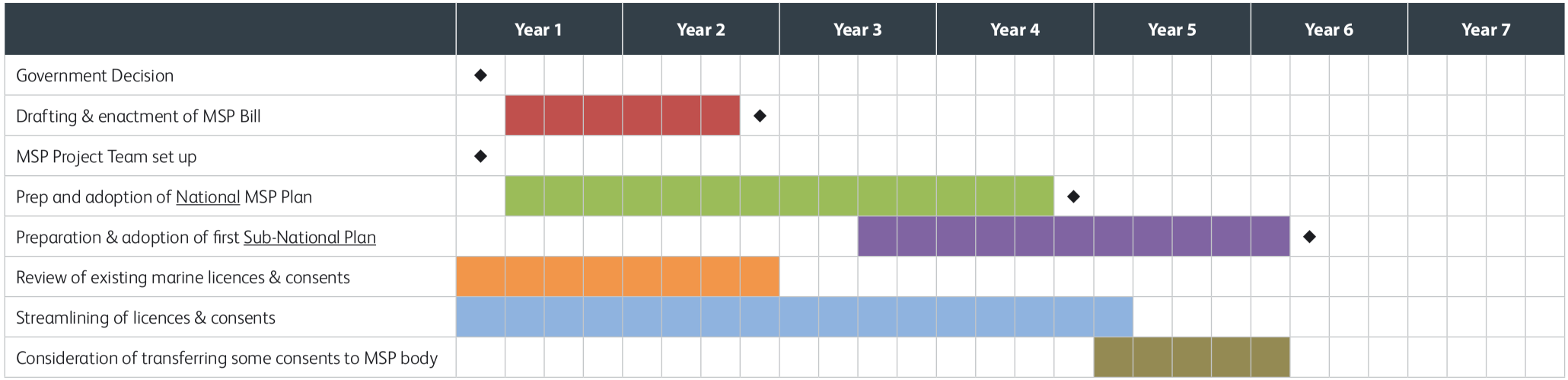



FIG. 18.1 INDICATIVE TIMELINE FOR MSP IMPLEMENTATION

**Indicative Timeline for Preparation of National Marine Spatial Plan**

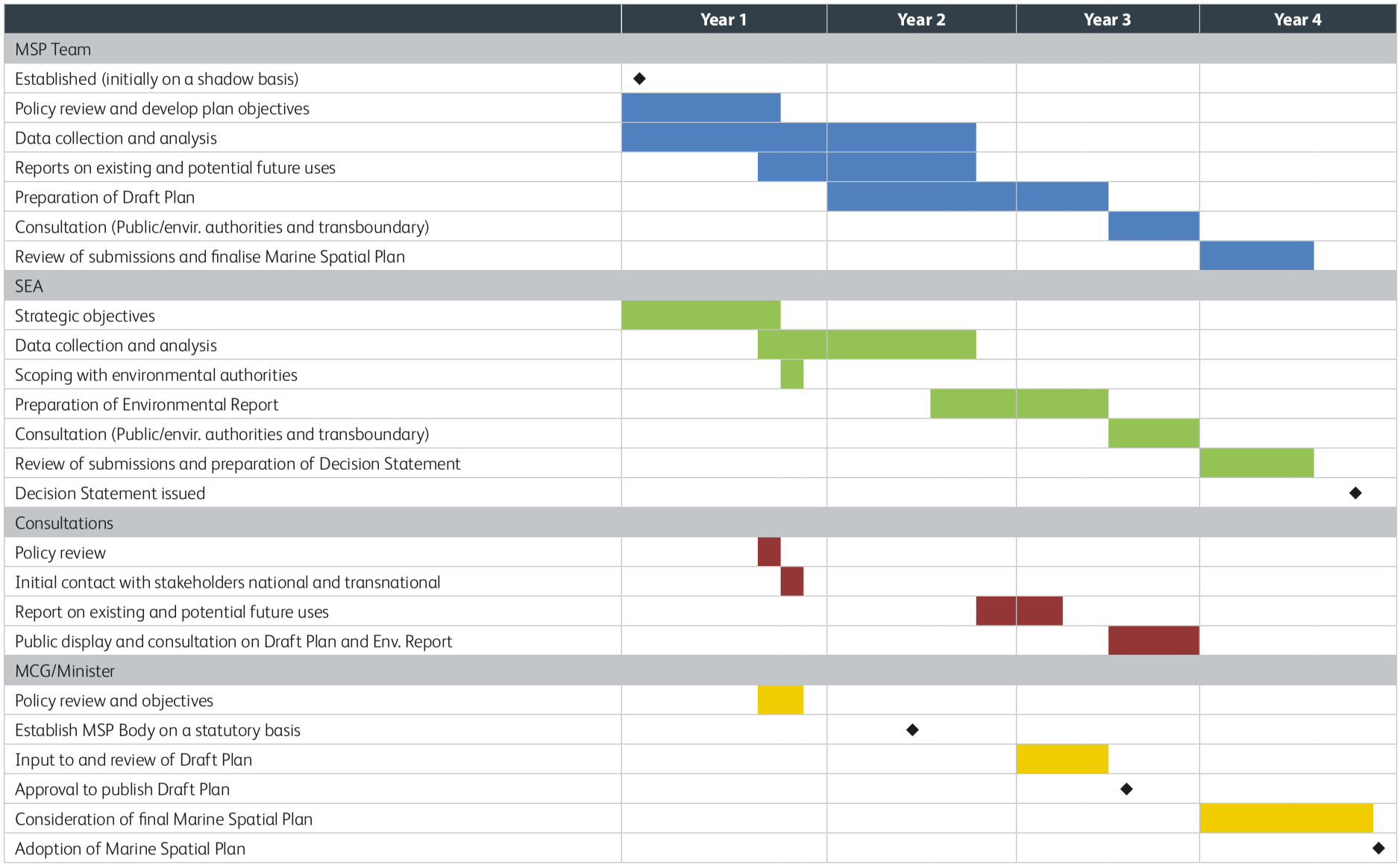



FIG. 18.2 INDICATIVE TIMELINE FOR THE PREPARATION OF A NATIONAL MARINE SPATIAL PLAN

**2. Next steps**

(1) MSP project team: Following the designation by Government of a lead MSP Department / agency, a team director and a multi-disciplinary project team, broadly reflecting the composition recommended in chapter 12, should be appointed prior to the drafting and enactment of any MSP legislation. Appointments should be made on a full-time basis, or by secondment provided that appropriately skilled staff are available. The team should operate within, or, for the purposes of its MSP function, under the aegis of, the lead MSP Department; the Marine Coordination Group should act as a steering committee. It is essential that the team should have full access to appropriately-scaled GIS facilities and to all relevant spatial data held by public authorities. Liaison should be maintained with DECLG in relation to possible synergies resulting from implementation of the Marine Strategy Framework Directive.

(2) Evidence Advisory Committee: A committee should be formed, comprising appropriately qualified specialists from (i) Departments and agencies, (ii) related 3rd level / research institutions, and (iii) any major stakeholders / NGOs holding relevant data. Their role would be to advise the project team (and any subsequent MSP body) on the adequacy of existing spatial data, on prioritising any significant data gaps, and on how such gaps might best be filled.

(3) Stakeholders Advisory Panel: Following stakeholder analysis (see chapter 9), the team should identify major stakeholder representative groups and NGOs, and invite them to nominate members to serve on a MSP advisory panel. This panel would not displace the need for one-to-one consultation with such groups or NGOs, but could serve as an initial "sounding-board" and as a forum where potentially conflicting marine uses / objectives might be resolved through discussion.

(4) Transnational cooperation: The team should establish informal contacts with their opposite numbers in Northern Ireland and Britain, with a view to sharing data, expertise and best practice. It may be possible to develop a network with regular meetings (reflecting current practice in terrestrial spatial planning). Contact should also be established with other European MSP authorities as appropriate.

