General Scheme of the Marine Planning and Development Management (MPDM) Bill

Frequently Asked Questions

Prepared by the Department of Housing, Planning and Local Government and the Department of Communications, Climate Action and Environment
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Introduction
The General Scheme of the Marine Planning and Development Management (MPDM) Bill approved by Government in December 2019 sets out the broad narrative of a new regime for the management of development and activities in Ireland’s Maritime Area. The proposed MPDM Bill is the most significant piece of Irish Maritime management legislation since the Foreshore Act was enacted in 1933 and, in the context of the National Marine Planning Framework, will fundamentally transform how Ireland manages its marine space.

This new regime will replace the existing State and development consent regimes and streamline arrangements on the basis of a single consent principle i.e. one state consent (Maritime Area Consent) to enable occupation of the Maritime Area and one development consent (planning permission), with a single environmental assessment. It provides reinforced provisions for forward planning under the National Marine Planning Framework and new powers and provisions in relation to enforcement and compliance.

The legislation proposed is broad in scope, detailed, and in parts technically complex. The purpose of this document is to explain:

- what is included in the General Scheme;
- how the new regime is intended to operate;
- key concepts;
- changes to the planning regime; and
- transitional matters.

This document is structured in an FAQ format.

Disclaimer
The information contained in this document and in all other documents produced as part of the development of the draft MPDM Bill (including the copy of the General Scheme) is intended for general indicative information purposes only.

All the processes, diagrams, and maps outlined in these documents are provided purely for illustrative purposes and are liable to significant change before enactment and through secondary legislation. As such, the information provided should not be relied on for either current or future consent applications or in relation to any activities in the maritime area.
How does the MPDM fit into the wider marine reform process?

The MPDM is one piece in a broader process of marine management reform. This legislation is intended to provide the legislative underpinning for that process where it is necessary\(^1\). It deals specifically with the statutory powers and provisions required to put in place various elements of the new regime. The constituent parts of that reform include:

- Forward Planning through the National Marine Planning Framework. This will provide the context in which consent decisions will be made in future. It is the “plan” in “plan led”. [Link to NMPF webpage](#).
- A new State consent regime covering the full extent of the Maritime Area. This will replace current Foreshore regime which is limited to the territorial seas.
- Augmenting the terrestrial planning permission regime for coastal development with additional marine considerations.
- A new development consent (planning permission) regime for offshore development (such as Offshore Renewable Energy modelled closely on strategic infrastructure development provisions).
- New enforcement and compliance powers for both the State and Development Consent regimes.
- A new permitting regime for Local Authorities for certain minor activities (such as beach events) in lieu of a Foreshore Licence.


The new regime has been developed in the context of:

- National Marine Planning Framework
- Marine Planning Policy Statement
- EU Marine Spatial Planning Directive
- Revised EU Environmental Impact Assessment (EIA) Directive
- EU Recast Renewable Energy Directive (RED2)

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\(^1\) The legislative basis of the National Marine Planning Framework was set out in the Part 5 of the Planning and Development (Amendment) Act 2018. Those provisions will be restated in this legislation, augmented by additional provisions, to maximise clarity and coherence.
What has changed from the earlier Maritime Area and Foreshore (Amendment) Bill (MAFA)?

- Restatement of National Marine Planning Framework provisions (Marine Spatial Planning - MSP)
- Single principal State consent approach augmenting the single development consent approach.
- More comprehensive regime for EEZ and continental shelf.
- Improved enforcement provisions.

What has changed since the Scheme was published in July?

Additional policy development and revisions has been undertaken since the earlier version of the General Scheme was approved by Government in July 2019, which include:

A new head was introduced to allow for certain persons such as Local Authorities and appropriate State bodies to be designated as ‘fit and proper’ to eliminating the requirement to assess their fit and proper status for each application process. (Head 28a)

The title of Head 37 has been changed from ‘Decommissioning’ to ‘Obligations on Maritime Area Consent (MAC) holders prior to termination or expiry’ as “decommissioning” was seen as too imprecise a term for the broad variety of circumstances that may apply to development types. The revised head sets out the obligations of MAC holders in relation to the restoration of the Maritime Area prior to the expiry of their respective MACs. (Head 37)

The Head in relation to Emergency Works on the Nearshore was updated to facilitate urgent works of an emergency nature required in order to protect life or property. The purpose is simply to eliminate the delay that would otherwise be caused by securing a Maritime Area Consent in advance of such works. The title of this head was also changed from ‘Authorisation of Emergency works in the Maritime Area’ to ‘Emergency works on the nearshore’. (Head 38)

The Head in relation to Maritime Consents for Exempted Development, Marine Environmental Surveys and Certain Specified Activities has undergone a substantial revision to include surveys and other activities. This head intends to put in place proportional procedures for minor occupation of the maritime area where, under planning legislation, such development is exempt from the requirement to obtain planning legislation, and for other development types, which require minor or temporary occupation such as marine environmental surveys and certain other specified activities. It also provides powers to exempt certain activities from the
requirement for a MAC. This exemption may be used to cover activities that are subject to another statutory consent regime. (Head 40)

Part 5 of the General Scheme (relating to Development Management) has undergone significant revision since the previous iteration, having regard to the considerable policy work required to ensure appropriate alignment and integration of provisions with terrestrial planning, while distinguishing the particular bespoke requirements for the marine area.

A new Supplementary Enforcement Provisions chapter has been added which sets out additional provisions including the creation of offences and additional powers for local authorities in relation to certain activities in the nearshore area or on tidal lands. These provisions will be additional to any existing powers granted to local authorities under other legislation. This chapter shall make it an offence to remove or disturb, without authorisation, beach material in the nearshore area or on tidal lands, or to deposit material or deposit noxious articles in the nearshore area or on tidal lands. Provision is made for coastal planning authorities to initiate summary prosecutions for such offences.

Another new Chapter relating to Transitional Measures for Unauthorised Occupation of the Nearshore has also been added. This chapter intends to provide for a variety of circumstances where development and occupation of the foreshore, prior to the enactment/commencement of the MPDM Act, did not secure both planning permission and consent under the Foreshore Acts.

**What will the MPDM Bill do?**

- Designate the maritime area in which the regime will operate.
- Create a new single State consent regime for the entire maritime area.
- Provide for a single development consent for all projects including a single environmental impact assessment (EIA) and a single appropriate assessment (AA), where applicable.
- Manage development in the exclusive economic zone (EEZ) and on the continental shelf.
- Retain existing foreshore and planning permission provisions for aquaculture and sea fisheries related development.

