

Sustainable Water Network (SWAN)

Response to the Public Consultation on the
Draft National Marine Planning Framework



30th April 2020

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1 Introduction to SWAN and this Submission

The Sustainable Water Network (SWAN) is an umbrella network of twenty four of Ireland's leading environmental NGOs, national and regional, working together to protect and enhance Ireland's aquatic resources through coordinated participation in the implementation of the Water Framework Directive (WFD), the Marine Strategy Framework Directive (MSFD) and other water-related policy and legislation since 2005. SWAN member groups are listed in Appendix I.

SWAN welcomes the opportunity to respond to this public consultation on the draft National Marine Planning Framework (NMPPF), Ireland's first Marine Spatial Plan (MSP). We thank the MSP team in the Department of Housing, Planning and Local Government (DHPLG) for inviting us to participate in the national MSP advisory group. We would like to take this opportunity to acknowledge the hard work of all the members of the DHPLG Marine Planning Policy and Development team in producing this draft plan.

In the course of the MSP advisory group work, SWAN Policy Officer Cormac Nolan has had the opportunity to raise and discuss issues prior to this document becoming public and we would like to acknowledge that his input during the process was welcomed and given due consideration. There are some commendable inclusions in this draft plan, such as the marine environment having a number of overarching marine planning policies (OMPPs), the inclusion of heritage, rural and coastal communities, of seascape and landscape *etc.* There have also been some welcome changes to the plan in response to previous consultations, on the baseline report for instance. Notwithstanding this, we put forward the points in the following pages as significant concerns identified by SWAN, on full consideration of the draft NMPPF and in consultation with members.

This submission will focus on the protection of the marine environment, as opposed to the economic or social aspects. It comprises of three parts:

- Overarching points - issues relating to the document as a whole
- Activity-specific and technical points – issues relating to the Overarching Marine Planning Policies (OMPP) and certain activity chapters commenting primarily on specific issues for sustainability
- Points on improving the public consultation and engagement process for the next stages

This submission will not address the SEA, NIS or AA of the NMPPF.

2 Overarching Points

2.1 Marine Spatial Planning – The Objective and the Legal Obligations

As SWAN understands it, the objective of marine spatial planning is to analyse the overlap, interference, synergies, and environmental impacts of all human activities in the ocean and to use this knowledge for strategic planning and management. The draft NMPF however is still quite compartmentalised in its consideration of different activities; it is very difficult to see the intersection and interplay of activities in separate chapters. From a consultation aspect, for the public to see the true picture and engage more fully, an interactive online resource – i.e. the Marine Atlas – would be essential. From the aspect of a comprehensive framework for all future marine planning, the draft NMPF is not yet sufficiently integrated and lacks specifics about how prioritisation between different activities and different OMPPs will be made. It is lacking details about the scientific methods that are needed - and are being developed - to support this process, such as simulations, modelling and decision support tools. The temporal aspect, such as seasonality of certain activities or future scenarios of expansion and blue growth, seem to be absent.

Furthermore, SWAN has reason to believe that the NMPF as written will not fully satisfy the requirements of the Maritime Spatial Planning Directive. Specifically, article 8.1 of Directive 2014/89/EU states that *“When establishing and implementing maritime spatial planning, Member States shall set up maritime spatial plans which identify the spatial and temporal distribution of relevant existing and future activities and uses in their marine waters, in order to contribute to the objectives set out in Article 5.”* The draft NMPF fails to set out overarching strategic policies and to include temporal aspects of existing and future activities. There is a legal obligation, under article 15.3, to have in place a compliant MSP by the 31st of March 2021. If this plan is not in keeping with the directive, the legal certainty for any consents arising in the marine environment is highly questionable.

