



Comhshaol, Pobal agus Rialtas Áitiúil  
Environment, Community and Local Government



# ***A New Planning and Consent Architecture for Development in the Marine Area***

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## **Consultation Paper**

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## **1. Introduction**

### **1.1 Value and importance of the Marine Sector**

Taking our seabed area into account, Ireland is one of the largest EU States; with sovereign or exclusive rights over one of the largest sea to land ratios (over 10:1) of any EU State. Our coastline of 7,500km is longer than that of many European countries. Our ocean is a national asset, supporting a diverse marine economy with vast potential to tap into a €1.2bn global marine market for seafood, tourism, oil and gas, renewable energy and new applications for health, medicine and technology. In parallel, our marine resource gives us many non-commercial benefits such as rich biodiversity and a mild climate.

### **1.2 Programme for Government Commitments**

The Programme for Government (PfG) contains a number of commitments in relation to the marine sector and in particular the foreshore consent regime *viz*:

- the provision of an efficient foreshore licensing and leasing process for marine energy;
- streamlining the planning and regulatory processes for bringing energy reserves ashore; and
- the development of an integrated marine and coastal planning process in order to maximise the potential of Ireland's coastline in fishing, aquaculture, ocean energy and tourism.

It is intended that key elements of the PfG commitments above would be advanced by the development of legislation in the form of a Foreshore and Marine Area Development Bill.

Responsibility for marine matters is spread across a number of Government Departments and agencies. In recognition of the broad scope of the marine sector and the need for better co-ordination, the Government is already implementing mechanisms to achieve greater co-ordination and integration through the Inter-Departmental Marine Coordination Group.

### **1.3 Harnessing Our Ocean Wealth - An Integrated Marine Plan for Ireland**

During 2011, the Government initiated the first steps in developing an Integrated Marine Plan for Ireland. Following a public consultation, *Harnessing Our Ocean Wealth* was published earlier this year. The plan sets the policy context to ensure the right conditions exist to drive the potential of the marine economy, in a way that contributes both to environmental protection and to sustainable growth and development.

The Integrated Marine Plan will provide a new momentum for growth in the area. It will build on the Programme for Government, ensuring Departments work together in an effective way on diverse marine issues, in order to develop an environment conducive to sustainable growth and jobs. Further information on *Harnessing Our Ocean Wealth*, including background material and sectoral briefing documents, is available on [www.ouroceanwealth.ie](http://www.ouroceanwealth.ie).

It is within this wider context that work is being progressed by the Department of Environment, Community and Local Government to contribute to economic growth and to enhance protection of the marine environment through the development of a more modern consent process for offshore activity and the implementation of the EU Marine Strategy Framework Directive.

### **1.4 Implementation of the Marine Strategy Framework Directive**

The Marine Strategy Framework Directive (MSFD) requires Member States to prepare marine strategies for their marine waters. A Marine Strategy must comprise an initial assessment, a determination of good environmental status, a set of environmental targets and indicators, a monitoring programme (to allow on-going assessment) and a programme of measures designed to

achieve or maintain good environmental status. The requirements of the directive apply to (i) coastal waters and (ii) waters, the seabed and subsoil extending to the outermost reach of the area, where a Member State has and/or exercises jurisdictional rights under the United Nations Convention on the Law of the sea (UNCLOS).

The preliminary work on Ireland's initial assessment under the MSFD is underway and will provide the information and data needed as a basis for the establishment of the current environmental status of our marine waters, the establishment of appropriate targets to achieve good environmental status for Irish marine waters where required and for the identification of the measures that will be needed to achieve this objective.

As part of the initial assessment, an Atlas of the Irish Marine Environment will be developed, which will include the collation of all relevant information into a central Geographical Data and Information System of activities, pressures and characteristics that operate in our marine environment – this is targeted for delivery in 2013. The Atlas will:

- be a web based tool, with a supporting structured data store and associated metadata and documentation portal;
- provide a national marine data infrastructure, complementing other existing data infrastructures, and will be capable of long term maintenance, enhancement, and active use;
- be a valuable tool and provide a good foundation for future Marine Spatial Planning;
- have a public facing component via the web.

The development of the Marine Atlas includes the sourcing and collation of relevant marine environment datasets on:

- Marine Habitats;
- Biological species and biodiversity mapping;
- Seabed Geology;
- Contaminant Mapping;
- Hydrographic Data;
- Shipping and fishing intensity data;
- Infrastructure Data (oil, gas, cables);
- Heritage Data;
- Outfalls/abstractions;
- Shellfish and Bathing Water Designations;
- Aquaculture,
- Developments holding licences /leases on the foreshore.

