

Submission to the Public Consultation on the Marine Protected Areas (MPAs) Advisory Group's Report entitled "Expanding Ireland's Marine Protected Area Network"

This is the Marine Renewables Industry Association's www.mria.ie response to the consultation on the MPA Advisory Group's Report¹, which has major implications for Offshore Renewable Energy in light of the target to designate 30% of Ireland's maritime area as MPAs by 2030. The consultation took the form of an online questionnaire. Thus, the questions set in the consultation are in SMALL CAPITAL LETTERS below along with quotes (in green) etc from the Report which are an integral part of some questions. The MRIA responses are highlighted to help readers. Some questions have a multiple-choice element e.g., 'no answer'; 'somewhat agree' etc.

Your opinions on marine protected areas (MPAs)

1. IN YOUR OPINION, WHAT WOULD A GOOD AND EFFECTIVE MPA LOOK LIKE?

We agree with the definition set out at 3.6.1 in *'Expanding Ireland's marine protected area network- a Report by the Marine Protected Area Advisory Group for the Department of Housing, Local Government and Heritage'* (hereinafter referred to as the Report). There are three pillars to a sustainable regime at sea: *economic, social and environmental*.

A 'good and effective MPA' must address each pillar and also have the following characteristics:

1. Selection of MPAs based on robust, baseline scientific evidence and following a full consultation with all stakeholders. It will be important too that designations are as exact as possible in terms of 'what is designated' and 'where the designation applies'
2. Takes cognizance of co-existence, where deemed acceptable by independent scientific advice, of activities under all three pillars
3. Accordingly, allows for co-existence of offshore marine renewables and a MPA on the one site where this is judged acceptable by reference to objective, independent scientific advice
4. Clear and realistic measure of performance of the MPA

¹ *Expanding Ireland's Marine Protected Area Network, A Report by the Marine Protected Area Advisory Group for the Department of Housing, Local Government and Heritage* October 2020

2. THE MPA REPORT DESCRIBES A WIDE RANGE OF APPROACHES TO AREA-BASED CONSERVATION OR PROTECTION OF THE ENVIRONMENT AND NATURE, FOR EXAMPLE. BY DRAWING ON GLOBAL, REGIONAL AND NATIONAL EXPERIENCE AND EVIDENCE, IN ITS CONCLUSIONS AND RECOMMENDATIONS SECTION (SECTION 3.6.1) THE EXPERT GROUP PROVIDES A DEFINITION (BELOW) OF WHAT AN MPA COULD BE:

A geographically defined area of marine character or influence which is protected through legal means for the purpose of conservation of specified species, habitats or ecosystems and their associated ecosystem services and cultural values, and managed with the intention of achieving stated objectives over the long term.

Somewhat agree

3 IF YOU DON'T FULLY AGREE WITH THIS DEFINITION, WHAT ELEMENTS OR FEATURES YOU WOULD CHANGE OR ADD OR DELETE IN IT?

We would change (*italics*) to: 'A geographically defined area of marine character or influence which is identified following consultation with all stakeholders *and which allows for co-existence between an MPA and an economic development activity where the independent scientific evidence permits* and is protected through legal means for the purpose of specified species, habitats or ecosystems and their associated ecosystem service and cultural values, and managed with the intention of achieving stated objectives over the long term'

The long-term ecological objectives of MPAs can only be achieved with the support of local communities and of other sea-users. A holistic approach should consider the social and economic benefits arising for local communities.

We note that Marine Protected Areas are not defined in Irish law. The principal protection in Ireland today arises from Natura 2000.

What should Ireland's MPA network include?

4. THE EXPERT GROUP'S REPORT RECOMMENDS THE INCLUSION OF EXISTING LEGALLY-PROTECTED MARINE SITES (FOR EXAMPLE, RESERVES, SPECIAL AREAS OF CONSERVATION, SPECIAL PROTECTED AREAS FOR BIRDS) AS PART OF THE FUTURE NETWORK OF MPAs IN IRELAND. DO YOU AGREE OR DISAGREE WITH THIS RECOMMENDATION?