Key Ask: As a framework plan falling under the Strategic Environmental Assessment Directive, the NMPF requires the following:

- Clear statement of overarching policy objectives
- Quantitative and measurable targets both on an overarching basis and for individual sectors
- Ongoing monitoring and provision for intervention if significant adverse impacts arise in the lifetime of the plan¹

¹ Further elaboration of these recommendations can be seen in the An Taisce submission to the current consultation

2.2 Marine Planning & Development Management (MPDM) Bill

MSP/NMPF cannot be addressed on its own without considering the draft underpinning legislation, the Marine Planning and Development Management Bill (MPDM). The Bill as currently written does **not** include aquaculture and fisheries (i.e. functions under the remit of the Department of Agriculture, Food and the Marine). This flies in the face of the integrated approach to marine spatial planning envisaged in the Marine Spatial Planning Directive and is very concerning, particularly for such a spatially defined activity as aquaculture. Both environmental NGOs and aquaculture operators alike, are of the strong opinion that the licencing of aquaculture needs to be included in the MPDM framework, otherwise the sector will be excluded from the modernisation of marine development management and enforcement systems, and a fragmented marine management system will persist. The industry fear that they will be left behind while other sectors benefit from zoning and sectoral planning, while environmentalists are concerned that the current inadequate licensing and enforcement regime will persist without adequate legal mechanisms to ensure an integrated approach, including to the assessment of cumulative impacts of aquaculture and of aquaculture in combination with other activities.

Paragraph 2.14 of the draft NMPF consultation document states that *"the directive requires member states to use their MSP to aim to contribute to the sustainable development of energy sectors at sea, of maritime transport and of **fisheries and aquaculture** sectors, and to the preservation, protection and improvement of the environment, including resilience to climate change impacts"* (SWAN emphasis). First of all, we can't just "aim to contribute" we need SMART targets to reverse the decline of our marine environment. More importantly, based on this statement it is inconsistent and illogical to exclude fisheries and aquaculture from the bill underpinning most of the NMPF. Furthermore, the draft NMPF states that *"The Marine Planning and Development Management Bill 2019 (formerly the Maritime Area and Foreshore (Amendment) Bill) will, inter alia ... Introduce a single State consent system for the entire maritime area..."* It is not possible to have a single new State consent system if some processes are excluded from the modernisation.

Key Ask: If and when the MPDM Bill is taken back up by the new government, the inclusion of aquaculture and fisheries in the new regime must be of highest priority. The NMPF must clearly state this need and highlight the risks of not including an activity in an MSP.

2.3 Marine Strategy Framework Directive and the Ecosystem Approach to Fisheries Management

The MSFD is the legal instrument that provides the framework for an ecosystem based approach (EBA) to human activities (Article 1(3) MSFD). There is a clear connection between MSP, the MSFD, the EBA and MPAs. Preamble 15 of the MSP Directive states that *"MSP has to contribute to achieving the objectives of, inter alia, MSFD, Habitats and Birds Directives, the Water Framework Directive as well as the Common Fisheries Policy."* The key objective of the MSP should therefore in our view be to support the delivery of Good Environmental Status (GES), as the core

requirement of the MSFD, including supporting the functioning of an ecological coherent network of MPAs.

The assessment and target setting phase of cycle 2 of the MSFD in Ireland (Article 17) will have finished by the time the final NMPF is being prepared. These updated MSFD descriptor results and targets must be incorporated in the final NMPF. SWAN also suggests keeping the timelines of the two directives aligned (as far as possible) but not overlapping the public consultation periods.

Paragraph 3.24 of the draft NMPF consultation document lists MSFD descriptors that are **not** suitable for delivery through a State-level, plan-led approach to management. Descriptor 3 – Commercial fish and shellfish stocks – is on the list: “Management measures to address D3 targets are delivered through the revised CFP.” The CFP controls (mostly) the amount of fish caught and the fishing effort/pressure used to catch it. It has been proven that this can be effective in improving the managed fish stocks but it has limited benefit for the seafloor habitat where the fishing occurs because there is very little control of the fine-scale spatial distribution of mobile bottom contacting gears. In fact, it is the SWAN position that MSP is a prime candidate for controlling **where** the fishing occurs and how it interacts and takes precedence over other activities (and potential activities) in an area. Fishing has the largest spatial footprint of any activity in our marine area it cannot therefore be excluded from the NMPF or the MPDM Bill. Citing the European CFP as the sole mechanism for addressing spatial issues with commercial fishing in Irish waters is a flawed approach which does not address the main ecological impacts of this activity and severely downplays the importance of national inshore fisheries, which are in general not subject to CFP Total Allowable Catches (TACs). There are significant spatial challenges to be met in the inshore fishing sector in Ireland (e.g. pair trawling inside 6nm) that will not be addressed by the CFP. To manage these issues comprehensively requires an ecosystem based approach, which will be supported by the MSFD.