The information provided through the initial assessment and the Atlas of the Marine Environment will also be a key step in developing a foundation for maximising the benefits of our ocean wealth on a sustainable basis, by providing an accurate picture of the current status of our marine waters. Following on from that, it will be necessary to ensure that the appropriate legislation is in place to underpin the measures that will be needed to ensure that each of the sectors identified; fisheries, aquaculture, offshore renewable energy, shipping, etc., can grow and develop in an environmentally sustainable way. The growth of each of these sectors will exert pressures on the marine environment and there will be an increased requirement to balance the needs of the different sectors while respecting conservation, cultural heritage and environmental objectives. A better understanding of cumulative impacts will also be needed.

### **1.5 Invitation to Make Submissions**

Before we frame the legislation, we want to hear your views. Accordingly, you are invited to make submissions on this consultation paper by 1 March 2013. Submissions should be returned in electronic format to the Department at [foreshore@environ.ie](mailto:foreshore@environ.ie), or in writing to Marine Planning and Foreshore Section, Department of the Environment, Community and Local Government, Newtown Road,

Wexford. The specific questions posed are highlighted in ***bold italicised*** text throughout the document. They are posed only as an aid to the consultation process and participants are also invited to make comment on other aspects of the proposed approach. For ease of reference, the questions are repeated in the Consultation Return Form, appended to the end of this document.

## **2. Current Foreshore Regime**

### **2.1 Operation of the current foreshore consent process**

The foreshore, under Irish legislation, extends from the mean High Water Mark to a point 12 nautical miles from the Low Water Mark. The vast majority of this area is owned by the State. The operation of the current foreshore consent and estate management regime is governed by the Foreshore Act 1933, which has only been the subject of limited updating since enactment. In 2010 the Department of the Environment, Heritage and Local Government (now the Department of the Environment, Community and Local Government) assumed responsibility for a range of foreshore functions, including management of the foreshore as part of the public estate and the granting of development consent<sup>1</sup>, where it is in the public interest.

The principal areas of development activity for which this Department has responsibility are:

- all foreshore energy-related developments including oil, gas, wind, wave and tidal energy;
- aggregate and mineral extraction developments on the foreshore;
- foreshore projects in respect of Port Companies and Harbour Authorities and projects in respect of any other harbour and harbour-related developments intended for commercial trade;
- all other foreshore projects, other than those relating to aquaculture and sea fisheries.

The Foreshore Act 1933 requires that a lease or licence must be obtained from the Minister for the ‘*carrying out of works, or placing of structures or material on, or the occupation of or removal of material from State-owned foreshore*’. The consent of the Minister is also required if development on privately owned foreshore is contemplated.

Responsibility under the Foreshore Act for consenting to developments related to aquaculture and sea-fishing activities, and developments within Fishery Harbour Centres, rests with the Minister for Agriculture, Food and the Marine. The proposals outlined in this document are not intended to cover the consent system operated by that Department.

### **2.2 A lease or a licence?**

Leases are required for exclusive use of the foreshore where developments or structures are of a permanent nature. Examples of such developments on the foreshore include small developments such as piers and slipways, and major developments encompassing wind farms or commercial port facilities.

Licences are generally required for temporary activities or developments that do not involve exclusive rights to the foreshore. Such activities include, for example, seaweed harvesting, site investigations, horse racing, filming and other such outdoor events. The laying of pipelines and telecommunications cables also requires a licence (rather than a lease), as they are generally non-exclusive and can co-exist with other developments or activities.

The maximum term allowed for a lease or licence under the current legislation is 99 years, although generally the term granted for a lease is around 35 years.

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<sup>1</sup> For the purposes of this document references to ‘development consent’ mean the consent that is granted under the Foreshore Act or the Planning and Development Act as a result of the performance by the competent authority of screening for Environmental Impact Assessment/Appropriate Assessment and/or a full EIA or AA.

Currently, both the development consent and property management aspects of a foreshore lease or licence are addressed simultaneously by the Minister, when determining whether it is in the public interest to grant a foreshore lease or licence. In accordance with the Foreshore Act, a lease or licence can only be issued if it is in the public interest.