Somewhat agree

5. IF YOU DON'T FULLY AGREE WITH THIS RECOMMENDATION, PLEASE TELL US WHY?

Existing legally protected marine sites should be included in the future network of MPAs in Ireland and the principle of co-existence based on a case-by-case evaluation of agreed, objective scientific evidence should apply.

International best practice points to a spectrum of conservation levels across a network of MPAs with an emphasis on the Objective of each specific site so that, for example, a site which is focused on preserving a noise sensitive species would exclude noise generating activities etc. Clear guidelines are required in all circumstances to meet management expectations and to meet clarity for all stakeholders

6. PART 1 OF THE MPA REPORT CONSIDERS WHY WE SHOULD HAVE MORE AREA-BASED PROTECTION OF THE MARINE ENVIRONMENT IN IRELAND, AND WHERE THERE ARE IMPORTANT GAPS OR OPPORTUNITIES FOR IMPROVEMENT. BASED ON THE ANALYSIS AND DETAILS PRESENTED IN THE REPORT, ARE THERE ANY ANIMAL SPECIES OR PLANT SPECIES OR HABITAT TYPES THAT YOU THINK MUST BE GIVEN GREATER OR IMPROVED PROTECTION THROUGH THE LEGAL DESIGNATION OF NEW MPAS?

The choice of additional animal or plant species should be based on robust, independent scientific evidence and following consultation with all stakeholders

7. ARE THERE ANY OTHER ECOSYSTEM, OCEANOGRAPHIC, CULTURAL OR OTHER NATURAL PROCESSES OR FEATURES THAT YOU THINK SHOULD BE AFFORDED LEGAL PROTECTION AS PART OF THE MPA NETWORK?

The selection of any other ecosystem, oceanographic, cultural or other natural processes or features for protection should be based on robust, independent scientific evidence and following consultation with all stakeholders

8. AS PART OF THEIR CONSIDERATION OF VARIOUS TYPES OF AREA-BASED PROTECTION IN THE SEA AND OTHER APPROACHES TO CONSERVATION (SEE SECTIONS 1.1.6 AND 1.1.7 OF THE MPA REPORT) THE AUTHORS DESCRIBE AN ADDITIONAL TYPE OF MANAGED SITE THAT'S NOT REALLY DESIGNED WITH NATURE CONSERVATION IN MIND BUT THAT CAN STILL CONTRIBUTE TO MARINE BIODIVERSITY AND LONG-TERM AREA-BASED CONSERVATION.

SUCH SITES MAY COME UNDER THE BROAD CATEGORY OF OTHER EFFECTIVE AREA-BASED CONSERVATION MEASURES (OECMs); THESE COULD INCLUDE PROTECTED HISTORICAL WRECKS, PROTECTED SPAWNING/NURSERY GROUNDS FOR COMMERCIAL FISH OR MANAGED RENEWABLE ENERGY SITES, FOR EXAMPLE. BASED ON THIS INFORMATION AND FURTHER DETAILS PRESENTED IN THE REPORT, DO YOU AGREE OR DISAGREE WITH THE INCLUSION OF OECMs AS A POTENTIAL PART OF IRELAND'S MPA NETWORK?

Somewhat agree

9. IF YOU DON'T FULLY AGREE WITH THE INCLUSION OF OECMs IN AN EXPANDED MPA NETWORK, PLEASE TELL US WHY?

We agree with the principle of Other Effective area-based Conservation Measures (OECMs) which would recognise that e.g., an offshore wind farm might be closed to direct fishing but

offers protection to various species and presents an opportunity for them to regenerate. Provision of OECMs of this nature should receive recognition as a contribution in the corporate social responsibility sphere by industry and should be recognised by the offshore renewable energy consenting regime which is currently under construction. Further information is required on how Irish OECMs would be identified and designated.

We note that Ireland is a signatory to the Convention on Biological Diversity's Strategic Plan and that OECMs are deemed to be a pathway to achieving the Aichi Biodiversity Target 11 of the Plan. We recognise too that OECMs are a 'work in progress' and that Ireland should take a cautious approach to their implementation and one based on both objective scientific evidence and following consultation with all affected parties.