Key Asks: Remove the approach in the draft NMPF whereby no measures beyond the CFP are proposed to manage impacts from commercial fishing. Properly address the impact of commercial fishing (mobile bottom-contacting gears) on the seafloor integrity in the OMPP by including the latest MSFD Descriptor 6 results (see section 3.7 of this submission for more details). Include MSFD Descriptor 7 – Hydrographic Conditions – in the final NMPF (see section 3.1.2 of this submission for more details).

2.4 Prioritisation

Under the hybrid approach, strategic marine activity zones (SMAZ) will confer higher priority for specified activities over others in certain areas. Therefore there will most likely be competition between industries to zone certain areas for their activities. This could be detrimental for some industries (e.g. less represented/prepared sectors could have unfair outcomes) but more importantly, how will the marine environment be prioritised in this initial surge of zoning?

SWAN agrees with the hybrid approach but it must be carefully implemented so as to avoid a race to zone, and to prioritise the marine environment.

Key Ask: Properly address the issue of prioritisation in the final NMPF by elaborating and clarifying the process of designating SMAZ's, including their proposed governance. This elaboration is of such importance to the success of the NMPF that it should be included in the main body of the plan, not in a short appendix. This issue is particularly pertinent to MPAs (see point 2.5).

2.5 Marine Protected Areas (MPAs)

A "coherent network of representative MPAs" is a requirement of the MSFD. Ireland has also committed to protecting 10% of its marine waters by 2020 under the Convention on Biological Diversity and a further target of 30% by 2030 is on the table. The government previously announced their intention to "significantly expand our network of marine protected areas" and to bring forward primary legislation to designate MPAs. The above mentioned prioritisation issue is particularly concerning for MPAs. The draft NMPF sets out the necessity for spatial protection measures (including very promisingly the possibility for complete, no-take marine reserves). However, the legislation to designate anything other than Natura 2000 sites (SPAa and SACs under the Birds and Habitats Directives) has not even been started yet, and the appropriate sites to designate have not been identified. An MPA advisory process has begun but there is a very real danger that the MSP zoning and sectoral plans will proceed before the MPA process is complete, and Ireland will be left with nothing to protect but the remnants. This runs completely counter to the eco-systems based approach required by the MSP Directive and MSFD. The conservation layer must be in place first before allowing zoning for other activities

There is an attempt to address this on page 41 of the consultation draft:

"Until the ecological coherence of the MPA network is confirmed proposals should demonstrate that they will, in order of preference a) avoid, b) minimise, or c) mitigate adverse impacts on features that may be require to complete the network or d) if it is not possible to mitigate adverse impacts, proposals should state the case for proceeding."

Ireland's MPA network is many years away from being considered ecologically coherent. But this OMPP means that before the appropriate MPAs have even been designated, the NMPF is allowing for the initiation of projects which may have 'adverse impacts' on habitats and species which are later deemed critical for our MPA network. This wording is far too weak and would almost certainly be ineffective at protecting the needed sites while we await the MPA legislation and designation. This serious weakness must be addressed in the final NMPF. We cannot just site our much needed MPAs in the leftover spaces after all the sectoral plans and initial wave of developments have been granted.

SWAN suggests these initial actions to begin to address the MPA concerns:

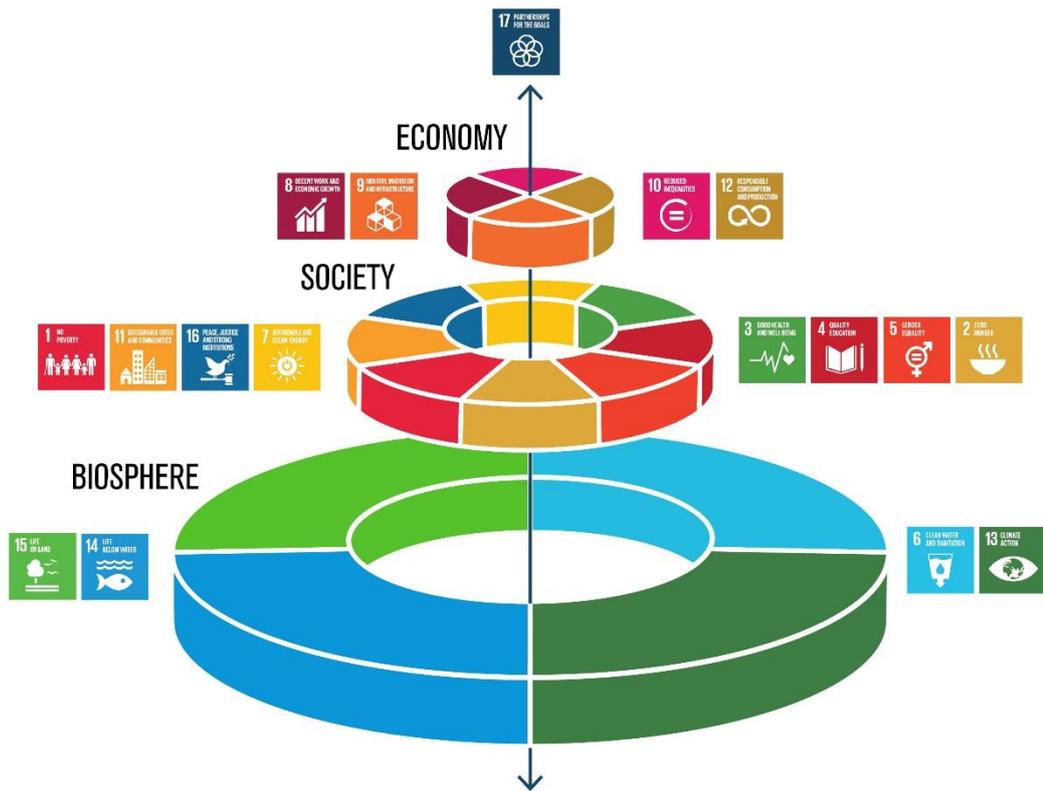
- The MPA OMPP regarding ecological coherence is one of the few environmental objectives with the extra get-out clause (d) *“if it is not possible to mitigate adverse impacts, proposals should state the case for proceeding.”* This clause should be removed from this OMPP as it is SWAN’s position that proposals that cannot at the very least mitigate their adverse impacts on a potential MPA should not be allowed to proceed.
- Sensitivity mapping of ecosystems and future maritime activities is important in determining the scale of future pressures on the marine environment. In carrying out this exercise, planners should seek to direct activities away from highly sensitive/protected areas by identifying areas of least and highest environmental constraint. Sensitivity mapping could also be carried out to identify areas suitable for habitat and species recovery and enhancement.

Key Ask: Conduct and present sensitivity mapping as a matter of urgency to identify areas of probable future MPAs. Use this knowledge to preserve key areas from further degradation until adequate MPA legislation is enacted. Remove clause (d) from the MPA ecological coherence OMPP. (As a wider issue, legislation to designate MPAs other than Natura 2000 sites in Irish waters needs to be expedited).

2.6 Equal Environmental, Economic and Social Pillars

The draft NMPF states that it will conform to Harnessing Our Ocean Wealth in placing these three pillars on equal footing. However, without a well-functioning marine environment, almost all of the benefits enjoyed under the other two pillars would cease to be. Therefore it is essential that the final NMPF is reconfigured to explicitly set out the underpinning necessity for a healthy marine environment, in line with the sustainable Development Goal (SDG) “wedding cake” or “donut” approach depicted in figure 1 below. (The elevation of the marine environment from just an “activity” in the MSP baseline report (DHPLG 2018) to a series of OMPPs in the draft NMPF is however a welcome improvement).

Ask: Follow the SDG model for conceptualising environmental, social and economic sectors.



Graphics by Jerker Lönnarsson/Azote

Figure 1: [Sustainable Development Goals](#) are all linked to healthy and stable environment allowing food production; Azote Images for Stockholm Resilience Centre, Stockholm University.