**What changes will the MPDM Bill make?**

- Establish a legal basis for An Bord Pleanála and coastal local authorities to consent to development in the maritime area.
• Provide that EIA/AA for offshore projects is carried out once in the planning system, clearly distinguishing the State consent and development consent roles.
• Create a new State consent regime replacing Foreshore/Continental Shelf consenting.
• Extend the existing planning permission functions of coastal local authorities to the outer limit of a newly defined nearshore area (see below).
• Create powers for coastal local authorities to regulate minor developments and activities in the nearshore area.
• Create provisions for urgent works of an emergency nature in the nearshore area in order to protect life or property.
How will the proposed new regime operate?

The spatial and policy context will be set by the National Marine Planning framework which includes elements such as the Marine Planning Policy Statement, the Marine Spatial Plan, development management guidelines and a common spatial data platform which will provide up to date information and spatial representations of applications and granted consents. Further information on the NMPF

Prospective developers will be required to apply to a relevant Minister for a planning interest. This process assesses the abilities of the developer to complete the project and is intended to act as a gate into the planning process and not a development consent.

Should a planning interest be granted, prospective developers can then proceed to apply for and secure a development consent through the planning permission system within a specific timeframe.

If planning permission is granted, prospective developers can then apply for a Maritime Area Consent which will deal with financial terms and certain contractual matters and obligations. Any material changes to a particular proposal cannot be made through this process and will have to be assessed within the planning permission system.

At its simplest the planning interest considers the person, the planning permission considers the project, and the MAC considers the property issues.

How will an application be made under the new regime

The broad steps of navigating the application process are set out below.

Pre-application

This is an informal process where prospective applicants should engage with the relevant Minister, interested State stakeholders, and the public to lay strong foundations for passage through the process. Such engagement helps strengthen proposals, highlight potential issues and allowing for early resolution in advance of a formal application. The scope of this process will be largely dependent upon the nature, scale and location of any given proposal.

Planning interest application

Prospective developers will need to apply to the relevant Minister for a planning interest. The relevant Minister will consider issues such as:
- Whether the proposal is in the public interest
- whether the applicant is a Fit and Proper Person with the technical and financial capabilities to complete and construct the proposal.
- If there are any obvious spatial conflicts
- Whether the proposal is in line with the NMPF

The relevant Minister will not conduct an Environmental Impact Assessment or Appropriate Assessment of the proposal as this will be undertaken during the planning permission phase. A ‘Planning Interest’ if granted will be a time-bound gateway to the planning system.

**Planning permission pre-application process**

For larger scale projects it may be necessary to engage with an Bord Pleanála in a formal pre-application consultation. It will be necessary to secure a planning interest prior to this engagement.

**Planning permission application**

Prospective developers will need to apply to an Bord Pleanála or the relevant planning authority, as appropriate, for consideration of the project detail. It is in this phase where formal public consultation, Environmental Impact Assessment and Appropriate Assessment will be undertaken. Applicants may therefore be required to submit an Environmental Impact Assessment and/or Natura Impact Statement.

If planning permission is refused the proposal cannot progress and the planning interest will expire.

**Maritime Area Consent application**

If planning permission is granted developers may then apply for a Maritime Area Consent to enable occupation of the maritime area to develop the proposal as approved by an Bord Pleanála or the relevant planning authority. It will not be possible to make any material change to the proposal within the MAC process.

The relevant Minister will not conduct an Environmental Impact Assessment or Appropriate Assessment of the proposal as this has been undertaken during the planning permission phase and no changes to the proposal will be allowed.

Much of the consideration will have been frontloaded in the planning interest stage and it is intended that the MAC process will primarily confirm that circumstances have not changed. It is envisaged that MAC fees and terms of occupation will be standardised as much as possible allowing for a efficient conclusion of this stage with minimal negotiation required.
How is it intended that individuals or organisations participate in the decision making process in relation to any particular proposed development under the new regime?

Submissions from stakeholders and the public in relation to any proposed development in the Maritime Area can be made during the development consent phase of the consenting sequence. Submissions can be made during the standard planning permission public consultation procedures. An Bord Pleanála may also hold oral hearings on particular applications if deemed appropriate.

What is the Maritime Area?

The maritime area consists of the parts of the sea for which Ireland holds certain rights under the United Nations Convention on the Law of the Sea (UNCLOS). Please see the UNCLOS website here.

The maritime area consists of the:
- sea and tidal areas of the internal waters of the State;
- territorial sea of the State;
- Exclusive Economic Zone of the State; and
- Continental Shelf of the State.

The maritime area extends from the high water mark to the outer limits of Ireland’s continental shelf. The area comprises approximately 490,000 km². Ireland’s maritime area is seven times the size of its landmass. When the seabed is included, Ireland has a 7,500km coastline making it one of the largest countries in the EU.
It will be designated for the purposes of:

- forward planning (MSP)
- development management (planning permission)
- State consenting (Maritime Area Consent)
- enforcement

**What is the Nearshore Area?**

The nearshore area will be a new area to be designated for each coastal local authority in which they will exercise certain planning permission and enforcement functions. The boundaries of this nearshore area will be determined by factors such as the particular geography of the coastline, practical matters relating to coastal local authority boundaries and practicalities in relation to the exercise of coastal local authority functions.

This area will be coastal and will extend a number of kilometres from the shoreline.
**What is a Planning Interest?**

A planning interest gives the holder the right, for a specified period of time, to apply for planning permission for a specified development in a specified part of the maritime area. It does not grant the holder any other rights in relation to the maritime area. One of the conditions attaching to the grant of a planning interest is that the holder must apply for planning permission for the specified development within the lifespan of the planning interest.

A planning interest is granted by the relevant Minister, either the Minister for Housing, Planning and Local Government or the Minister for Communications, Climate Action and Environment, depending on the nature of the development proposed. Development and activities for which the Minister for Agriculture, Food and the Marine is the appropriate Minister under Section 1B of the Foreshore Act, 1933 will continue to be regulated under the Foreshore Act and are excluded from the new arrangements for the maritime area.

A planning interest is the gateway into the planning system for development in the maritime area. It is not planning permission. Planning permission for development in the maritime area can only be granted by a coastal planning authority or An Bord Pleanála. Planning permission for a development in the maritime area can only be granted to the holder of a planning interest.

The holder of a planning interest must not, in the application for planning permission for a development, alter in a material way the project proposal for which the planning interest was granted. The developer is required to apply to the relevant Minister to amend the planning interest if material alterations are proposed.

