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Draft NMPF Submissions  
Marine Planning Section  
Department of Housing, Planning and Local Government  
Newtown Road  
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Y35 AP90

31<sup>st</sup> March 2020

Our Ref: SCP190405.2

## **Re. Draft National Marine Planning Framework and SEA Environmental Report**

Dear Mr Dempsey,

We acknowledge your notice, dated 13<sup>th</sup> November 2019, in relation to the Draft National Marine Planning Framework (the 'NMPF') and associated SEA.

We welcome the opportunity to provide comments on the NMPF and associated SEA at this stage in the process. Our role, as one of five statutory SEA Environmental Authorities, focuses on promoting full integration of the findings of the SEA into the NMPF and advocating that the key environmental challenges for Ireland are addressed. It is not our function to either approve or enforce the NMPF or SEA. This submission is intended to strengthen the NMPF and support the integration of environmental considerations and related commitments into the NMPF.

We acknowledge that the NMPF sets out a vision for how an integrated marine planning system, with distinct forward planning, development management and enforcement components can be achieved. We also note that it will be supported by the *Marine Planning and Development Management Bill 2019*, once finalised. Given the importance of a clean, well-protected marine environment for our health, our wellbeing, our economy and our quality of life, it is vital that future marine-related planning and development must be carried out in an environmentally sustainable manner.

### **Overall Strategy for the NMPF**

The Marine Spatial Planning Directive requires that Member States prepare a marine planning framework; and it is noted that the NMPF acknowledges this requirement. We recognise the need to achieve a balance between economic, social and environmental factors in preparing Ireland's first NMPF.

Effective implementation of the NMPF will be challenging considering the many sectors operating in the marine environment. It is evident that close coordination, communication and collaboration between those sectors will be needed to ensure that the NMPF can achieve its aims in an environmentally sustainable manner. We recommend that a cross organisation / departmental coordination group is established, including an environmental subgroup. This would help ensure the effective implementation of the NMPF is achieved and supported by relevant environmental monitoring and reporting mechanisms.

We note that the NMPF describes the various development / sectoral activity-related policies clearly. We recommend however, that the overarching marine planning policies are highlighted to a greater extent. The NMPF could also discuss in greater detail how conflicts or overlaps between different sectors and environmental constraints will be addressed.

### **Governance, Implementation, Monitoring, Reporting and Review**

We recommend the preparation and publication of a NMPF Implementation Plan alongside the Framework, to set out a clear pathway for how the NMPF will be implemented and tracked over its lifetime.

The EPA, in our submission on the National Planning Framework (NPF), recommended establishing a High-Level Implementation Group, across the different government departments and Agencies involved in preparing the NPF, to support the delivery of the Implementation Plan. The EPA also recommended that individual focussed NPF sector-specific sub-groups could be established to oversee and review progress on implementation of relevant sector measures. The arrangements in place for the implementation of Food Wise 2025 (FW2025) and the Offshore Renewable Energy Development Plan (OREDP) also provide examples of existing successful approaches to consider. For FW2025, a High-Level Implementation Committee overseeing the implementation of the actions is chaired at ministerial level and an Environmental Sustainability Committee addresses the actions dealing specifically with sustainability reporting to the High-Level Implementation Committee.

A similar model could also be applied when considering an implementation plan for implementing the NMPF. The NMPF implementation plan should clearly set out the actions, targets, timeframes and appropriate bodies responsible for implementing these. This will significantly strengthen the NMPF and reduce the risk of poor implementation. Given that many bodies are likely to be involved in implementing the NMPF, it will be important that the relevant bodies are consulted if an Implementation Plan is being considered.

The Implementation Plan should include provisions for annual reporting on implementation of the NPF commitments. The Implementation Plan should also link with the SEA-related monitoring obligations required under the SEA legislation. There is potential to link reporting on progress on

the NPF's environmental related objectives with the cyclical *Ireland's Environment* reporting and related periodic environmental topic reporting.

### **Relationship with other plans and programmes**

The NMPF clearly identifies the need to integrate and coordinate marine planning with land use planning onshore, by highlighting the relationship with the National Planning Framework in particular.

### **Key Environmental Challenges**

In our SEA Scoping submission earlier in the process, we highlighted the key environmental actions for Ireland currently, as described in Chapter 13 of *Ireland's Environment 2016*, which are also relevant to implementing the NMPF in an environmentally sustainable manner.