### **2.3 Processing of Foreshore Applications**

At present, the processing of a foreshore application typically includes the following:

- Consultation with statutory and non-statutory consultees, including relevant Departments and agencies;
- a period of public consultation, normally 21 days;
- assessment of the application by the Department and, where necessary, the Marine Licence Vetting Committee<sup>2</sup>, which advises the Minister on scientific matters;
- valuation of the site in question;
- other public interest elements that may arise in particular cases;
- obtaining necessary legal advice and Department of Public Expenditure and Reform sanction where appropriate;
- Ministerial determination as to whether it is in the public interest to grant a foreshore lease or licence; and
- execution of the necessary legal documentation.

### **3. A Proposed Marine Area**

Under international and national law, legal status is given to different parts of the offshore marine environment. The Territorial Sea extends to 12 nautical miles (referred to as the foreshore in Irish legislation); beyond that are the Exclusive Economic Zone (12nm to 200nm) and the Continental Shelf (from 200nm to a maximum of 350nm, or the end of the topographical continental shelf, whichever is shorter). The Foreshore Act 1933, the Continental Shelf Act 1968 and the Sea Fisheries and Maritime Jurisdiction Act 2006 provide the national legislative frameworks for activity in these respective areas. A number of consent systems, other than the foreshore consent system, have effect in these areas, such as those consents required for oil and gas exploration and extraction. However, some types of development that may occur in the future, such as certain classes of renewable energy development, are not covered by these consent systems beyond the foreshore.

The United Nations Convention on the Law of the Sea (UNCLOS) provides that the Territorial Sea forms part of the State's territory. Full territorial rights do not extend however to either the EEZ or the Continental Shelf. The State is entitled to exercise sovereign rights over natural resources in these areas and may also provide for a consent system that takes account of environmental protection, health and safety and other such factors. In accordance with the Sea Fisheries and Maritime Jurisdiction Act 2006, these sovereign rights extend to the production of energy from the water, currents and winds within the EEZ. Under the Continental Shelf Act 1968, the relevant Minister may establish designated areas for exploration and/or exploitation of certain resources.

The establishment of a Marine Area is under consideration, subject to detailed further assessment of the likely merits and implications of such an action. One available option is the effective amalgamation of these three frameworks (foreshore, EEZ and Continental Shelf) into such a Marine Area for the purposes of development consent. This could be the first step towards a national framework for Marine Spatial Planning.

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<sup>2</sup> The MLVC is a non-statutory multi-disciplinary standing committee which has provided scientific, technical and engineering advice on applications for foreshore consent for the past three decades.

*Given the legislative framework and rights to resources that already exist, would there be a tangible benefit to the establishment in law of a new Marine Area?*

*If yes, what public body or bodies might be best placed to act as the consent authority for development within such a Marine Area?*

*As an alternative to such an approach, should the proposed reforms of the foreshore system be aligned with the existing framework governing the Continental Shelf and EEZ (rather than amalgamating all three)?*

#### **4. A New Planning and Consent Architecture**

##### **4.1 Overview**

The main purpose of the proposed Foreshore and Marine Area Development Bill will be to modernise the current foreshore consent regime for certain projects and management of development activities on the foreshore, and where relevant, in a defined wider marine area (this is subject to further detailed assessment as per above). It proposes to do this by integrating the foreshore consent process within the existing consent system under the Planning Acts<sup>3</sup>. There are a number of options available in this regard. However, when considering such reform, it should be recalled that there are different kinds of projects and developments which are subject to the Foreshore Acts, from offshore energy developments, piers, harbours, and municipal infrastructure, down to moorings and minor activities such as horse racing and tag rugby on the beach.

##### **4.1.1 A New Strategic Consent System**

In terms of reform of the foreshore consent regime, one available option is the integration of the foreshore consent process for strategic infrastructure only with the strategic consent process operated by An Bord Pleanála. This would give An Bord Pleanála full development consent jurisdiction over all strategic infrastructure projects on, or partially on, the foreshore. The role of the Minister would be limited to that of landlord's agent on behalf of the State. Existing arrangements for the processing of foreshore applications that are not deemed to be strategic infrastructure would continue to apply.

This option would require an amendment to the relevant provisions of the Planning Acts in order to integrate the foreshore consent process for strategic infrastructure projects within the strategic consent process. This would include all strategic projects on the foreshore which require an Environmental Impact Assessment under Directive 2011/92/EU, whether they physically adjoin land or not. Developments to be included would include strategic commercial port and harbour development and offshore renewable energy development.