Environmental assessment of the development will be a matter exclusive to the planning system and is not a matter for the relevant Minister who grants the planning interest.

The grant of a planning interest does not mean that the holder of a planning interest, if granted planning permission for a development, will automatically be granted a maritime area consent for the development. That is a separate decision for the relevant Minister.

In deciding whether to grant a planning interest to an applicant the relevant Minister will confirm that the proposed development is broadly in line with the National Marine Planning Framework and other relevant policies but will not be assessing the specific detail of the development. Other deciding factors to be taken into account by the relevant Minister will include the type, nature, scope and extent of the proposed development, the public interest, including benefits to the State, security of energy supply to the State, and, where relevant, previous performance by the applicant under any relevant consent granted by the State.
In considering an application for a planning interest, the relevant Minister will also determine whether the applicant is a fit and proper person to be granted a planning interest and whether he or she has the financial and technical capacity to carry out the proposed development.

The relevant Minister may grant more than one planning interest for the same part of the maritime area where the proposed developments do not materially interfere with each other. Where there are valid competing applications for the same part of the maritime area, the relevant Minister may arrange for the planning interest to be auctioned among the applicants concerned by means of a tender process limited to those applicants.

Fees to apply to planning interests will be set out in regulations to be made by the relevant Minister.

**What is a Maritime Area Consent?**

A maritime area consent (MAC) gives the holder the right to occupy a specified part of the maritime area for a specified period of time, for the purposes of a specified development. A MAC may be granted for exclusive or non-exclusive use of the specified part of the maritime area. The rights granted under a MAC for the constituent parts of the maritime area must be consistent with the provisions of the United Nations Convention on the Law of the Sea (UNCLOS).

A MAC is granted by the relevant Minister, either the Minister for Housing, Planning and Local Government or the Minister for Communications, Climate Action and Environment, depending on the nature of the development proposed. Development and activities for which the Minister for Agriculture, Food and the Marine is the appropriate Minister under Section 1B of the Foreshore Act, 1933 will continue to be regulated under the Foreshore Act and are excluded from the new arrangements for the maritime area.

A MAC will only be granted to the holder of a planning interest who has obtained planning permission for the proposed development (where planning permission is required – i.e., in most cases).

In most cases a MAC will require payment of a rent, fee or other annual payment to the relevant Minister. The annual payment will be determined via a valuation process or via standard charges, as applicable.

In deciding whether to grant a MAC to an applicant the relevant Minister will consider whether the applicant is a fit and proper person to be granted a MAC, and whether the applicant has the financial and technical capacity to carry out the development. Other deciding factors to be taken into account by the relevant Minister will include the type, nature, scope and extent of the proposed development, the public interest, including benefits to the State, any change in the circumstances, capabilities or other
criteria upon which the decision to grant a planning interest was based, appropriate financial terms, and any additional criteria appropriate to the development type which may be set out in regulations by the relevant Minister.

A MAC is granted on condition that there is substantive commencement of development within the lifetime of the planning permission and/or within timeframes specified by the relevant Minister. The development must be completed within the time specified in the MAC or as otherwise agreed with the relevant Minister.

Any material amendments to a proposed development after planning permission has been granted will require reversion to the planning system for any necessary assessment and revision of the granted permission or for the grant of a new permission as appropriate.

Holders of MACs will have a legal obligation to restore or maintain those parts of the maritime area affected by the operation of the MAC, prior to its surrender, termination or expiry. A programme for future restoration or maintenance of the maritime area will be set out in a schedule to the MAC, which will be subject to periodic updating. Options for which provision may be made in the schedule include decommissioning of structures, removal of structures, reuse or repurposing of structures, and restoration/rehabilitation of the maritime area.

Every MAC will include an indemnity clause whereby the holder indemnifies the relevant Minister and the State against any legal claim arising out of the exercise by the holder of his or her rights under the MAC.

In considering an application for a MAC, an application to modify a MAC or an application to assign a MAC, the relevant Minister is not required to undertake an environmental impact assessment or appropriate assessment or screening for same, as these matters will already have been addressed in the processing of the application for planning permission.

What is the difference between State consent and development consent?

State consenting, under the new maritime area consent, will regulate the occupation of the maritime area in accordance with the rights afforded to the State under UNCLOS for the particular marine zone. This consent will govern such matters as the financial terms and contractual matters relating to the occupation i.e., obligations and rights under the consent.

Development consent (planning permission) will determine whether the development is permissible under the planning laws and, if deemed permissible, regulate matters relating to the development itself i.e., environmental considerations, compliance with the proper planning and sustainable development of the area in question, and development specific conditions that will apply to the proposal.

Developers will not be able to materially alter any proposal via the maritime area consent. Any material changes will have to be assessed within the development
consent system. Relevant Ministers will have no role in the development consent procedure other than to grant or refuse a planning interest to an applicant. The grant of a planning interest allows project proposers to make a development consent application.

**What are relevant Ministers and what will they do?**

Relevant Ministers will be responsible for the consideration of applications for planning interests and maritime area consents and the approval or rejection of same. Maritime area consents (MACs) will be granted by the Minister for Communications, Climate Action and Environment for development types within his policy remit, e.g., offshore renewable energy, offshore natural gas storage, electricity interconnectors and telecommunications submarine cables.

MACs for all other development types will be granted by the Minister for Housing, Planning and Local Government.

**What are Strategic Marine Activity Zones**

The designation of Strategic Marine Activity Zones is a similar concept to the designation of Strategic Development Zones (SDZ) within the terrestrial planning system.

**Designation of Strategic Marine Activity Zones (SMAZ)**

If the Government sees that a specified activity is of economic, social or environmental importance to the State, then it may make an order to designate any part of the maritime area for the establishment of a strategic zone to facilitate such activity.

**Marine Planning Scheme for Strategic Marine Activity Zones**

After the making of an order, the relevant Minister shall prepare a draft marine planning scheme in respect of all or part of the SMAZ.

The first draft marine planning scheme in respect of all or part of a SMAZ shall be prepared not later than 2 years after the making of the order designating the zone.

A draft marine planning scheme under this section shall consist of a written statement and a plan indicating the manner in which it is intended that the SMAZ or part of the zone designated is to be used and in particular:

- the types of development permitted
- the overall design of the proposed development, including the maximum heights and appearance,
- the provision of related services in the zone, including power, waste etc
- the proposals relating to minimising any adverse effects on the environment

Making a Marine Planning Scheme

The relevant Minister will hold a consultation on the draft marine planning scheme for a stated period of not less than 6 weeks in which written submissions or observations which will be taken into consideration when deciding upon the scheme.

