

Marine Spatial Planning Stakeholder Advisory Group

Report of First Meeting held 20th March 2018

Attendance List Attached

1. Welcome and Introduction

Minister Damien English welcomed members to the first meeting of the Group and briefly introduced the concept of marine spatial planning, the role of the Department of Housing, Planning and Local Government as competent authority under the MSP Directive, the contribution of the Marine Institute in terms of technical and scientific input and the role of the Advisory Group in the MSP process.

2. Roadmap and Workplan

Philip Nugent outlined the MSP roadmap published in December 2017 and the workplan leading to adoption of the Ireland's first marine spatial plan by end 2020.

3. Terms of Reference

Members proposed two amendments, one concerning the Role of the Group and one concerning the Responsibilities of the Group.

Action Required: DHPLG will redraft and recirculate to the Group for sign-off by email procedure.

4. Open Discussion

During the open discussion a number of common themes were commented on by multiple members of the Group.

Multiple Uses in the Same Space

A number of members commented on the challenges likely to arise for the MSP process from multiple uses and activities taking place in the same sea space. Various approaches to zoning/zonation were discussed. A number of members commented that activities occurring in the same space are not always necessarily

mutually exclusive. Depending on a range of factors opportunities may exist for multiple non-competing uses in the same area. Some activities and uses may also be co-dependent or symbiotic.

DHPLG does not have a predetermined view on the matter. The MSP process will involve a detailed analysis of all uses and activities, both those currently taking place and those proposed in the future. Resolution of conflicts that may arise is an important objective of the planning process and will probably require the development of a range of different context-specific solutions depending on circumstances.

Legislative Basis for MSP

In response to requests from members DHPLG clarified that Ireland transposed the MSP Directive through the European Union (Framework for Maritime Spatial Planning) Regulations 2016 (S.I. 352 of 2016), signed into law on 29th June 2016. Transposition was effected by regulation at this time to comply with the Directive requirement to transpose the Directive and designate a national competent authority by the deadline of 18th September 2016.

DHPLG intends to provide for a primary legislative underpinning for MSP to mirror the new provisions for the National Planning Framework currently set out in the Planning and Development (Amendment) Bill 2016. Work is well underway to introduce new legislative arrangements for the plan-making process including governance, public participation, review and Oireachtas involvement in the approval of marine spatial plans. The provisions broadly mirror the planned new arrangements for the National Planning Framework.

Action Required: DHPLG will circulate the text of SI 352/2016 and a link to the regulations on <http://www.irishstatutebook.ie/eli/2016/si/352/> .

Mean High Water Mark

In response to a number of queries, DHPLG clarified that reference is made to the mean or ordinary high water mark in the definition of the foreshore contained in the Foreshore Act 1933. HWM delimits the inner or landward boundary of the foreshore. HWM was chosen as the boundary between the terrestrial and marine planning systems for a number of reasons. It is the maritime boundary of the functional area of Local Authorities¹ and is thus the seaward limit of the terrestrial planning system. It is also an appropriate landward limit of the marine planning jurisdiction as it defines the boundary of the State's jurisdiction over the foreshore and marine waters.

¹ Section 227 of the Local Government Act 2001

Action Required: DHPLG will circulate a link to the [relevant definition contained in the Foreshore Act 1933](#) (link is to an administrative consolidation of the Foreshore Act 1933, as amended, carried out by the Law Reform Commission – see definition of “foreshore” at Pages 8-9).

Marine Spatial Plan Adoption

DHPLG clarified that, in accordance with the foregoing primary legislation being developed, the effective date on which it will become a legal obligation to comply with the requirements of the marine spatial plan will be the date on which it is approved and adopted by the Oireachtas. Until then there is in effect no plan in place to comply with. For future iterations of the planning process and review of plans the current version of the marine spatial plan in place at any given time will remain operative until such time as a new plan is adopted to replace it.

Marine Consenting before Plan Adoption

The view was expressed by a number of members that, during the plan-making period in the lead-up to the adoption of the first plan in late 2020, marine consenting processes should continue to operate as normal. In particular, there was concern that the determination of consenting processes already in progress should not be delayed in anticipation of the plan being adopted.

As stated by DHPLG in its roadmap, maritime spatial plans will not replace or remove existing regulatory regimes or legislative requirements governing the operation of various marine sectoral activities. Rather MSP will provide an overarching framework for their continued operation. As part of their decision-making processes public bodies involved in consenting for marine development and activities will become obliged to take into account the objectives of plans, when adopted. However, decisions on applications for consent should not be delayed in anticipation of plans being adopted for the first time.