# ANNEX A: GLOSSARY OF ACRONYMS AND TECHNICAL TERMS

| | |
|---|---|
| CMRC: | Coastal and Marine Research Centre, Cork |
| DCENR: | Department of Communications, Energy and Natural Resources |
| DECLG: | Department of the Environment, Community and Local Government |
| DOENI: | Department of the Environment, Northern Ireland |
| Ecosystem: | A dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit (Article 2 of the Convention on Biological Diversity). The ecosystem-based approach to the management of the marine environment aims to ensure that the collective pressures of human activities do not exceed levels that compromise the capacity of ecosystems to respond |
| EEZ: | Exclusive Economic Zone |
| EMODnet: | The European Marine Observation and Data Network |
| EU-IMP: | European Union Integrated Maritime Policy (2007) |
| GES: | Good Environmental Status, as defined in the Marine Strategy Framework Directive (2008) |
| GIS: | Geographic Information System. GIS integrates hardware, software, and data for capturing, managing, analysing, and displaying all forms of geographically referenced information. |
| HOOW: | *Harnessing Our Ocean Wealth: An Integrated Marine Plan for Ireland* (Government, 2012) |
| ICZM: | Integrated coastal zone management |
| IMERC: | Irish Maritime and Energy Resource Cluster |
| IMO: | International Maritime Organisation |
| INFOMAR: | Integrated Mapping for the Sustainable Development of Ireland's Marine Resource (Geological Survey of Ireland / Marine Institute) |
| INSPIRE: | EU Directive on Infrastructure for Spatial Information in Europe |
| MCG: | Marine Coordination Group |
| MMO: | Marine Management Organisation (UK) |
| MSFD: | Marine Strategy Framework Directive 2008 (EU Directive 2008/56/EC) |
| MS-LOT: | Marine Scotland's Licensing Operations Team |
| MSP: | Marine spatial planning |
| NGO: | Non-governmental organisation |
| NSS: | National Spatial Strategy 2002-2020 |
| OREDP: | Offshore Renewable Energy Development Plan (DCENR, forthcoming) |
| OSPAR: | The OSPAR Convention is the current legal instrument guiding international cooperation on the protection of the marine environment of the North-East Atlantic |
| SAC: | Special Area of Conservation (under the Habitats Directive) |
| SEA: | Strategic Environmental Assessment of plans and programmes (under EU Directive 2001/42/EC) |
| SEMRU: | Socio-Economic Research Unit, NUI Galway |
| SPA: | Special Protection Area (under the Birds Directive) |
| UNCLOS: | UN Convention on the Law of the Sea |

# ANNEX B: INFORMING ANY PROPOSED IRISH MSP FRAMEWORK IN THE LIGHT OF THE PROPOSAL FOR A MSP FRAMEWORK DIRECTIVE

There is no certainty that the Commission proposal for a MSP Framework Directive (March 2013) will be adopted by the European Council and Parliament, or that the proposed text will remain unchanged in all material respects. However, the Task Force considers it helpful to accept the proposed Directive as a clear indication of the Commission's thinking with regard to MSP, and recommends that the development of any MSP framework for Ireland should be informed by the main provisions of the proposed Directive, as they are negotiated over the coming years.

| Criteria (as of March 2013) | Article |
|---|---|
| Ireland shall establish and implement a maritime spatial plan or plans and an integrated coastal management strategy or strategies. They may be prepared in separate documents. | 4.1 |
| Maritime spatial plans and integrated coastal management strategies shall apply an ecosystem-based approach to facilitate the co-existence and prevent conflicts between competing sector activities in marine waters and coastal zones, and shall aim to contribute to:<br>(a) securing the energy supply of the EU by promoting the development of marine energy sources, the development of new and renewable forms of energy, the interconnection of energy networks, and energy efficiency;<br>(b) promoting the development of maritime transport and providing efficient and cost effective shipping routes across Europe, including port accessibility and transport safety;<br>(c) fostering the sustainable development and growth of the fisheries and aquaculture sector, including employment in fisheries and connected sectors;<br>(d) ensuring the preservation, protection and improvement of the environment as well as the prudent and rational use of natural resources, notably in order to achieve good environmental status, halt the loss of biodiversity and degradation of ecosystem services and reduce marine pollution risks;<br>(e) ensuring climate resilient coastal and marine areas. | 5 |
| Maritime spatial plans and integrated coastal management strategies shall establish operational steps to achieve the objectives as set out in Article 5. | 6.1 |
| In doing so, the plans and strategies shall ensure effective trans-boundary cooperation between Member States, and between national authorities and stakeholders of the relevant sector policies. | 6.2 |
| Maritime spatial plans and integrated coastal management strategies shall be reviewed at least every 6 years. | 6.3 |
| Maritime spatial plans shall contain at least a mapping of marine waters which identifies the actual and potential spatial and temporal distribution of all relevant maritime activities in order to achieve the objectives as set out in Article 5. | 7.1 |