After the consultation period, the relevant Minister shall publish a report listing the persons or bodies with the submissions or observations made together with the Ministers responses to those submissions.

The relevant Minister will take account of the proper planning and sustainable development of the SMAZ, the National Marine Planning Framework provisions, and the preservation of any European Site and the effect the scheme would have on any neighbouring marine areas and shall then either:

a. make the draft marine planning scheme, or
b. make the scheme subject to variations and modifications, or
c. not to make the draft marine planning scheme.

Once made the marine Planning Scheme will form part of the National Marine Planning Framework and consent decisions will be made in that context.

How will development be managed at the end of a MAC?

Head 37 (Obligations on MAC Holders Prior to Termination or Expiry) provides for the ‘Decommissioning’ responsibilities of Maritime Area Consent (MAC) holders prior to the end of the MAC term.

The MAC schedule which is to be agreed with an applicant will need to include an overall programme for future restoration or maintenance. The restoration programme will then be subject to periodic updating by the applicant. The relevant Minister will need to ensure that a satisfactory restoration programme has been provided before a MAC can be granted. This helps to ensure that liabilities and costs to the State and ultimately the public are minimised.

Given the breadth of possible maritime developments, flexibility is required in relation to the manner of restoration and the means by which it should be undertaken.
In Head 37, “restore or maintain” means to restore to the original condition of the maritime area or to a level agreed by the relevant Minister and may include one or more of the following:

- Decommissioning of the structures;
- Removal of the structures entirely;
- Partial removal of the structures;
- Reuse of the structures for the same or other purpose including “repowering”;
- Restoration of the maritime area to the satisfaction of the relevant Minister;
- Burying or encasing structures;
- Removal of any deposited or waste material, and
- Any other means of satisfactory rehabilitation of the maritime area for other uses or no use at all.

Additional obligations, requirements and procedures may be set out in regulations allowing flexibility in the future management of decommissioning.

Holders of a Maritime Area Consent shall not be allowed to surrender or terminate their MAC until their obligations have been discharged satisfactorily. When the time comes for restoration or maintenance of the maritime area, the MAC holder shall also be obliged to secure the necessary consents to authorise the works, including planning permission.

Failure to undertake end of term restoration obligations will be a matter for enforcement. In addition, contractual financial penalties may also apply to MAC holders for failing to adhere to the agreed restoration/maintenance programme.

**How will maintenance dredging be treated under the new regime?**

Sedimentation and siltation are natural phenomena and are an ongoing challenge to the navigation of Ireland’s rivers and to the accessibility of ports.

Maintenance dredging is differentiated from capital dredging. The definition of Development is being amended to encompass maintenance dredging activity and it will be considered within the planning permission system.

Such activities will include:

- maintaining access channels and berths to water depths in accordance with navigational charts,
- providing turning basins for ships, or
- otherwise maintaining adequate water depth along waterside facilities in accordance with navigational charts;
As maintenance dredging essentially returns the maritime area to a previous condition and because there is no permanent occupation consideration is being given to exempting such activities from requiring a MAC with certain statutory obligations applying in lieu.

Further, as part of a wider examination of planning exemptions in the maritime context consideration will be given to exempting certain minor or trivial dredging activities from planning permission. As with all exemptions, if an appropriate assessment screening determines that a Natura Impact Statement should be produced then the exemption falls and planning will be required.

Where material is being disposed of at sea, a Dumping at Sea licence granted by the EPA will still be required.

How will Marine Environmental Surveys be treated under the new regime?

Marine environmental surveys (or site investigations) are precursor activities often required in order to prepare applications for planning permission. There is a wide variety of activities ranging from observation, geophysical and geotechnical works, drilling of boreholes and grab-sampling which are fundamental to detailed project investigation and design by prospective developers.

The definition of Development is being amended to encompass Marine Environmental Surveys activity and it will be considered within the planning permission system. Consideration is being given to exempting certain non-intrusive activities from requiring planning permission. As with all exemptions, if an appropriate assessment screening determines that a Natura Impact Statement should be produced then the exemption falls and planning will be required.

The intention of the bill is to put in place proportional truncated state consent procedures for Marine Environmental Surveys.

Will every MAC application be subject to the full State consent process?

No. Head 40 envisages a truncated simple procedure to consider MACs for minor occupation of the maritime area where such development might be exempted under planning legislation, and for other development types which require minor or temporary occupation of the maritime area, such as marine environmental surveys and certain specified activities. This head will provide powers to exempt certain activities from the requirement for a maritime area consent (MAC) such as activities that are the subject of another statutory consent regime such as: Dumping at Sea, Archaeological Surveys, Arterial Drainage Act, and Aids to Navigation.
What changes are being made to the planning system?

The main changes proposed for the planning system summarized below:

- Amendment to the definition of development to ensure that relevant marine activities are included within the planning permission. These will include marine Environmental Surveys and Maintenance Dredging.
- The terrestrial planning permission provisions are being extended into the new nearshore area for both planning authorities and An Bord Pleanála.
- The existing terrestrial planning provisions will be augmented with additional marine related considerations and condition making powers.
- A new standalone planning procedure to be operated by An Bord Pleanála for offshore development which is modelled upon existing strategic infrastructure provisions.
- Exemptions from planning permission will be reviewed for appropriateness in the context of the marine environment.

For what types of development will An Bord Pleanála be responsible for development consent applications?

- Offshore Development such as offshore renewable energy projects
- Any existing development types already within its remit such as Strategic Infrastructure
- All development located entirely beyond the nearshore
- Local authority development requiring environmental impact assessment and/or appropriate assessment

For what types of development will Local Authorities be responsible for development consent applications?

- Smaller scale development within the nearshore of the same development types as its terrestrial remit.
- Local Authority own development that does not require an environmental impact assessment or appropriate assessment.
- New development types such as marine environmental surveys and maintenance dredging

Will the new MPDM Bill mean that the Foreshore Act will be repealed?

No. While, under the new regime, no new foreshore consents will be granted by the Minister for Housing, Planning and Local Government under the Foreshore Act, existing foreshore consents will continue to be governed under that Act.
The Foreshore Act will also remain in force to enable the continuation of the foreshore functions of the Minister for Agriculture, Food and Marine such as those developments and activities:

a. in relation to a fishery harbour centre.

b. in relation to a function in respect of:
   i. an activity which is wholly or primarily for the use, development or support of aquaculture, or
   ii. an activity which is wholly or primarily for the use, development or support of sea-fishing including the processing and sale of sea-fish and manufacture of products derived from sea-fish.