10. IN EXAMINING THE BASIS AND THE PROCESS FOR EXPANDING IRELAND'S NETWORK OF MPAs, IN SECTION 3.6.3 OF THE REPORT THE EXPERT GROUP MAKES A SERIES OF 66 RECOMMENDATIONS, BROADLY COVERING:

- ECOLOGICAL CONSIDERATIONS
- SOCIETAL CONSIDERATIONS
- STAKEHOLDER ENGAGEMENT
- GOVERNANCE AND MANAGEMENT
- LEGISLATION
- OTHER CONSIDERATIONS.

THESE IMPORTANT FINDINGS AND CONCLUSIONS INFORMED A SET OF 14 KEY PRINCIPLES (BELOW) THAT ARE RECOMMENDED BY THE GROUP IN ORDER TO CHART A WAY FORWARD THAT IS RATIONAL, WELL INFORMED, EVIDENCE-BASED AND BALANCED.

Recommended key principles stated in the report of the MPA Advisory Group (Oct 2020):

1. MPAs should be designated and managed to form a network that is designed to be coherent, representative, connected and resilient and to meet Ireland's commitments under international instruments such as the EU's Marine Strategy Framework Directive, OSPAR Convention, UN CBD and Aichi Targets (particularly Target 11) and the UN Sustainable Development Goals (particularly Goal 14).

2. Objectives for MPAs and the MPA network in Ireland may focus on the protection and recovery of:

- Threatened or declining species or habitats
- Important or ecologically significant species or habitats
- Features representative of the range of features present in Irish waters
- Areas of high biodiversity, naturalness or sensitivity
- Areas contributing to maintenance of ecosystem functioning and ecosystem services including carbon sequestration
- Areas with significant biocultural diversity value

3. MPA site objectives may also focus on the prevention of impacts from specified pressures such as artificial light or noise or buffering against the effects of climate change.

4. Conservation is taken here to mean maintenance of or restoration to a state that is as close as possible to the expected structure and functioning of the ecosystem given the general physiography and location of the area or as compared to selected reference sites or states. In MPAs designated for biocultural diversity value, conservation of this value would be the primary objective.

5. Additional benefits of MPAs may include opportunities for research and environmental education and to create socio-economic added value, provided that these are not in conflict with the MPA site objectives.

6. A Systematic Conservation Planning (SCP) approach should be followed for planning, implementation and management of the expanded network, with a provision also for proposal of individual site-based MPAs.

7. In designing the network, consideration should be given to interactions with networks designated by other States in the same marine regions.

8. Early and sustained stakeholder engagement should be integral to the selection and management processes for MPAs. Engagement should be inclusive and equitable and the process should be designed to ensure that it is transparent, meaningful and facilitating.

9. Management measures should be established as appropriate for each MPA to achieve its stated conservation objectives and taking account of socio-economic and cultural considerations.

10. Management measures should be established as appropriate for each MPA to achieve its stated conservation objectives and taking account of socio-economic and cultural considerations.

11. Management measures should be established as part of the designation process. Management of MPAs should be based on the best available evidence and on the precautionary principle.

12. Carefully designed monitoring should be used to assess efficacy of the network and inform periodic reviews and adaptations of designations and management measures.

13. It is recommended that a national coordinating body should be established with the authority to coordinate planning and implementation, to foster good governance and ensure close collaboration among relevant departments and agencies and synergy with related undertakings such as the National Marine Planning Framework.

14. New legislation is needed to establish the necessary framework for governance and management and appropriate resources and funding must be allocated to plan, implement, manage, monitor, and review the MPA network.

DO YOU AGREE OR DISAGREE WITH THE RECOMMENDED PRINCIPLES FOR THE PROCESS OF MPA NETWORK EXPANSION THAT ARE GIVEN IN THE GREEN TEXT ABOVE?