The overall criteria against which such a development consent process would operate would be proper planning and sustainable development. In addition to such requirements as compliance with environmental and Natura regulations, conditions that might be applied to development consent on the foreshore could, therefore, include the following:

- Navigation and human safety;
- Protection of fishery resources;
- Protection of archaeological heritage.

The public participation and stakeholder consultation would operate on the same basis as applies under the existing provisions of the Planning and Development (Strategic Infrastructure) Act 2006.

A possible outline of how environmental assessment and public consultation would sit within such a streamlined consent system is as follows:

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<sup>3</sup>Reference to the Planning Acts refers to the Planning and Development Act 2000-2012

- The proponent of the project applies for a lease/licence option from the Minister in respect of the foreshore portion of the project;
- The Minister conducts a screening review to determine if the area proposed for development has already been leased/licensed and if there are other factors that may impact on the grant of such an option;
- if approved, the Minister grants the proponent a conditional interest, in the form of a lease/licence option, in the area specified and project identified, which expires after a fixed period unless the proponent submits a planning application for all elements of the project (terrestrial/offshore) to An Bord Pleanála;
- the proponent of the project, where a lease/licence option has been granted, would also engage in pre-application consultations with the Strategic Infrastructure Division of An Bord Pleanála on the full project, including both terrestrial and foreshore elements;
- an EIA scoping request would be for all elements of the project, as above;
- the proponent of the project will submit an application and Environmental Impact Statement / Natura Impact Statement for the whole project (terrestrial and offshore) to An Bord Pleanála;
- the public and prescribed body consultations and oral hearing, as applicable, will be for the whole project;
- the Environmental Impact Assessment and Appropriate Assessment, as applicable, to be carried out will be for the whole project by An Bord Pleanála.

*If this option alone were pursued, would the reforms be sufficient to facilitate development of the sort envisaged in Harnessing Our Ocean Wealth?*

*How can the sequencing between development consent and securing a proprietary right in the foreshore (i.e. a licence or lease) be managed in a way that supports timely and efficient decision making?*

*Would the availability of a lease/licence option as described be sufficient?*

#### **4.1.2 A New Consent System for Mid-Level Projects**

An alternative to a reformed strategic consent process along the lines outlined above would be the transfer of a broader development consent role to An Bord Pleanála. This option would have two elements; it would encompass the strategic element described at 4.1.1 above and would be supplemented by a separate process for projects or developments that are neither strategic nor minor in nature, but which fall somewhere in the middle. For example, if the proposed development is subject to either Environmental Impact Assessment (EIA), or if the proposed development meets some alternative threshold, the development consent role for the entire project, including a single EIA could be carried out by An Bord Pleanála. Existing arrangements for the processing of foreshore applications that are not subject to EIA (or an alternative threshold) could continue to apply, subject to the outcome of deliberations on transfer of such arrangements to Local Authorities (see 4.1.3 below).

*Is the requirement for EIA the appropriate threshold by which to determine whether ABP is the consent authority?*

*What alternative threshold could apply?*

#### **4.1.3 A New Consent System for non-EIA Foreshore Developments adjoining Land**

*Putting People First*, the recently published action programme for Local Government reform, recommends the devolution of a variety of functions from central to local government, including the foreshore function. The programme sets out the overarching vision for the future of local government in Ireland, which will be the main vehicle of governance and public service at local level. Consistent with this overall vision, the devolution of the foreshore consent function to local authorities for certain activities is being considered in the context of the proposed legislation.

Under section 225 of the Planning and Development Acts, certain developments on the foreshore require planning permission if they adjoin the functional area of a planning authority, other than by way of a cable or pipeline. Planning authorities therefore already have a limited role in respect of the foreshore. In the context of both the commitment to develop an integrated marine and coastal planning process and the programme of local government reform, this role could be extended to include responsibility for both planning permission and the foreshore consent for developments that are covered by section 225<sup>4</sup>. The inclusion of coastal zone management objectives in the planning hierarchy would help guide development of this nature.

The foreshore consent role for developments or activities that are neither strategic, nor contiguous to land, would remain with the Department.

At the moment, nearly 40% of all foreshore applications relate to local authority own development (development carried out by the local authority itself). The types of project generally include:

- Sewerage / water outfall pipes.
- Piers and slipways.
- Breakwaters and roads

It is envisaged that if this approach were adopted, the possibility of utilising shared local authority services to administer this function would also be developed, in order to ensure efficient management of the function in the longer term.