| Criteria (as of March 2013) | Article |
|---|---|
| When establishing maritime spatial plans, Ireland shall take into consideration, at least, the following activities:<br>(a) installations for the extraction of energy and the production of renewable energy;<br>(b) oil and gas extraction sites and infrastructures;<br>(c) maritime transport routes;<br>(d) submarine cable and pipeline routes;<br>(e) fishing areas;<br>(f) sea farming sites;<br>(g) nature conservation sites. | 7.2 |
| Integrated coastal management strategies shall contain at least, an inventory of existing measures applied in coastal zones and an analysis of the need for additional actions in order to achieve the objectives set out in Article 5. The strategies shall provide for integrated and cross-sectoral policy implementation and consider interactions between terrestrial and maritime activities. | 8.1 |
| Ireland shall establish means for the public participation of all interested parties at an early stage in the development of maritime spatial plans and integrated coastal management strategies. | 9.1 |
| Public participation shall ensure that the relevant stakeholders and authorities and the public concerned are consulted on the draft plans and strategies and have access to the results once available. | 9.2 |
| Ireland shall organise the collection of the best available data and the exchange of information necessary for maritime spatial plans and integrated coastal management strategies. | 10.1 |
| Maritime spatial plans and integrated coastal management strategies are subject to the provisions of the Strategic Environmental Assessment Directive (2001/42/EC). | 11 |
| Ireland, where bordering a coastal zone or maritime area of another Member State (UK and France) shall cooperate to ensure that maritime spatial plans and integrated coastal management strategies are coherent and coordinated across the coastal zone or marine region and/or sub-region concerned. Such cooperation shall in particular take into account issues of a transnational nature, such as cross-border infrastructure. | 12.1 |
| Ireland shall designate for each coastal zone and marine region or subregion concerned, the authority or authorities competent for the implementation of this Directive, including cooperation with other Member States. | 14.1 |
| Ireland shall bring into force the laws, regulations and administrative provisions necessary to comply with the Directive within 18 months after its entry into force. The text of such provisions shall be communicated to the Commission. | 18.1 |
| The maritime spatial plans and integrated coastal management strategies referred to in Article 4(1) shall be established within a period of 36 months after the entry into force of this Directive. | 18.4 |

# ANNEX C: SUMMARY OF THE EVALUATION OF INTERNATIONAL MSP BEST PRACTICE CASE STUDIES (CHAPTER 7)

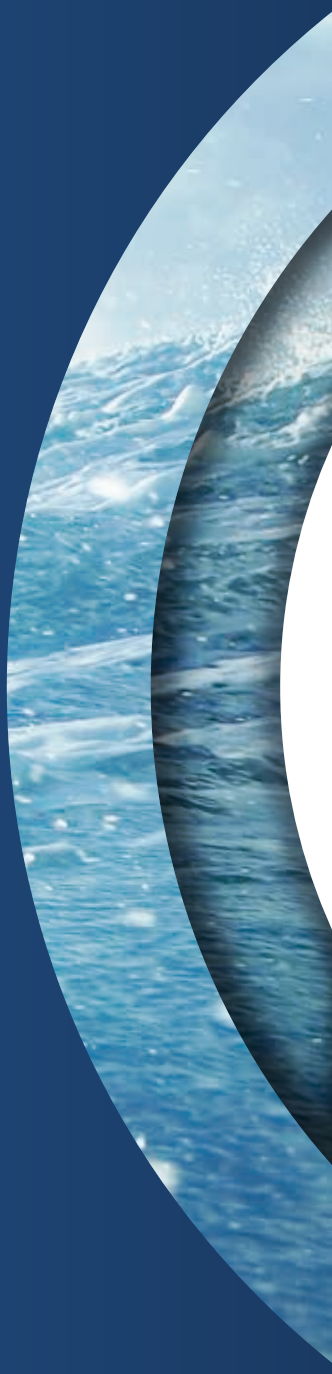
| Evaluation criteria | ESSIM (Canada) | BaltSea pilot project |
|---|---|---|
| Ecosystem-based approach and environmental assessment | Management plan focused on ensuring that human activity does not adversely affect biodiversity, ecosystem productivity, or marine environmental quality. However, a recent review found that this would require lead agencies to develop ecosystem-based work practices and spatial rather than sectoral implementation strategies | While an ecosystem approach was a core principle, no guidance was provided on ecosystem-based decision-making. However, the project contained some useful lessons relating to MSP and environmental assessment, such as linking with Marine Strategy Framework Directive descriptors |
| Setting objectives and scope of plans | Many of the plan strategies are very general, and contain no information about the actions that are to be taken by the lead agencies | Project sought to analyse existing national / regional policy documents to find out (i) the extent to which the implementation of the objectives of a policy would influence the use of sea space, and (ii) the likelihood of their implementation |
| Governance, Legislative and Political Issues | Canada's Oceans Action Plan 2005 has not progressed beyond phase 1. Oceans Action Plan 2005 has not progressed beyond phase 1. [See also under 7 below for political issues] | N/A [pilot project only] |
| Implementation, Enforcement & Review | Action plans are left to various marine sectors, with little or no coordination. Only 2 sectoral plans have been developed | Ditto |
| Stakeholder Participation | While a collaborative planning governance model was developed for ESSIM, consensus-based decision-making greatly prolonged the planning process and led to rather general planning objectives | Stakeholders actively participated in the development of solutions. Stakeholder analysis was used to identify their interests and expectations; the information was presented in a stakeholder matrix |
| Data, Tools (including zoning) & Resources | A significant amount of scientific research and assessment work was undertaken to support ESSIM. Stakeholders found discursive reports particularly valuable in helping to structure the planning process | Spatially relevant data was not always readily available.<br>Conflict matrices were developed in most pilot areas.<br>Zoning (ranging from priority areas to open use areas) was central to the draft plans produced |
| Boundary and Scale Issues | Spatial boundaries were based on a combination of administrative and ecological considerations, but petroleum was subject to 2 separate management processes in an overlap area which created implementation issues. This issue was not satisfactorily resolved before the development of the ESSIM Plan, with the result that the Minster of Fisheries and Oceans refused to endorse it.<br>ESSIM is not formally integrated with any adjoining terrestrial plans. | Had this not been a pilot project, conflicting EEZ claims could have posed significant challenges for implementation of marine plans |