Somewhat agree

11. WHAT WOULD YOU CHANGE OR ADD OR DELETE IN THESE RECOMMENDATIONS TO HELP GUIDE POSSIBLE FUTURE STEPS IN THIS PROCESS?

The responses below refer to the numbered 'Recommended key principles' in green above:

3. It will be important to offshore renewable energy developments that 'specified pressures' (e.g., in regard to 'artificial light or noise or buffering against the effects of climate change') are carefully determined, based on independent scientific advice and only after extensive engagement with all stakeholders. Great care must be taken to balance reasonable protection measures with reasonable requirements by offshore renewable energy, for example. We note that Floating Wind Energy devices will typically require three anchors and, of course, due care must be taken to ensure that areas of environmentally sensitive seabed are protected. However, a blanket ban on e.g., anchoring in MPAs where coexistence between ORE and specified species is permitted would be impossible for the offshore renewable energy industry to 'live with' and, moreover, would impact on the safety and viability of normal shipping activities including those in support of wind farms etc.

5. It should be noted here that MPAs may include opportunities for offshore renewable energy developments under the principle of co-existence where objective scientific evidence allows. It should not follow automatically, therefore, that MPA designation excludes offshore renewable energy developments within the boundary of the MPA.

13/14. The State is on the verge of implementing a new, extensive and rigorous governance regime for our maritime territory. This will include the Maritime Area Planning Bill, the National Marine Planning Framework, a key role for An Bord Pleanála and a new regulatory body (MARA) to ensure inter alia that conditions set e.g., for offshore renewable energy developments are adhered to.

In light of the above and existing arrangements (within the Department of Housing, Local Government and Heritage- DHLGH), we are satisfied that a framework to provide for a new era in Marine Protected Areas (as set out in the Report) will exist. The creation of a new body specifically for Marine Protected Areas is unnecessary and would add pointless complexity and possible division to the planned 'tapestry' of processes and safeguards. Nonetheless, we recognise the urgent need to increase the number of expert marine conservation staff in DHLGH and other institutions where appropriate. It would be impossible to implement a MPA network without investment in the expertise to implement it

How should we expand our MPA network?

12. INFORMED BY THE EXPERT GROUP REPORT, WHAT DO YOU THINK ARE THE MOST SIGNIFICANT CHALLENGES TO IMPLEMENTATION OF AN EXPANDED MPA NETWORK IN IRELAND?

The offshore renewable energy industry supports the development of the Marine Protected Areas network. However, it is vital to both offshore renewable energy and the protection of the marine environment that MPAs are designated following an agreed, objective process based on scientific evidence from mutually acceptable sources - a well-structured consultation element will be a vital element in this. Moreover, the scope for co-existence between offshore renewable energy development and Marine Protected Areas, based on a scientific evaluation of individual sites, should be recognised formally and taken into consideration in each individual MPA designation 'application'. Funding and resources generally need to be put in place to ensure a rigorous site identification process.

We note too that that it is unclear at present as to how Marine Protected Areas will 'fit in' with the National Marine Planning Framework and the many provisions which will arise from the Maritime Area Planning Bill.

13. IN PART 3 OF THE REPORT IT'S RECOMMENDED THAT A SYSTEMATIC CONSERVATION PLANNING APPROACH BE ADOPTED FOR PLANNING, IMPLEMENTATION AND MANAGEMENT OF THE EXPANDED NETWORK, WITH SOME SCOPE ALSO FOR INDIVIDUAL SITE PROPOSALS. KEY PHASES AND STEPS IN THE PROPOSED PLANNING APPROACH ARE DESCRIBED IN SECTION 3.3.4 (INCLUDING FIGURE 3.2 & FIGURE 3.3) OF THE REPORT. DO YOU AGREE OR DISAGREE WITH THE SYSTEMATIC, STRUCTURED APPROACH RECOMMENDED BY THE EXPERT GROUP?

Somewhat disagree

14. IF YOU DON'T FULLY AGREE WITH THE STRUCTURED PLANNING APPROACH RECOMMENDED BY THE EXPERT GROUP, WHAT ELEMENTS OR FEATURES WOULD YOU CHANGE OR ADD OR DELETE IN THE PROPOSED METHOD TO GUIDE THE PROCESS OF EXPANDING IRELAND'S MPA NETWORK?