***Should this option be pursued as a stand-alone change, or in addition to either or both of the options set out at 4.1.1 and 4.1.2 above?***

## **4.2 Forward Planning**

At present the Planning and Development Acts provide for a discretionary development plan objective in relation to “*regulating, restricting, and controlling development on the foreshore*”. The majority of coastal planning authorities already include objectives concerning the development and management of the coastal zone in their development plans, on a discretionary basis. Examples of these objectives include:

- protection of marine habitats and biodiversity measures;
- coastal landscapes and ecological corridors;
- port and harbour developments and other coastal infrastructure;
- control of unauthorised removal of beach material;
- inter and trans boundary County development such as development of coastal paths; and
- quality of beaches, litter control and trading etc.

These discretionary objectives have been developed and applied in a fragmented way and in the absence of overarching policy guidance. It is proposed that any new legislation would require mandatory objectives for managing all aspects of the coastal zone, including both terrestrial and marine elements within the development plan process.

It is proposed to define Integrated Coastal Zone Management in legislation along the following lines:

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<sup>4</sup> If this option were to be pursued, it is proposed that the exclusions specified in section 225 would remain in place. In other words, local authorities would not necessarily be assigned responsibility for the foreshore consent process in respect of;

- (i) development consisting of underwater cables, wires or pipelines used to transmit electricity or telecommunications, or to carry gas, petroleum, oil or water, and
- (ii) development connected to land solely by means of such a cable, wire or pipeline.

*‘Integrated Coastal Zone Management’ means the process for the sustainable management and use of coastal zones, taking into account the fragility of coastal ecosystems and landscapes, the diversity of activities and uses, their interactions, the maritime orientation of certain activities and uses and their impact on both the marine and land parts.*

The above definition and evolving policy guidance will use the existing forward planning process to ensure that at a strategic level the different interacting factors – physical, economic, social and environmental – are dealt with in an integrated way.

#### **4.3 Proposed exemptions (from a property perspective).**

At present, there are a number of activities and developments which could be exempted from the need to obtain a foreshore licence, on the basis that they are of a trivial nature, or are already assessed under another consent regime, including relevant Local Authority bye-laws, as well as being more accurately described as *activities*, rather than development as defined in the Planning Acts. Exempting these activities from the requirement of securing a foreshore licence, subject to certain conditions, would reduce unnecessary regulatory duplication and costs. Such conditions might include:

- The Department being formally notified of the activity and provided with evidence of public liability insurance;
- the activity securing permission from the relevant local authority under any appropriate bye-laws and other necessary consents e.g. a waste permit.

Examples of activities that could be exempted from the requirement to secure a foreshore licence include the following:

- Tag rugby and horse-racing events on the foreshore;
- filming on the foreshore;
- moorings (where not attached to land);
- minor non-invasive site investigation licences (if not related to a strategic project);
- seaweed harvesting (of a minor nature below a certain threshold e.g. harvesting by hand as opposed to large scale mechanical harvesting);
- deployment of scientific instruments and sample collection for research purposes.

It is proposed that the Minister would be given the necessary regulation-making powers in the legislation to exempt such activities and to set the conditions that would attach to such exemptions. These regulation-making powers would also enable the Minister to review and update the classes of activity covered by the exemption.

*Could other activities requiring a foreshore licence be included in the above approach?*

*What conditions would need to be attached to safeguard the Department’s role on behalf of the State as property owner?*

## **5 Ownership of the Foreshore and Estate Management**

### **5.1 Overview**

Foreshore is the land and seabed between the high water of ordinary or medium tides (shown as HWM on Ordnance Survey maps<sup>5</sup>) and the twelve nautical mile limit off the baseline (approximately 22.24km). This equates to 9.7 million acres or 36% of Ireland’s land area. The vast majority of the foreshore is owned by the State and, in accordance with the State Property Act 1954, there is a general presumption that ownership of the foreshore is vested in the State unless evidence to the contrary can

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<sup>5</sup> It is worth noting that the HWM is not static and depending on the area, has proven highly mobile in some places, through erosion and accretion.

be produced. Title to State owned foreshore is vested in the Minister for Public Expenditure & Reform.

By virtue of the Foreshore Acts, the Minister of Environment, Community & Local Government negotiates the terms and conditions on which the State is prepared to enter into a property contract with the proponent of a development, including such matters as the lease/licence rental fee. Over 2,000 foreshore leases and licences have been issued by the State, some of which predate the enactment of the Foreshore Act in 1933.