1. *Environment and Health and Wellbeing* - Recognition of the benefits of a good quality environment to health and wellbeing.
2. *Climate Change* - Accelerate mitigation actions to reduce greenhouse gas emissions and implement adaptation measures to increase our resilience in dealing with adverse climate impacts.
3. *Implementation of Legislation* – Improve the tracking of plans and policy and the implementation and enforcement of environmental legislation to protect the environment.
4. *Restore and Protect Water Quality* – Implement measures that achieve ongoing improvement in the environmental status of water bodies from source to the sea.
5. *Sustainable Economic Activities* – Integrating resource efficiency and sustainability ideas and performance accounting across all economic sectors.
6. *Nature and Wild Places* – Protect pristine and wild places that act as biodiversity hubs, contribute to health and wellbeing and provide sustainable tourism opportunities.
7. *Community Engagement* – Inform, engage and support communities in the protection and improvement of the environment.

These actions are linked to several of the UN's Sustainable Development Goals (SDGs). We acknowledge that the NMPF forms part of the Government's efforts to progress these sustainability development goals, as relevant to the marine environment. Addressing and implementing these key SDG actions will be important to deliver environmental protection and promote sustainable development in Ireland in the years ahead.

### **Integration of SEA and AA into the NMPF**

The NMPF is well placed to serve as a significant driver for addressing the environmental challenges facing Ireland, in partnership with other government departments and state agencies. The NMPF should however more clearly specify how it intends to protect environmentally sensitive areas in the marine and coastal environment.

One aspect in particular, that needs to be looked at relates to the level of which SEA and AA mitigation measures are reflected in the NMPF. We note that while the SEA and Natura Impact Statement (NIS) include numerous proposed mitigation measures, the NMPF appears to only implement or partly implement a very limited number of these. We recommend that the NMPF

provide greater clarity in terms of how the SEA and AA recommendations have been taken into account and integrated into the NMPF. This could be achieved by including an additional section that collates the relevant recommendations from the SEA and AA and indicating where they have been addressed in the NMPF. Information on the proposed mitigation and monitoring measures should also be referred to. These issues should be addressed prior to adopting the NMPF.

Additionally, while the NMPF includes an environmental protection hierarchy of “*avoidance – minimisation – mitigation – ‘statement of case’*”, what the ‘statement of case’ refers to, needs to be clarified further.

Where recommendations from the SEA or NIS are not implemented, reasons should also be provided as to why this is the case.

#### **Future Amendments to the Draft NMPF**

Where amendments to the NMPF are proposed, these should be screened for likely significant effects in accordance with the criteria as set out in Schedule 1 of the SEA Regulations and should be subject to the same method of assessment applied in the “environmental assessment” of the Draft NMPF.

#### **SEA Statement – “Information on the Decision”**

Following adoption of the NMPF, the DHPLG should prepare an SEA Statement that summarises:

- How environmental considerations have been integrated into the NMPF;
- How the Environmental Report, submissions, observations and consultations have been taken into account during the preparation of the NMPF;
- The reasons for choosing the NMPF adopted in the light of other reasonable alternatives dealt with; and,
- The measures decided upon to monitor the significant environmental effects of implementation of the NMPF.

A copy of the SEA Statement, with the above information, should be sent to any environmental authority consulted during the SEA process.

If you have any queries or need further information in relation to this submission, please contact me directly. I would be grateful if you could send an email confirming receipt of this submission to: [sea@epa.ie](mailto:sea@epa.ie).

Yours Sincerely,



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**Dr Jonathan Derham**  
*Head of Programme*  
*Office of Evidence and Assessment*

## **Appendix I – Specific Comments on the NMPF**

Specific comments on aspects of the NMPF are provided below, these should also be considered in finalising and implementing the NMPF.

### **NMPF Title**

We recommend that the NMPF title include the timeframe over which the NMPF will apply. This would help to further highlight how the marine planning framework is being aligned with *Project Ireland 2040: National Planning Framework*. A subtitle to reflect what the NMPF is seeking to achieve and provide more explanatory information could also be considered.

### **Overarching Marine Planning Policies**

#### ***Marine Planning***

Where the Marine Planning and Development Management Bill is discussed, the NMPF should also acknowledge that environmental assessments are conducted as part of the dumping at sea process, as well as the foreshore and planning regimes.

The draft NMPF refers to sub-national planning and developing a partnership approach to regional planning. The Regional Assemblies may provide an appropriate platform through which this work could be conducted.

#### ***Environment and Ocean Health***

The draft NMPF states that it “*intends to help realise the opportunities Ireland has to continually improve its marine and coastal environment*”. The draft NMPF could refer to the valuing and protecting the marine environment as part of the existing environmental measures.