**I currently hold a foreshore lease/licence, what will happen to this under the new regime?**

Foreshore leases and licences granted under the Foreshore Act, 1933 will remain in force. Consents granted under existing regimes will be managed under the relevant existing legislation until expiry, termination, assignment or any material change is proposed – at which time a new application will have to be made under the new regime.

**What is the Proposed Approach for Offshore Renewable Energy under MPDM?**

For the future Offshore Renewable Energy (ORE) regime, the MPDM provides flexibility to allow for both a ‘centralised’ and ‘decentralised’ approach to the development of offshore renewable energy projects. Both of these models are feasible options for Ireland to develop ORE and it is crucial that the MPDM Bill provides for the Minister for Communications Climate Action & Environment (MCCAE) to accept applications for and award Maritime Area Consents under both models.

The decentralised approach closely follows the general process set out in the MPDM with the addition of (1) the identification of Strategic Maritime Area Zones for ORE development in line with the National Marine Planning Framework (NMPF) prior to the planning interest stage and (2) a competitive process for subsidy support to occur prior to granting a Maritime Area Consent.

Under the centralised approach, zones will also be identified for ORE development however the MCCAE may designate an entity to undertake grid development which may include site selection and securing necessary permissions in relation to the grid connection to facilitate further ORE development by third party developers.

Under both models, it is intended that the MCCAE will establish a competitive process for the award of financial support under Section 39 (2)(b) of the Electricity
Regulation to offshore renewable projects. This competitive process takes place in advance of the award of a Maritime Area Consent by the MCCAE.

**Overview of the Proposed ORE Consent Sequence**

**Decentralised Model Approach**

<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
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<tbody>
<tr>
<td>1. National Marine Planning Framework (NMPF)</td>
<td>• Strategic Maritime Area Zones are established by Government.</td>
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</tbody>
</table>
| 2. Planning Interest | • Marine Planning Scheme is developed by the Minister (subject to public consultation).  
• The Minister receives applications of Planning Interest for ORE from Developers. |
| 3. Development Consent | • Following receipt of Planning Interest from Minister, the Developer may seek leave to apply to An Bord Pleanála for Development Consent. Applications are subject to public consultation. |
| 4. Competitive Process | • The Minister may establish a competitive process for support for projects who have received a Planning Interest and Development Consent by ABP  
• The T&C’s of the process will consider arrangements for access to and the charging mechanism for connection to and use of the electricity transmission/distribution system as set out under section 35 of the Electricity Regulation Act 1999. |
| 5. Marine Area Consent | • Marine Area Consent is granted by the Minister only to projects that;  
1) Have received a grant of Planning Interest,  
2) Have received Development Consent, and;  
3) Are successful in the competitive process established by the Minister under Section 39 of the Electricity Regulation Act |

* The Minister referred to in this table is the Minister for Communications, Climate Action and Environment.
### Centralised Model Approach

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>1. <strong>National Marine Planning Framework (NMPF)</strong></td>
<td>- Strategic Maritime Area Zones are established by Government.</td>
</tr>
</tbody>
</table>
| 2. **Planning Interest** | - Marine Planning Scheme is developed by the Minister (subject to public consultation).  
- The Minister/ORE Development Body selects sites for ORE development and does not receive applications for individual planning interests. |
| 3. **Development Consent** | - ORE Development Body/TSO submits application for sites to ABP for Development Consent. |
| 4. **Competitive Process** | - The Minister may establish a competitive process for support for the right to develop and operate an ORE installation within the designated zone. Successful bidders win right to construct and operate ORE site.  
- A competitive process would award a portion of the public service obligation levy for their ORE development as provided for under Section 39 of the Electricity Act 1999.  
- The T&C’s of the process will consider arrangements for access to and the charging mechanism for connection to and use of the electricity transmission/distribution system as set out under section 35 of the Electricity Regulation Act 1999. |
| 5. **Marine Area Consent** | - Marine Area Consent is granted by the Minister only to projects that  
1) Have received Development Consent,  
2) Are successful in the competitive process established by the Minister under Section 39 of the Electricity Regulation Act 1999. |

* The Minister referred to in this table is the Minister for Communications, Climate Action and Environment
What transitional arrangements are proposed for ORE projects?

It is proposed that the protocol at Appendix 4 would govern the approach in relation to the treatment of certain offshore wind projects in the context of the MPDM Bill, 2020. This guidance is to complement the existing and on-going extensive dialogue with the developers of such Relevant Projects.
<table>
<thead>
<tr>
<th>Abbreviations</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AA</td>
<td>Appropriate Assessment</td>
</tr>
<tr>
<td>ABP</td>
<td>An Bord Pleanála</td>
</tr>
<tr>
<td>CIL</td>
<td>Commissioners of Irish Lights</td>
</tr>
<tr>
<td>DAFM</td>
<td>Department of Agriculture, Food and the Marine</td>
</tr>
<tr>
<td>DCCAE</td>
<td>Department of Communications, Climate Action and Environment</td>
</tr>
<tr>
<td>DHPLG</td>
<td>Department of Housing, Planning and Local Government</td>
</tr>
<tr>
<td>DTTAS</td>
<td>Department of Transport, Tourism and Sport</td>
</tr>
<tr>
<td>EEZ</td>
<td>Exclusive Economic Zone</td>
</tr>
<tr>
<td>EIA</td>
<td>Environmental Impact Assessment</td>
</tr>
<tr>
<td>EPA</td>
<td>Environmental Protection Agency</td>
</tr>
<tr>
<td>HWM</td>
<td>High Water Mark</td>
</tr>
<tr>
<td>LA</td>
<td>Local Authority</td>
</tr>
<tr>
<td>MAC</td>
<td>Maritime Area Consent</td>
</tr>
<tr>
<td>MAFA</td>
<td>Marine and Foreshore Amendment (draft Bill)</td>
</tr>
<tr>
<td>MHPLG</td>
<td>Minister for Housing, Planning and Local Government</td>
</tr>
<tr>
<td>MLSG</td>
<td>Marine Legislation Steering Group</td>
</tr>
<tr>
<td>MPDM</td>
<td>Marine Planning and Development Management (Bill)</td>
</tr>
<tr>
<td>MPPS</td>
<td>Marine Planning Policy Statement</td>
</tr>
<tr>
<td>MSP</td>
<td>Marine Spatial Planning</td>
</tr>
<tr>
<td>NMPF</td>
<td>National Marine Planning Framework</td>
</tr>
<tr>
<td>OPC</td>
<td>Office (of the) Parliamentary Counsel</td>
</tr>
<tr>
<td>ORE</td>
<td>Offshore Renewable Energy</td>
</tr>
<tr>
<td>PDA</td>
<td>Planning and Development Acts (as amended)</td>
</tr>
<tr>
<td>RED</td>
<td>Renewable Energy Directive</td>
</tr>
<tr>
<td>RESS</td>
<td>Renewable Energy Support Scheme</td>
</tr>
<tr>
<td>SFPA</td>
<td>Sea Fisheries Protection Authority</td>
</tr>
<tr>
<td>SMAZ</td>
<td>Strategic Marine Activity Zone</td>
</tr>
</tbody>
</table>
Appendix 1: Scheme Overview