The Government has set demanding targets for MPAs ('30% by 2030') and for offshore renewable energy ('5GW by 2030'). Even given the safeguards that will arise from the National Marine Planning Framework, the Maritime Planning Bill etc, there is a danger that the proposed systems set out in the Report to provide for the planning and designation of MPAs and, second, the arrangements for consenting offshore renewable energy will become 'entangled'. As a starting point, the need for in-depth dialogue and consultation between the official bodies involved is crucial. In addition, timelines need to be set for each stage in the MPA process as is already envisaged for the consenting of offshore renewables. The offshore renewable energy industry needs certainty about processes and timescales, particularly when so much of our maritime territory will be under consideration for MPA designation over the next few years.

We note that additional Special Areas of Conservation for offshore reefs and seabirds are now being processed by the National Parks and Wildlife Service in accordance with the European Commission's Notice to Ireland. This process is entirely separate to the progression of Marine Protected Areas.

The overarching policy goals at 3.2.1 should include specific references to the Government's offshore renewable energy developments with MPAs

The suggestion that there should be 'mobile MPAs' (aka: mMPAs) for mobile species requires further study and the implications for economic development at sea teased out in consultation with industry. Taken to its logical conclusion, this could mean that an offshore renewable energy development might be closed because a mobile species had moved into the area in question. This would lift the investment risk profile on Irish offshore renewables to an unrealistic level.

We are aware of the work underway under the United Nations Convention on the Law of the Sea (UNCLOS) inter alia in the mMPAs area. We note too that the work to date has tended to focus on large MPAs (> 10,000km²) and, also, that there is considerable doubt '...around the nuance of how species are responding to climate change'². We recognise that new dynamic Area Based Management Tools (ABMTs) would be needed to implement any mobile species policy in Irish waters involving a potential significant investment in advanced '...animal tracking, satellite imagery, computing capacity and communication'³. We urge cautious progress in this area.

15. WHEN YOU CONSIDER A STRUCTURED APPROACH LIKE THIS, ARE THERE ANY ELEMENTS OR STEPS THAT YOU THINK SHOULD BE PRIORITISED OVER OTHERS? IF SO, PLEASE SPECIFY THOSE ELEMENTS AND/OR STEPS IN THE BOX BELOW.

Consistent with the points made in 14. above, we believe that the following elements require priority attention:

1. Develop a protocol to ensure a standing, structured dialogue within Government takes place to ensure 'harmony' between marine planning, offshore renewable energy policy and MPA policy
2. Devise a set of timelines to associate with each of the steps involved in planning and designating MPAs as will occur (reportedly) under the Maritime Area Planning Bill
3. Set a goal to identify an appropriate policy to deal with mobile species which takes account of the potential adverse impact on other sectors - see 14. above

However, overall, MRIA consider the process proposed in the Report as being likely to be expensive to implement and spread out over a long period of time for each individual application. We urge DHLGH to consider a less expensive and time-consuming approach to achieving the same goals

16. REGARDING STAKEHOLDER INVOLVEMENT IN THE PROCESS, SECTION 3.2 OF THE REPORT DESCRIBES THE IMPORTANCE OF RECOGNISING AND UNDERSTANDING DIFFERENCES IN PERSONAL OR ORGANISATIONAL INTERESTS, AND IN SOCIO-ECONOMIC, SECTORAL OR CULTURAL CONTEXTS,

² *Mobile protected areas for biodiversity on the high seas* Science, Vol 367 17 January 2020

³ *Ibid*

FOR EXAMPLE. IT ALSO EXAMINES HOW STAKEHOLDER AND PUBLIC PARTICIPATION IN THE MPA PROCESS CAN BE FOSTERED.

THIS WORK BY THE EXPERT GROUP, PLUS ITS ENGAGEMENT WITH A VARIETY OF REPRESENTATIVE ORGANISATIONS IN IRELAND (SEE ANNEX 1 OF THE REPORT), INFORMED THE DEVELOPMENT OF GUIDELINES (BELOW) FOR SUCCESSFUL STAKEHOLDER PARTICIPATION IN THE MPA PROCESS.