## **5.2 Constraints and Structural Deficiencies**

Currently, both the development consent and estate management aspects of a foreshore lease or licence are addressed simultaneously by the Minister when determining whether it is in the public interest to grant a foreshore lease or licence. In practice, the one lease/licence document executed between the parties serves as both the property contract and the development consent, incorporating the environmental conditions as a schedule to the document. In the case of development proposals on privately-owned foreshore, the Minister performs only the development consent function.

The foreshore legislation, which predates planning legislation, was originally designed to address the property aspects of foreshore estate management. The role has evolved over time, particularly with regard to the various environmental assessments required under national and EU law. These requirements have been incorporated into legislation governing the foreshore over the years.

There have been a number of criticisms leveled at the operation of the foreshore consent process, many of which reflect the fact that the legislation is dated. The foreshore legislation was developed long before the advent of significant offshore infrastructural developments, including renewable energy technology, oil and gas pipelines and modern port infrastructure. Since assuming responsibility for the foreshore function in 2010, the Department has met with a range of stakeholders to hear their views on the operation of the foreshore consent regime. A number of key concerns with the existing regime, as articulated by stakeholders can be summarised as follows:

- the lack of a plan-led approach to development on the foreshore and beyond leading to the perception that the current licensing and regulation for foreshore activity is carried out on a sectoral and demand driven basis;
- no statutory objective time frame for determinations, uncertainty about the process and a perceived lack of transparency;
- duplication of effort, as most projects require both terrestrial planning permission and foreshore consent;
- leases have been granted in the recent past for developments that have never come to fruition, effectively sterilising those areas from development with very little return to the State; and
- enforcement of the legislation could be more effective.

Changes in the consent regime will have implications for the property management role. Property management of the State foreshore is a shared responsibility between the Ministers for Public Expenditure and Reform and the Ministers for the Environment, Community and Local Government and Agriculture, Food and the Marine. The Minister for Public Expenditure and Reform is the owner of the State foreshore and has statutory responsibility for disposals (sales). The Ministers for the Environment, Community and Local Government and Agriculture, Food and the Marine are empowered to grant leases and licences but have no statutory authority to sell foreshore. In addition, the Minister for Environment, Community and Local Government is vested with a range of general functions related to the management of foreshore. It is proposed that the Minister of the Environment, Community and Local Government would retain its current property management role, even in the event that the bulk of the development consent function is transferred.

*If the foreshore function is to be divided among a number of public bodies, should a single body perform the property management function on behalf of the State?*

*Should the assessment of applications for development consent be made by the same authority that has the power to grant a proprietary interest in the foreshore?*