| Evaluation criteria | German North Sea EEZ plan | Great Barrier Reef Marine Park zoning plan |
|---|---|---|
| Ecosystem-based approach and environmental assessment | Plan was not based on a detailed assessment of environmental and ecological conditions in the area, although a Strategic Environmental Assessment was carried out | There was a shift towards an ecosystem approach in 1998; strategies included building public and political support for such an approach |
| Setting objectives and scope of plans | The plan was principally motivated by the need to manage key sectors such as wind farm development and maritime shipping. It is relatively weak in terms of sectoral integration | The objectives cover all allowable uses in the Marine Park, together with policy objectives such as conservation |
| Governance, Legislative and Political Issues | MSP in Germany is based on extending terrestrial planning legislation to the marine environment. The 2004 amendment to the Federal Spatial Planning Act, charges the ministry responsible for planning with the development of spatial plans setting out objectives and principles for Germany EEZs. | Overall objectives are derived from the Great Barrier Reef Act 1975.<br>Ministerial Council includes Ministers from Australian and Queensland governments.<br>Statutory zoning plan is prepared by the Marine Park Authority |
| Implementation, Enforcement & Review | Implementation is achieved primarily through the licensing / permitting process. There is no explicit reference to enforcement or review | Spatial management is based on 8 zones, with buffering around the more restrictive zones. In addition, Special Management Plans supplement the zoning plan in high use areas such as Cairns.<br>However, UNESCO has criticised the lack of a long-term management plan for the World Heritage site |
| Stakeholder Participation | Consultation was mainly limited to other Federal agencies and offering the public an opportunity to comment on the draft plan | There was extensive informal and formal consultation. However, almost 32,000 written submissions required 18 staff to analyse them! |
| Data, Tools (including zoning) & Resources | Primarily based on a zoning approach which designates areas in which defined uses are given favourable treatment (such as priority in reservation areas) | GIS-based spatial analysis tools were vital in the systematic integration of data and values |
| Boundary and Scale Issues | (No issues arose) | (No issues arose) |