General guidelines for successful MPA stakeholder participation processes stated in the report of the MPA Advisory Group (Oct 2020):

1. Identify and engage all relevant stakeholders early in the planning process.
2. Clearly define and communicate policy and scientific goals and objectives that are consistent with other legislative goals. This should also include clear communication both of what MPAs are and what they are not, generating a common understanding, as well as providing the political context.
3. Roles and responsibilities of all those involved in the planning need to be clearly defined and communicated.
4. Ensure that all involved understand the aim of the stakeholder participation process and provide clear rules, including aims and objectives, constraints, and codes of conduct (and consequences of not complying)
5. Providing science guidelines to ensure access to the best readily available scientific information, local knowledge, and spatial data by stakeholders, scientists, and decision-makers should be treated as a joint fact-finding approach.
6. Conflict among interests of stakeholders should be anticipated and acknowledged and discussions facilitated without bias (e.g., by using trained third-party facilitators), using an approach such as the Community Voice method.
7. Anticipate media attention and allocate media and communication to a dedicated spokesperson.
8. Accept that the process will take time and afford that time to the process. The process needs to engage appropriate groups early and ensure a just transition in the short and long term. Developing a model of community co-management has been proven effective to facilitate this, provided that it is properly resourced and appropriate responsibility and accountability for governance remains with the State.
9. Make use of the existing context in which an MPA is planned. This includes working with existing organised structures (e.g., CLAMS (see Box 9), Regional Inshore Fisheries Forum (RIFF), Irish Islands Marine Resources Organisation and use the National Marine Planning Framework and the mechanisms that it establishes.

10. Accept that the design of MPAs can change during the stakeholder process and keep in mind that the aim is to achieve policy goals and meet scientific and feasibility guidelines, while minimising potential socioeconomic impacts and find broad social support.

11. MPAs need to be carefully managed, monitored and evaluated. This involves detailed planning and financing.

12. Acknowledge that MPA development is not merely a “factual” process, but involves emotional, moral and value-based responses from all those involved.

13. Address potential power imbalances in the participatory process by facilitating an engagement/management model that acknowledges historical relationships and recognises inequities.

DO YOU AGREE OR DISAGREE WITH THE GENERAL GUIDELINES FOR SUCCESSFUL STAKEHOLDER PARTICIPATION SET OUT IN THE MPA REPORT AND PROVIDED IN THE GREEN TEXT ABOVE?

SOMEWHAT DISAGREE

17. WHEN YOU CONSIDER THE GENERAL GUIDELINES FOR STAKEHOLDER PARTICIPATION (OUTLINED IN QUESTION 16), IS THERE ANYTHING YOU WOULD CHANGE OR ADD OR DELETE IN THEM TO HELP GUIDE POSSIBLE FUTURE STEPS IN THE MPA PROCESS?

No 2. should be amended to read (end of first sentence)other legislative *and climate change* goals'. Recognition must be given to the fact that offshore renewable energy will be governed under legislation (n.b., the Maritime Area Planning Bill) and developed under the policy goals of, particularly, the Department of Environment, Climate and Communications (n.b., the '5GW by 2030' goal).

No.9. The existing organised structures (e.g., CLAMS) are necessary but insufficient. The individual networks, typically, lack national coverage and lack resources i.e., staff. MRIA has strongly advocated the establishment of Coastal Partnerships along the lines of the successful UK model - see '*Marine Spatial Planning Needs of Marine Renewable Energy Emerging Technologies*', available at www.mria.ie Real partnership between marine stakeholders requires well organised and well-resourced long-term structures with national coast line coverage and these are lacking at present. We understand that the Department of Housing, Local Government and Heritage is considering the establishment of pilot Coastal Partnerships and MRIA urges that priority be given to this exercise.

We note that the current Natura 2000 processes are 'top down' and not entirely successful.

MPA development should be based on the core principles of consultation, agreed criteria and drawing off acceptable, reputable scientific advice and data

Further comments

18. DO YOU HAVE ANY FURTHER COMMENTS ON THE PROCESS OF EXPANDING IRELAND'S MPA NETWORK THAT YOU'D LIKE TO ADD, IN ORDER TO INFORM THIS CONSULTATION?

No