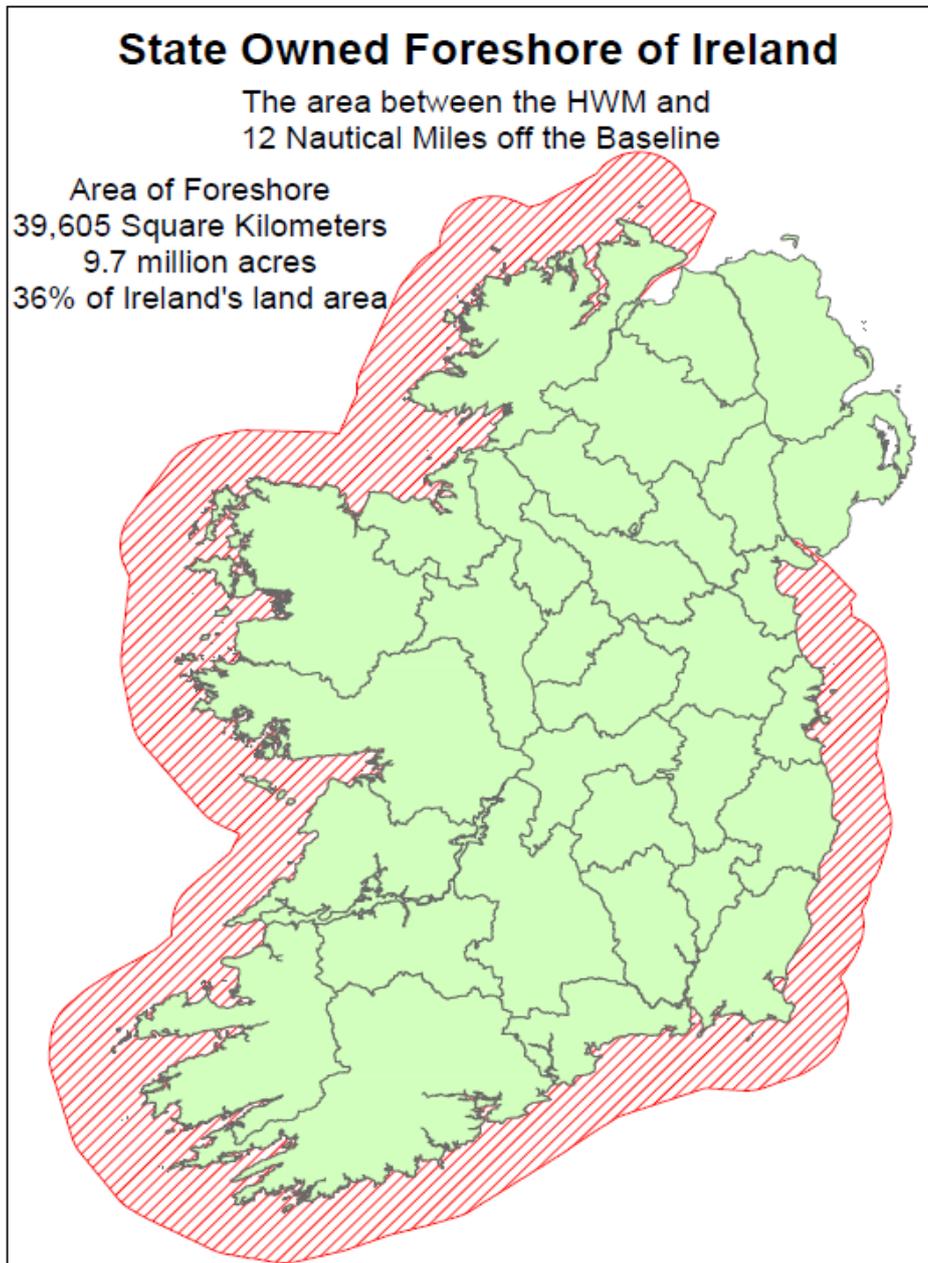
*Under what process should decisions regarding whether or not to grant an interest or right in the foreshore (i.e. a licence or a lease) be made?*

*Apart from the public interest, what other considerations should be taken into account?*

*Should proprietary decisions require a separate public participation process?*

**This Consultation Paper does not purport to be a legal document.**

**Appendix 1: Map showing extent of foreshore in Ireland<sup>6</sup>**



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<sup>6</sup> All the foreshore of Ireland is presumed state-owned unless valid alternative title can be demonstrated.

## Appendix 2: Types of Foreshore Projects

<b>Energy and Natural Resources Projects</b>	
Project A	Oil/gas extraction project in EEZ or foreshore connected to land via a pipeline which transports the oil/gas to an onland terminal
Project B	Renewable Energy Project in EEZ connected to IRL coast via Power Cable
Project C	Renewable Energy Project in EEZ <u>not</u> connected to IRL coast e.g. connecting to UK via Power Cable
Project D	Renewable Energy Project on foreshore connected to IRL coast via Power Cable
Project E	Electricity/gas interconnector between IRL and UK which traverses foreshore and EEZ
Project F	LNG Terminal onland with small contiguous elements of the project on the foreshore
<b>Other Project Types</b>	
Project G	LA Waste Water Treatment Plant onland with small contiguous elements of the project on the foreshore
Project H	Port/Harbour/Marina development with contiguous elements onland and on foreshore
Project I	Pier/Slipway development with contiguous elements onland and on foreshore
Project J	International Telecoms Cable between IRL and US/UK/France
Project K	Minor development related to marine based activities on foreshore e.g. boat moorings
Project L	Activities on the foreshore which do not constitute development e.g. horse racing, tag rugby or filming

### Key to Acronyms

- AA: Appropriate Assessment in accordance with the requirements of the Birds and Habitats Directives
- EEZ: Exclusive Economic Zone
- EIA: Environmental Impact Assessment in accordance with the requirements of the EIA Directive
- LA: Local Authority
- SID: Strategic Infrastructure Development