With regards to Descriptor 7 for Good Environmental Status (GES) and the requirement to ensure that permanent alteration of hydrogeophysical conditions do not adversely effect marine ecosystems, there may be merit in aligning this work with the marine elements of the work of the National Hydromorphology Working Group, established under the Water Framework Directive and led by the EPA Catchments Team.

#### ***Biodiversity***

The EPA acknowledges that the draft NMPF includes measures for assessing how a proposal could affect coastal habitats. In addition to the measures listed in draft NMPF these assessments could also consider potential cumulative or in-combination effects of the development on the coastal habitats.

#### ***Water Quality***

The draft NMPF could consider including the Dumping at Sea Act in the Key References section. This Act contains criteria for the characteristics and composition of material suitable for dumping at sea. These criterium would assist in achieving National Marine Strategy Framework Directive (NMSF) GES Descriptor 8 in ensuring that concentrations of contaminants are not at levels that could give rise to pollution effects.

### **Marine Litter**

The key references in this section could also include the Dumping at Sea Act and the Urban Waste Water Treatment Directive, given that both of these pieces of legislation include authorisations which regulate the location and characterisation of materials entering the marine environment.

### **Key Sectoral/Activity Policies**

We note the many different policy relationships included in the table on pages 88-89. It could be improved by also indicating what activities are to be prioritised or take precedence depending on specific factors.

The NMPF should also consider the following aspects in further detail:

- The need to prepare management plans for Marine Protected Areas that establish the nature and extent of permitted activities in those areas;
- Set out practices for 'sustainable fishing';
- Ensure that all relevant plans, projects and activities (including investigative and feasibility studies, e.g. for aquaculture and offshore renewable energy) are subject to the relevant environmental assessment.

### **Fisheries**

Paragraph 12.19 refers to the Shellfish Waters Directive. This reference should be deleted as the Shellfish Waters Directive was repealed 13 years after the date of entry into force of the Water Framework Directive. Designated shellfish waters are afforded protection under Annex IV Protected Areas of the Water Framework Directive.

### **Ports, Harbours and Shipping**

A port or harbour intending to carry out dredging and dump the dredged material at sea must obtain both a foreshore licence from the relevant foreshore authority and a dumping at sea permit from the EPA. The majority of dumping at sea permits have been, and are likely to continue to be, concerned with the disposal of dredged material from the maintenance dredging of ports, harbours and navigational channels.

The Dumping at Sea Act 1996 (as amended) recognises the potential beneficial uses of dredge material and permission to dump at sea is granted only if the EPA and the OSPAR requirements for re-use of materials are satisfied that there is no suitable alternative means of land-based disposal, treatment or reuse of the material. In addition, all dumping at sea permits contain conditions in relation to marine litter.

The Marine Institute *Guidelines for the Assessment of Dredge Material for Disposal in Irish Waters* (2006, addendum 2019) includes national sediment quality guidelines. The purpose of these guidelines is to establish a comprehensive national framework for assessing the quality of dredged material and its potential contaminants.

### **Waste Water Treatment and Disposal**

The Waste Water Treatment and Disposal Policy 1 refers to achieving the objectives of the "*Marine Strategy Framework Directive 2012-2020*". There is no timeframe specified in the title of the Marine Strategy Framework Directive. Policy 1 should include proposals by Irish Water to contribute towards realising the Objectives of the Urban Waste Water Treatment Directive. While

many of the target dates in the Directive are now in the past, the overarching objectives of the Directive remain the same and are still valid.

Where the EPA Reports are used as a reference, the date of the reports should also be included, to ensure the most up to date information is being used.

As mentioned above, the 64 designated shellfish waters are afforded protection under the Annex IV Protected Areas of the Water Framework Directive.

### ***Climate***

The NMPF, should seek to maximise the many potential co-benefits of climate adaptation measures across human health, biodiversity, water quality, coastal flood risk management, terrestrial land use planning and other interrelated areas.

When discussing future climate impacts, the NMPF should refer to the climate data and projections used in developing the NMPF.

Regarding the planning policies and adaptation on page 60 of the draft NMPF, further information should be included on the decision-making framework as it relates to adaptation and the policies of the National Adaptation Framework, sectoral adaptation plans and local adaptation strategies.

### ***Schedule A: Public Bodies with Marine Responsibilities***

The functional activities of the EPA should also refer to licensing (Industrial Emissions, Waste, Waste Water Discharge Authorisations).