Action Required: DHPLG will write formally to consenting authorities to clarify the status of MSP and its bearing on cases currently in the system or submitted for consideration prior to the adoption by the Oireachtas of Ireland’s MSP, as envisaged, in 2020. This clarification will confirm that until a plan has been developed, adopted and is in place, cases before consenting authorities should be dealt with on the basis of the current position, according to currently applicable sectoral plans.

BREXIT Implications for Transboundary Cooperation

Some members were concerned that BREXIT may negatively impact on Ireland’s efforts to fulfil the transboundary cooperation obligations of the MSP Directive and on the implementation of MSP in Lough Foyle and Carlingford Lough.

As DHPLG understands the current position, during the transition phase of BREXIT the UK will continue to comply with the requirements of EU law, presumably including the MSP Directive and therefore meaning that they will remain under a legal obligation to cooperate with neighbouring Member States on MSP. The position to apply after the transition period will only be known at the conclusion of the negotiations.

It may be noted, however, that the UK began implementing MSP in 2009, long before it became a requirement of EU law in 2014. It could be presumed, therefore, that the UK will continue to implement MSP after BREXIT.

Furthermore, DHPLG enjoys excellent administrative relationships with all 4 of the UK marine planning bodies, as evidenced by the presence of Marine Scotland at this first meeting of the Advisory Group. DHPLG has initiated plans to solidify these arrangements by establishing a group of representatives from all 5 MSP bodies from Ireland and the UK that will meet on a regular basis to discuss marine matters of mutual interest.

Resolution of jurisdictional uncertainty in Lough Foyle and Carlingford Lough is part of a package of measures that are the subject of ongoing negotiations between the Irish and UK governments, which are led by the Department of Foreign Affairs and Trade on the Irish side.

Marine Protected Areas (MPAs)

Some members queried how MSP will interact with legal obligations to establish a network of MPAs.

DHPLG is the competent authority for implementation of the Marine Strategy Framework Directive (MSFD) and thus has lead responsibility for the creation of MPAs as required by that Directive. It plans to establish the legal basis for identifying and creating MPAs in provisions to be contained in the Maritime Area and Foreshore (Amendment) Bill. The exercise of its legal powers and obligations to create MPAs will involve a process of engagement with all interested stakeholders that will run separately and in parallel to MSP.

Urgency, Clarity of Process, Importance of Stakeholder Participation and Integration with Terrestrial Planning

A number of members spoke to:

- the need to proceed with urgency and clarity of purpose to achieve the ambitious objectives of the Roadmap;

- the importance of participation by all stakeholders in the process and recognition of the opportunity it presents for coastal communities at the local level;
- the willingness and desire for involvement and engagement on the part of Local Authorities and Regional Assemblies, and integration with terrestrial planning processes.

DHPLG is very mindful of these issues and has already achieved a number of objectives set for itself in the Roadmap, such as establishing the Interdepartmental MSP Group and the Advisory Group. It is committed to clearly communicating to the Group in advance of further meetings those issues on which it is asking for advice.

Stakeholder participation at all levels is a key objective of the process, particularly by coastal communities. The first of a series of town-hall events aimed at engaging with a broad range of stakeholders in coastal communities is scheduled to take place in Kilmore Quay on 27th March at 19:30.

Involvement of Local Authorities and Regional Assemblies, and integration with terrestrial planning processes, is a key objective. For this reason local government is represented on both the Interdepartmental MSP Group and the Advisory Group. The National Planning Framework contains a strong reference to the importance of the marine sector and the importance of integration with MSP processes. MSP will similarly recognise the importance of land-sea interactions and integration with terrestrial planning processes.

Role of Marine Institute

Members requested and it was agreed by DHPLG that a future meeting would involve a presentation by the Marine Institute on its role in providing scientific and technical support to DHPLG on MSP.

5. MSP in Scotland

David Pratt, Head of Planning and Strategy with Marine Scotland made a very interesting and informative presentation on the evolution of marine planning in Scotland.

Action Required: DHPLG will circulate the presentation to members.

6. AOB

- **Action Required: In response to requests from members DHPLG will circulate to members links to the following:**

- [Ireland's Marine Atlas](#)
 - [Ireland's Marine Renewable Energy Portal](#)
 - [Multiple Use in European Seas Project \(MUSES\)](#)
- The next meetings of the Group are scheduled for Wednesday 13th June 11:00 – 13:00 and Wednesday 19th September 10:30 – 12:30.