3 Technical and Activity-Specific Comments

3.1 Overarching Marine Planning Policies

3.1.1 Responsibility

Paragraph 3.10 states “DHPLG has the lead role in Ireland for implementation of MSFD and the OSPAR Convention. Due to the cross-cutting nature of marine issues, a number of other Departments and agencies are intrinsically involved in the process, including DAFM, DTTAS, DCHG, DCCAE, the Marine Institute and the Environmental Protection Agency as well as a wide variety of other agencies and stakeholders”.

DHPLG also has the remit for the Water Framework Directive (WFD) and it is important to continually strive to integrate the MSFD, MSP, WFD, etc. particularly for coastal issues where they all overlap. A start would be to list the WFD in this paragraph. In the wider picture though, this paragraph highlights one of the flaws with marine management in Ireland: the fragmented responsibility. DHPLG has control over some of the processes but some of the main environmentally damaging activities are outside of its remit: commercial fishing, aquaculture, shipping, and oil and gas exploration. As mentioned in section two of this submission, fishing and aquaculture are even outside the remit of the MPDM Bill. This needs to be addressed to avoid perpetuating the gaps between Departments with marine responsibilities.

3.1.2 MSFD Descriptors

Paragraph 3.24 deals with MSFD descriptors that are not “suitable for delivery through a State-level, plan-led approach to management”. Descriptor 7 – permanent alteration of hydrographical conditions – is listed as one of the descriptors that is being “dealt with via policy which operates alongside the NMPF”. It is unclear to SWAN why D7 is listed as such, given that the associated human activities outlined in Directive 2017/845 which impact on Descriptor 7 are²:

- dredging and deposition of material
- energy production
- cultivation of living resources
- aquaculture
- transport infrastructure
- wastewater treatment & disposal
- tourism activities and infrastructure

² Source: DHPLG Public Consultation on the Marine Strategy Framework Directive 2008/56/EC Article 17 update of the Assessment (Article 8), Determination of Good Environmental Status (Article 9) and Environmental Targets (Article 10) December 2019

And the proposed environmental target (D7T1) is “The spatial extent and distribution of permanent alteration of hydrographical conditions to the seabed and water column, associated in particular with physical loss of the natural seabed is assessed for developments in the marine environment.” Does this not place D7 squarely in the remit of the NMPF and the MPDM Bill?

Ask: Do not exclude Descriptor 7 – permanent alteration of hydrographical conditions - from the NMPF.

3.1.3 Disturbance – Planning Policies

The second OMPP on pg. 39 states “Proposals, including those that increase access to the marine plan area, must demonstrate that they will a) avoid, b) minimise, c) mitigate adverse impacts on priority habitats.”

It is unclear to SWAN how damage to a priority habitat that has been specifically identified for its rarity, importance and/or sensitivity can be mitigated; and on what basis such adverse impacts are being proposed to be permitted by the NMPF? Only about 2.3% of Ireland’s marine area has so far been protected with spatial designations; the vast majority of those designations being Natura 2000 sites (SACs and SPAs under the Habitats and Birds Directives) that still allow some damaging activity to occur within their boundaries. According to the latest NPWS report on the Irish Natura network, most priority marine habitats are not attaining favourable conservation status (NPWS 2019, summarised in Table 1 below). The notion of allowing damaging impacts to these priority habitats and species, while merely minimising and mitigating ecological losses, must be removed from the final NMPF because the current situation is clearly not working. Further to that, a proportion of future Irish MPAs will need to be more highly protective than Natura 2000 sites to meet the CBD target, so the wording of this OMPP will need to provide for such circumstances, i.e. all adverse impacts of designated priority habitats to be avoided.

Ask: The NMPF must be amended to reflect the fact that there are many different types of MPAs that vary in the level of protection they provide, and that it will be necessary that a proportion of MPAs in the network will require a greater level of protection than that which is currently afforded to SACs and SPAs in order to achieve the ecological objectives of the various directives and conventions that Ireland is obliged to meet (e.g. MSFD, UN CBD, SDG goals). The Natura 2000 network allows for certain activities to take place within sites, provided they do not adversely impact the identified feature, and in some cases even allows – through appropriate assessment – a certain amount of damage to the feature. While almost all of Ireland’s MPAs are Natura 2000 sites at the moment, this will not be the case forever and the NMPF must take account of that fact.