It should be noted that while the Department of Housing, Planning and Local Government is the responsible organisation for Dumping at Sea activities, the EPA is the organisation responsible for evaluating applications and enforcing dumping at sea permits, under the Dumping at Sea Act.

## **Appendix II – Comments on the SEA ER**

We welcome that the scope of the NMPF and description of the various elements of the NMPF are clearly laid out. We also acknowledge the methodology and approach taken to developing and assessing the various alternatives considered.

The SEA Environmental Report refers to the European Environment Agency report 2015. It should be noted that the EEA recently published "[The European Environment - State and Outlook 2020](#)". The new report provides updated information and trends in relation to the quality of the European marine environment.

### *Scoping of the Environmental Report*

The scope of the SEA is quite broad and would benefit from further refinement. For example, aspects such as air quality, land cover and terrestrial transport could perhaps be removed, or made more specific to a marine plan, to greater reflect the nature of the NMPF.

### *Data Gaps*

With regards to the limited marine baseline data available, data gaps (where known) could perhaps be more clearly described.

The Marine Institute is currently undertaking a Seascape Charter Assessment which could be used as a reference for filling some data gaps relating to characteristics of the marine landscape and coastal landscape protection.

Significant data can be obtained from the monitoring carried out under environmental authorisations issued by the EPA. These include industrial emissions licences, waste licences, waste water discharge authorisations and dumping at sea permits. All of these authorisations include monitoring requirements that generates data in relation to water quality, discharges to water, emissions to air, turbidity assessments and sediment contamination. Annual reports for these authorisations are available on the EPA website.

### *Existing environmental baseline*

We note that some sections of the SEA describing existing environmental pressures/problems focus on possible impacts from future development. The SEA would benefit from describing, where possible, areas where the marine environment is already known to be in poor or unfavourable condition.

### *Non-Technical Summary (NTS)*

The NTS could be improved by considering use of a more 'plain-English' approach, where possible, to improve its read-ability as a non-technical summary.

Table 4 provides a summary of the current state of Irelands environment (2016). In relation to the Inland and Marine Waters theme, it should be noted that most of Irelands coastal water bodies are of good ecological status or better. 38% of transitional waters are of good ecological status, or better. The latest water quality assessment period should be updated to refer to 2013-2018.

### *Mitigation*

It is not clear how the measures will provide mitigation for activities.



### *Monitoring*

The Monitoring Programme should be flexible to take account of specific environmental issues and unforeseen adverse impacts should they arise, as well as monitor impacts of the plan. It should consider and deal with the possibility of cumulative effects. Monitoring of both positive and negative effects should be considered. The monitoring programme should also, where possible, set out the various monitoring frequencies and responsibilities.

The current geographic scope of the monitoring may not be sufficient to assess plan activities, for example consideration should be given to what happens in unmonitored areas or biotopes.

If the monitoring identifies adverse impacts during the implementation of the NMPF, effective and appropriate remedial action should be taken.

### *State of the Environment Overview – Republic of Ireland*

Table 6-2 Summary of the Current State of the Environment (2016) – this table should be updated as per the comments for Table 4.

### *Environmental Characteristics*

In relation to Water Quality and Marine Litter, it should be noted that both the Water Framework Directive and the Marine Strategy Framework Directive require water quality assessments to be completed and can be used to inform the NMPF.

Section 6.4.4 Water should make reference to the requirements of the Water Framework Directive, in addition to referring to the requirements of the Marine Strategy Framework Directive. Section 6.4.4.3 Nutrient Enrichment refers to the current nutrient enrichment situation within Ireland's Assessment Area. This relates to Marine Strategy Framework Directive areas only, and not to the Water Framework Directive areas.

Section 6.4.6.11 relating to Wastewater Treatment and Disposal should include reference to nutrient sensitive areas.

### *Appropriate Assessment*

We note that the main ecological impacts that could arise from the NMPF are set out in Natura Impact Statement (NIS). We also note that the impacts of the NMPF, including potential in-combination impacts are described.

We acknowledge that the NMPF consistently promotes a hierarchy of impact avoidance – minimisation – mitigation – statement of case for proceeding for various sectors. Further clarity however, should be provided to explain what the 'statement of case' must include, and how decisions will subsequently be made.

This could potentially allow activities/projects that have a significant impact on the integrity of European sites, where a 'statement of case' is made for them. The NIS should also describe situations where development may not be able to take place or may be constrained geographically/seasonally/sectorally in order to maintain the integrity of European sites.