The General Scheme of the MPDM Bill provides details of the intended regime in Ireland's maritime area for the purposes of: Forward Planning, State Consenting, Development Consent, Compliance and Enforcement. The Scheme comprises 136 heads in 7 parts:

Part 1: Preliminary and General
Part 2: Definitions and Interpretation
Part 3: Forward Planning
Part 4: Maritime Area Consent
Part 5: Development Management
Part 6: Enforcement
Part 7: Amendments to other legislation

Part 1: Preliminary and General

Part 1 of the Bill contains provisions in relation to short title, collective citation and commencement. This part also includes provisions in relation to the publication of a Marine Planning Policy Statement and provides that the Minister can issue marine planning guidelines to assist planning authorities. It also provides for a limitation on Ministerial involvement in development consent decision making similar to existing provisions in terrestrial planning.

Part 2: Definitions and Interpretation

Part 2 provides for common definitions for the interpretation of the Bill. This part defines Ireland's Maritime Area which will extend from the High Water Mark to the outer limit of the State's Continental Shelf. The Maritime Area includes the:

a. Sea and tidal areas of the internal waters of the State,
   b. Territorial Sea of the State,
   c. Exclusive Economic Zone of the State and
   d. Continental Shelf of the State.

These terms are consistent with the upcoming Maritime Jurisdiction Bill. This part also provides for the designation of a new nearshore area where local authorities will exercise certain planning and enforcement functions.

Part 3: Forward Planning

Part 3 provides for the restatement in this Bill of the existing legal basis for marine spatial planning, which is contained in Part 5 of the Planning and Development (Amendment) Act 2018. This Part also introduces additional provisions to designate Strategic Marine Activity Zones (SMAZs). These provisions allow for the designation of a part of the maritime area for the establishment of a zone to facilitate activities which are of economic, social or environmental importance. Provisions are also included for the preparation of a marine planning scheme for a SMAZ.
Part 4: Maritime Area Consent

This part provides for a new State consent regime to be managed by relevant Ministers. This new regime will focus on the abilities of prospective developers to complete proposed projects and will regulate the occupation of the maritime area. Relevant Ministers will not be assessing project level detail or undertaking environmental assessments as these will occur in the planning system.

This construct clearly distinguishes State consent and development consent roles in the new regime. Ministers will consider matters such as the public interest, broad policy objectives and the technical and financial capabilities of developers. The local planning authority or An Bord Pleanála (ABP) will consider compliance with terrestrial and marine plans as appropriate, environmental considerations and input from the public and stakeholders.

A common set of requirements will apply to Planning Interests (see below) and Maritime Area Consents, augmented by sector/development type specific procedures. The detail of these procedures will be set out in regulations developed by the relevant Minister, appropriate to their functions under this Act. Additional specific provisions are included for offshore renewable energy (ORE) projects under the remit of the Minister for Communications, Climate Action and Environment.

Part 4, Chapter 1 defines responsibilities as between relevant Ministers. The Minister for Communications, Climate Action and Environment will be the relevant Minister for development types within his policy remit, e.g., offshore renewable energy, telecommunications cables, offshore natural gas storage etc.. All other development types within the scope of this Bill will be the responsibility of the Minister for Housing, Planning and Local Government.

Additionally, Chapter 1 allows for the designation of certain persons as "fit and proper". This is intended to create efficiency by eliminating the requirement to assess the "fit and proper person" status of certain applicants during each application process. It is anticipated that such designations will be restricted to entities such as Local Authorities, appropriate State Bodies and Agencies, and the ORE development body envisaged under Head 32. Such persons will be making numerous applications over time in the performance of their statutory functions.

Chapter 1 also creates new powers for a relevant Minister to grant a planning interest for a specified period of time, for a specified development, in a specified part of the maritime area. The planning interest acts as the gate into the planning system but it is not a planning decision. The planning interest concept is also intended to prevent long-term sterilisation of the maritime area by prospective developers who are unable to complete projects.

As a transitional measure pending adoption of the Marine Spatial Plan by Government, consultation will be undertaken between sectoral Ministers at the planning interest stage.
Part 4, Chapter 2 provides for a new single State consent regime for the entire maritime area, the consent to be known as a maritime area consent (MAC). This new single consent will govern occupation of the maritime area, replacing existing consent regimes under both the Foreshore and Continental Shelf Acts. This consent is intended to provide for the occupation of the maritime area by developers. Project level environmental assessments will not be undertaken by the relevant Minister. Environmental assessments will exclusively be undertaken within the planning system. The rights afforded to the occupier for a particular part of the maritime area will be limited to those consistent with the United Nations Convention on the Law of the Sea (UNCLOS) and any relevant Irish maritime jurisdiction legislation.

The relevant Minister will consider applications for a maritime area consent only after a planning interest has been granted and planning permission has been provided by the relevant planning authority. No material alteration of the proposal will be allowed during the maritime area consent phase. Developers will need to revert to the planning system for consideration of any such changes.

Consents granted under existing regimes will be managed by the relevant Minister as assigned in the Bill under existing legislation until expiry, termination, assignment or any material change is proposed - at which time an application will have to be made under the new regime.

Chapter 2 also intends to put in place proportional procedures for minor occupation of the maritime area where such development is exempted under planning legislation and for other development types which require minor or temporary occupation such as marine environmental surveys and certain specified activities. It also provides powers to exempt certain activities from a MAC requirement. This exemption may include activities that are subject to another statutory consent regime.

Provision is also made to facilitate urgent works of an emergency nature required in order to protect life or property. These provisions are consistent with the "Guide to Works and Development Consents for Repairing Infrastructure Damaged in Storm or other Emergency Events" (2014) prepared by The National Directorate for Fire and Emergency Management.