# CONSULTATION

## ON PROPOSED FORESHORE AND MARINE AREA

### DEVELOPMENT BILL

\*\*\*\*\*  
Please note that all submissions and comments submitted to the Department of the Environment, Community and Local Government for this purpose may be subject to release under the Freedom of Information Acts 1997 to 2003 and/or the European Communities (Access to Information on the Environment) Regulations 2007 and may also be published on the Department's website  
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**Part 1.**

*The information you provide in this Part will assist the Department in evaluating the information provided in Part 2.*

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Are you:

- |   |  |
|---|--|
| <input type="checkbox"/> . . . . Private Individual           | <input type="checkbox"/> . . . . NGO                             |
| <input type="checkbox"/> . . . . Industry/ Commercial Entity  | <input type="checkbox"/> . . . . State Sector / Public Body      |
| <input type="checkbox"/> . . . . Local Community Group        | <input type="checkbox"/> . . . . Trade/ Professional Body        |
| <input type="checkbox"/> . . . . Higher Education / Research  | <input type="checkbox"/> . . . . Political Body / Representative |
| <input type="checkbox"/> . . . . Other (Please Specify) _____ |  |

Please indicate the area(s) of your interest in the Foreshore:

- |  |   |
|--|---|
| <input type="checkbox"/> . . . . Current Lease/ Licence Holder | <input type="checkbox"/> . . . . Electricity Transmission   |
| <input type="checkbox"/> . . . . Energy (Wind)                 | <input type="checkbox"/> . . . . Energy (Wave)              |
| <input type="checkbox"/> . . . . Energy (Tidal)                | <input type="checkbox"/> . . . . Energy (Oil/ Gas)          |
| <input type="checkbox"/> . . . . Environmental Protection      | <input type="checkbox"/> . . . . Fisheries/ Aquaculture     |
| <input type="checkbox"/> . . . . Leisure/ Tourism              | <input type="checkbox"/> . . . . Municipal/ Local Authority |
| <input type="checkbox"/> . . . . Shipping/Transport            | <input type="checkbox"/> . . . . Telecommunications         |
| <input type="checkbox"/> . . . . Other (Please specify)        |   |

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**Part 2. Questions on Consultation Document**

A. Section 3 of Consultation Document - A Proposed Marine Area

1. *Given the legislative framework and rights to resources that already exist, would there be a tangible benefit to the establishment in law of a new Marine Area?*

2. *If yes, what public body might be best placed to act as the consent authority for development within such a Marine Area?*

3. *As an alternative to such an approach, should the proposed reforms of the foreshore system be aligned with the existing framework governing the Continental Shelf and EEZ (rather than amalgamating all three)?*

B. Section 4.1.1 of Consultation Document – A Streamlined Strategic Consent System

4. *If this option alone were pursued, would the reforms be sufficient to facilitate development of the sort envisaged in *Harnessing Our Ocean Wealth*?*

5. *How can the sequencing between development consent and securing a proprietary right in the foreshore (i.e. a licence or lease) be managed in a way that supports timely and efficient decision making?*

6. *Would the availability of a lease/licence option as described be sufficient?*

C. Section 4.1.2 of Consultation Document – A Streamlined Consent System for Mid-Level Projects

7. *Is the requirement for EIA the appropriate threshold by which to determine whether ABP is the consent authority?*

8. *What alternative threshold could apply?*

D. Section 4.1.3 of Consultation Document – A Streamlined Consent for Foreshore Developments adjoining Land

9. *Should this option be pursued as a stand-alone change, or in addition to either or both of the options set out at 4.1.1 and 4.1.2 above?*

E. Section 4.3 of Consultation Document – Proposed Exemptions (from a property perspective)

***10. Could other activities requiring a foreshore licence be included in the above approach?***

***11. What conditions would need to be attached to safeguard the Department's role on behalf of the State as property owner?***

F. Section 5 of Consultation Document – Ownership of the Foreshore and Estate Management

***12. If the foreshore function is to be divided among a number of public bodies, should a single body perform the property management function on behalf of the State?***

***13. Should the assessment of applications for development consent be made by the same authority that has the power to grant a proprietary interest in the foreshore?***

***14. Under what process should decisions regarding whether or not to grant an interest or right in the foreshore (i.e. a licence or a lease) be made?***

*15. Apart from the public interest, what other considerations should be taken into account?*

*16. Should proprietary decisions require a separate public participation process?*

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**Section 3.**

*Any other observations.*

**Replies should be returned by 1 March 2013, by email or by post:**

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