| Evaluation criteria | Norwegian plan for the Barents Sea – Lofoten area | Clyde and Shetland Pilot Plans (Scotland) |
|---|---|---|
| Ecosystem-based approach and environmental assessment | Research institutes were involved in building up a detailed picture of the environment, resources, economic activities, etc. in the plan area. The assessment also provided 3 scenarios of the impact of such activities in 2020 | Little or no evidence that an ecosystem approach was adopted in the Clyde plan, whereas the Shetland plan placed great emphasis on the ecosystem and developed a suite of policies to manage pressures on the ecosystem. The sensitivity matrix in the plan was a first step in determining potential impacts between human activities and important species and habitats around Shetland. |
| Setting objectives and scope of plans | Two main objectives: 1) co-existence of the different sectors and the promotion of economic value creation; and 2) maintaining the ecosystem. More precise management goals were developed, particularly regulating the petroleum industry | The Clyde plan contained largely aspirational policies with no operational strategies or action plans, with little sectoral integration. The objectives of the Shetland plan aimed at guiding all marine users, planners and regulators |
| Governance, Legislative and Political Issues | Planning process was led by a Ministerial steering group. | Both plans were pilots, with no legislative underpinning, although the Shetland plan will form Supplementary Guidance under the statutory Local Development Plan |
| Implementation, Enforcement & Review | The plan is implemented under existing sectoral legislation, such as the Petroleum Act. Monitoring data from a variety of institutions is integrated so that it can be used for management decisions | [Not applicable in the case of pilot plans] |
| Stakeholder Participation | Limited to consultation on draft documents | The Clyde pilot plan sought to explore a voluntary stakeholder – regulator partnership. The objectives for the Shetland plan were also developed by local stakeholder groups. |
| Data, Tools (including zoning) & Resources | The Barents Sea is one of the most intensively studied sea areas in the world. One of the management tools is the routing of ships to minimise the risk of tanker accidents | The Shetland plan produced a marine atlas depicting current activities of the various marine sectors within the planning area, and also mapped areas of constraints relating to wave and tidal energy. |
| Boundary and Scale Issues | (No issues arose) | (No issues arose) |

| **Evaluation criteria** | UK marine planning[58] | **The Netherlands** |
|---|---|---|
| Ecosystem-based approach and environmental assessment | All UK marine plans are required to undergo Sustainability Appraisal (incorporating Strategic Environmental Assessment). | Several research institutes have systematically gathered data on all species in the North Sra, which has been used to demarcate areas containing special ecological features and for spatial management purposes. |
| Setting objectives and scope of plans | The UK-wide Marine Policy Statement sets the high-level policy objectives for marine plans in each jurisdiction. | The plan is guided by reference to an overall terrestrial / marine national *Spatial Planning Policy Document.* |
| Governance, Legislative and Political Issues | The Marine Management Organisation is an executive agency under the Marine and Coastal Access Act 2009, with responsibility for plan preparation and most marine licensing in English waters. | Planning within the territorial sea is a shared responsibility of municipal, provincial and national authorities. For the EEZ, sectoral interests and marine environmental protection are taken up by the national government. Since 1998, the Interdepartmental Directors' Consultative Committee North Sea serves as coordinating body and is the main player in MSP. |
| Implementation, Enforcement & Review | Plans will interpret and present the policies of the MPS at a sub-national level. The Marine and Coastal Access Act requires all public authorities taking, permitting or enforcing decisions that affect or might affect the UK marine area to do so in accordance with the MPS and marine plans "unless relevant considerations indicate otherwise". Where a decision is not taken in accordance with the MPS and marine plans the public authority must state its reasons.<br>A review of marine plans must be taken every 3 years, which should focus on the effectiveness of marine plan in achieving its objectives and the MPS objectives. | The plan is primarily implemented through the permitting process. The plan contains a number of recommendations to streamline the permitting process. For example, there should be a single point of contact for each usage function where all the required permits can be arranged because some activities require more than one permit.<br>The North Sea Office will be expanded to include up-to-date information about procedures, permits and permitting conditions. This information will also improve enforcement effectiveness because it will give North Sea enforcement agencies a better idea of what is going on (including in other departments). |
| Stakeholder Participation | A Statement of Public Participation is required under the 2009 Act. This document sets out how and when people can become involved in marine planning within the plan areas. | Stakeholder participation included documents being sent out for public comment and a number of public meetings. |
| Data, Tools (including zoning) & Resources | A wealth of ecological and socio-economic data has been collected to inform MSP. | Different spatial designations were determined based on past usage and for their ability to meet the planning objectives. Opportunity maps for two key sectors, mineral extraction and wind energy, also were developed. The maps show the locations that have the most potential within the established parameters of policy. |
| Boundary and Scale Issues | In England and Scotland, methodologies have been developed to identify sub-national planning areas. | (No issues arose) |

58 See also chapter 5 for further details of the MSP system in the UK.



## OUR VISION

*Our ocean wealth will be a key element of our economic recovery and sustainable growth, generating benefits for all our citizens, supported by coherent policy, planning and regulation, and managed in an integrated manner.*

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