Part 4, Chapter 3 provides for transitional measures where existing State consent regimes and legislative frameworks exist. Additional transitional requirements will be identified and provided for during the drafting process.

**Part 5: Development Management**

Part 5 seeks to apply the planning permission regime to the maritime area. It defines and distinguishes the planning permission roles of local authorities and An Bord Pleanála in respect of maritime development and augments where necessary existing provisions to ensure the appropriate treatment and consideration by the relevant planning authorities of development in the maritime context.
Coastal local authorities will continue to be responsible for the generality of developments such as:

- Small piers and slipways,
- Pontoons,
- Small marinas, and
- Minor outfalls.

An Bord Pleanála will continue to be responsible for developments such as:

- Local authority development in the nearshore area requiring environmental impact assessment and/or appropriate assessment
- Major Harbours/Marinas,
- Outfalls related to waste water treatment plants,
- Large infrastructure – offshore renewable energy, motorways, roads, bridges, and
- Energy interconnectors

Part 5, Chapter 1 intends that the majority of development which is already subject to planning permission will remain subject to the existing planning legislation and procedures operated by An Bord Pleanála or a coastal local authority as appropriate.

Currently, under Part XV of the Planning and Development Act, development which adjoins the functional area of a local authority requires planning permission. Under the new regime, this planning function will be extended to the outer limit of the new nearshore area. If a coastal planning authority or An Bord Pleanála is currently responsible for a development type on land it will also be responsible for such development within the nearshore area.

The proposed provisions in Chapter 1 are intended to augment, not replace, the existing provisions of the Planning and Development Act with certain maritime specific considerations and procedural requirements. It is intended, where possible, to minimise amendment to the Planning and Development Act. However, some adjustment will be necessary to ensure efficient operation and provide sufficient clarity and transparency for developers, consent authorities, other stakeholders and the general public.

Part 5, Chapter 2 sets out standalone procedures for the specific development types in the maritime area set out in Schedule X of the Bill and those located wholly or partly beyond the outer limit of the nearshore area which will also be the responsibility of An Bord Pleanála.

Chapter 3 sets out the environmental impact assessment (EIA) procedures in relation to the standalone procedure of Chapter 2.

Chapter 4 sets out the appropriate assessment (AA) procedures in relation to the standalone procedure of Chapter 2.
Part 6: Enforcement

In the context of the increasing levels of activity and (complex) development in Irish waters, the enforcement framework needs to be strengthened and rationalised. Just as there is a wide range of marine regulatory bodies, there is also a range of marine enforcement (not just planning) and monitoring bodies of one kind or another. These include Department of Housing, Planning and Local Government, Department of Agriculture, Food and the Marine, Department of Communications, Climate Action and Environment, Department of Transport, Tourism and Sport, the Environmental Protection Agency, the Sea Fisheries Protection Authority, the Naval Service, the Marine Institute, Inland Fisheries Ireland, and the Commissioners of Irish Lights.

Taking account of this, options for marine planning enforcement will be examined that will place a strong emphasis on:

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

Part 6, Chapter 1 sets out the regime for enforcement in relation to planning interests and maritime area consents.

Part 6, Chapter 2 sets out the regime for enforcement in relation to development management.

Part 6, Chapter 3 sets out additional provisions including offences and additional powers for local authorities in relation to certain activities in the nearshore area or on tidal lands. These provisions are intended to modernise and replace similar powers set out in the Foreshore Act, currently granted to the Minister for Housing, Planning and Local Government (MHPLG), and transfer responsibility for such enforcement to local authorities.

The provisions will be additional to any existing powers granted to the local authorities under other legislation. This chapter shall make it an offence to disturb beach material, deposit material or deposit noxious articles in the nearshore area and provide for enforcement powers ultimately through the courts.

Part 6, Chapter 4 intends to provide for a variety of circumstances where development and occupation of the foreshore, prior to the enactment of MPDM, did not secure both planning permission and consent under the Foreshore Act.
This will allow consideration of a development under existing provisions in the Planning and Development Act 2000 for retention or substitute consent, if acceptable to MHPLG. If an applicant fails to secure any of the necessary approvals, enforcement action can be taken under Chapters 1 and 2 of this part. If the applicant secures the necessary planning permission consideration can then be given to a subsequent application for a maritime area consent. These measures apply to the nearshore only and are not applicable to development the subject of Part 5 chapters 2-4 (offshore development).

These measures will only apply to development constructed prior to enactment/commencement of MDPM.

**Part 7: Amendments to Other Legislation.**

Part 7, Chapter 1 sets out various amendments to the Foreshore Act 1933 (as amended) which are required.

Part 7, Chapter 2 is intended to set out various consequential amendments to other legislation to enable continuity of functions where impacted by MPDM and, where possible, to introduce efficiencies and improvements. Due to the complex nature of this legislation, further development in collaboration with relevant Departments and agencies is required.
### Appendix 2: Consent Sequence and Interactions

<table>
<thead>
<tr>
<th>Stages</th>
<th>Process</th>
<th>Relevant Authority</th>
</tr>
</thead>
</table>
| National Marine Planning Framework | • Marine Planning Policy Statement  
• Marine Spatial Plan(s)  
• Spatial data platform  
• Policy context  
• Statutory guidelines | Department of Housing, Planning and Local government - Sectoral Departments        |
| Planning Interest           | • Fit and Proper Person  
• Technical and financial capabilities  
• Spatial conflicts  
• Pre-application checklist | Relevant Minister -  
Department of Housing, Planning and Local Government/Department of Communications, Climate Action and Environment |
| Development Management      | • Proper planning (NMPF&NPF)  
• Appropriate Assessment  
• Stakeholder Consultation  
• Public participation  
• Proposal specific considerations | Planning Authority  
An Bord Pleanála                                                    |
| Maritime Area Consent       | • Financial terms  
• Fit and proper person  
• Standard conditions for occupation  
• No material alteration of proposal | Relevant Minister -  
Department of Housing, Planning and Local Government/Department of Communications, Climate Action and Environment |
| Enforcement                 | • Maritime Area Consent Enforcement  
• Development management enforcement  
• Coordination between authorities | Relevant Minister  
Planning Authority  
Competent Authority      |
Appendix 3: Stages and Roles

<table>
<thead>
<tr>
<th></th>
<th>Developer</th>
<th>Relevant Minister</th>
<th>Development Consent Authority</th>
<th>Public</th>
<th>Stakeholders</th>
<th>Enforcement Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Marine Planning Framework</td>
<td>-</td>
<td>(MPHLM)</td>
<td>Input into data platform</td>
<td>Input into marine plans</td>
<td>Input into marine plans</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Spatial and policy clarity (marine spatial plans)</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>Statutory guidelines</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Data platform (applications and granted consents)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Project design</td>
<td>Voluntary engagement with public and stakeholders</td>
<td>-</td>
<td>-</td>
<td>Engagement with developer</td>
<td>Engagement with developer</td>
<td>-</td>
</tr>
<tr>
<td>Planning Interest</td>
<td>Applies to Relevant Minister</td>
<td>Potential spatial conflicts and ability of developer to complete project</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Pre-application</td>
<td>Consults with State and other Stakeholders – Statutory guidelines</td>
<td>-</td>
<td>Scoping for certain cases</td>
<td>Engagement with developer</td>
<td>Engagement with developer</td>
<td>-</td>
</tr>
<tr>
<td>Development Consent</td>
<td>Applies to LA or Board as appropriate</td>
<td>-</td>
<td>Proper planning &amp; environmental assessments</td>
<td>Formal public participation</td>
<td>Provides sector specific considerations</td>
<td>-</td>
</tr>
<tr>
<td>Maritime Area Consent</td>
<td>Applies to Relevant Minister</td>
<td>Financial terms</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Material change to proposal or circumstances</td>
<td>Applies to LA or Board as appropriate</td>
<td>Occupation conditions</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Enforcement</td>
<td>Compliance with consent conditions</td>
<td>Matters relating to MAC</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>Matters relating to Development Consent</td>
</tr>
</tbody>
</table>
Appendix 4: Proposed Transition Protocol for relevant offshore wind projects in the context of the proposed MPDM Bill

1. Background.
Ireland’s Climate Action Plan, sets out a series of actions showing how we will decarbonise all sectors of our economy. It sets out an ambition of meeting 70% of Ireland’s electricity consumption to be generated from renewable technologies by 2030. It identifies that offshore wind will play a key role in delivering on this ambition, by indicating that at least 3,500 MW of offshore wind generation capacity is needed by 2030 to meet the 70% renewable electricity ambition.

2. Purpose.
The purpose of this protocol is to give guidance to the sector regarding the treatment of certain offshore wind projects (“Relevant Projects”) in the context of the MPDM Bill, 2020. This guidance is to complement the existing and on-going extensive dialogue with the developers of such Relevant Projects.

3. Relevant Projects.
“Relevant Projects” to which this Transitional Protocol will apply are:
(a) offshore wind projects which applied for (and substantially advanced) or were granted a lease under the Foreshore Act 1933, as amended (the Foreshore Act) in respect of which material changes are proposed to that which was originally applied for and assessed under the Foreshore Acts, which changes require further assessment; and/or
(b) offshore wind projects which have a valid connection agreement from the TSO or are confirmed by the TSO as eligible to be processed to receive a valid connection offer;

Given the progress made by Relevant Projects and the need for the State to develop offshore wind resources by 2030 to help it meet its renewable energy targets, it is proposed to legislate for a transition route for such Relevant Projects in the MPDM Bill, 2020.

This transition route gives Relevant Projects a Planning Interest, within the meaning of the MPDM Bill 2020, subject to the terms and conditions which will apply.

That would allow these Relevant Projects to:

- Continue environmental scoping exercises;
- Continue site investigations and surveys;

Prepare and finalise environmental reports to accompany a planning application; The transition route is only available to Relevant Projects.
Should a Relevant Project wish to occupy an additional area of the Maritime Area which is not the subject of an existing Foreshore Lease / application granted or made under the Foreshore Acts, no Planning Interest will be given in respect of any such additional area.

Should planning consent be refused for a Relevant Project, a Planning Interest may or may not be extended under the terms of the MPDM Bill.

5. Position of Site Investigation licences and / or applications.

A number of licences under the Foreshore Act for site investigation works have been granted or applied for. These licences are of a temporary and non-exclusive nature and do not confer any right on an existing licence holder or applicant in relation to any future applications or occupation of the foreshore.

6. Proposed offshore wind projects that are not Relevant Projects.

Any proposed offshore wind projects that have not been or are not being developed as originally assessed; or which are not Relevant Projects must be progressed under the proposed MDPM Bill, 2020. No transition route for these projects will be provided under the MPDM Bill, 2020.

7. The Public Interest.

The public interest dictates whether or not consent should be granted to a person to occupy foreshore belonging to the State.

In order to grant a foreshore lease in respect of any existing applications under the Foreshore Acts, the Minister must form the opinion that it is in the public interest to do so. In determining his opinion, the Minister will have regard to the following considerations:

- The project the subject of the application;
- The development stage of the project;
- The Offshore Renewable Energy Development Plan;
- A new modern development management system for the foreshore which it is intended to provide or under the Marine Planning and Development Management Bill 2020; and
- The new regulatory regime will be led by the National Marine Planning Framework, the draft of which is currently out to public consultation.

Current policy, having regard to the above considerations, is:

- that it would not be in the public interest to determine existing foreshore lease applications, to the extent that a project wishes to change the terms of the development the subject of an application and the Minister decides that the making of the change would constitute the making of a material change of the terms of the development; and
- that it would not be in the public interest to accept or grant any new foreshore lease applications for offshore wind farm projects / ORE projects under the Foreshore Acts.

8. Foreshore Leases and Development Defaults.

Where:

(i) a Relevant Project has been granted a Foreshore Lease and is in Development Default under such Foreshore Lease; and

(ii) the developer of such Relevant Project confirms in writing to the Minister that it intends to avail of the transitional route under the Marine Planning and Development Management Bill, 2020,

the Minister shall not exercise any rights to terminate such Foreshore Lease in whole or part on account of such Development Default prior to the determination of the application under the Marine Planning and Development Management regime (once enacted) in respect of which the Relevant Project has been granted a Planning Interest under the transitional route. Note that this is without prejudice to any other remedies that the Minister has under the Lease or at law in respect of any other breaches of or non-compliance with the Foreshore Lease.

Prior to any Relevant Project receiving a Maritime Area Consent under the Marine Planning and Development Management regime (once enacted), any Foreshore Lease in respect of such Relevant Project must be surrendered by the Lessee.


The purpose of this transitional protocol is set out at 2 above. However, as the development of the future offshore renewable energy regime in Ireland is continuing, further announcements will be made when the policy development process is complete.