On a positive note, the text of paragraphs 3.49 and 3.50 regarding the sources of disturbance and addressing them outside of MPAs are welcomed, and should not be weakened in the final NMPF.

Table 1. Status of Protected Coastal and Marine Habitats in Ireland. Summarised from NPWS 2019³.

Habitat	Status	Main pressures
Sandbanks	Favorable	None identified
Estuaries	Inadequate	Pollution
Tidal mudflats and sandflats	Inadequate	Pollution and aquaculture
Lagoons	Bad	Eutrophication, drainage
Large shallow inlets and bays	Bad	Dredging, nutrient enrichment, invasive species
Reefs	Inadequate	Structural damage from fishing gear
Submarine structures made by leaking gases	Favorable	None identified
Drift lines	Inadequate	Recreational activities, coastal defences
Vegetated shingle	Inadequate	Recreational activities, coastal defences
Vegetated sea cliffs	Inadequate	Trampling, invasive species, wave exposure
<i>Salicornia</i> mud	Favorable	None identified
Atlantic salt meadows	Inadequate	Grazing, invasive species
Mediterranean salt meadows	Inadequate	Grazing
<i>Halophilous</i> Scrub	Bad	Pollution

3.1.4 Non-indigenous species

A minor point but the MSFD Descriptor 2 is about just that, non-indigenous species. However, the planning policies in the draft NMPF consultation document all specify non-indigenous **invasive** species. There is an important distinction to be made. Does the NMPF only consider damaging invasive species or any introduced species? The proposed D2 target in the latest draft

³ NPWS (2019). The Status of EU Protected Habitats and Species in Ireland. Volume 1: Summary Overview. Edited by: Deirdre Lynn and Fionnuala O'Neill

MSFD Article 17 report is to limit the number of new species introduction all together, not just invasives.

Ask: The final NMPF needs to explicitly state whether it relates to invasive species only or all introduced species. Consistent wording needs to be applied throughout, starting with the title of this OMPP.

3.1.5 Water quality

SWAN welcomes the inclusion of WFD River Basin Management Plans (RBMP) in paragraph 3.91 and the specific requirement that “proposals should be compliant with...” the objectives of the RBMP. However, the references to the Programmes of Measures (POMs) may be outdated, as far as SWAN is aware POMs are not a tool being used in the second RBMP cycle. Therefore the requirement that public bodies should seek to ensure consideration of these is not a meaningful or effective measure for securing integration between the WFD and the NMPF. Furthermore, we would like to highlight the fact that there are no coastal sites with a high status ecological objective in the current WFD priority areas for action.

Ask: The ‘Key Issues for Marine Planning’ in this section need to be updated to reflect the current structures for river basin management and WFD implementation and to set out more clearly and explicitly how marine planning decisions will interact with and integrate with these structures in order to ensure that such decisions are in line with the objectives for coastal water bodies as set out in the current (and upcoming 3rd) river basin management plan.

3.1.6 Seafloor Integrity

The proposed OMPP for seafloor integrity in the draft NMPF consultation document exclusively applies to the deep-sea. It does not define the deep-sea, but in fisheries for example, seafloor depths below about 500m are generally considered deep-sea. Why single out deep sea habitats? They are important yes but **all** seafloor is included in this descriptor under the MSFD, including shallow coastal water.

Ask: The wording of the seafloor integrity planning policy must be changed to include the entire seafloor of the MSP area, not only to bring it in line with the MFSD, but to fulfil the obligations of the MSP Directive.

3.1.7 Underwater Noise

As mentioned in paragraph 3.126, the MSFD D11 – Introduction of Energy - includes all inputted energy (noise, light, heat, radiation etc.) but the proposed OMPP only mentions impulsive and continuous underwater noise (as does the recent MSFD assessment). SWAN believes that all other energy should be considered also. Just because the MSFD doesn’t yet have the data to assess and set targets for the suite of energy inputs does not mean that individual projects should not be assessed for them.

Ask: Expand this OMPP to include all other forms of energy introduced into the water by human activity (or else develop new OMPPs for other energy inputs).

3.1.8 Transboundary

This section does not mention the border issues in Lough Foyle and Carlingford. This issue is already causing damage to the environment in Lough Foyle due to unlicensed aquaculture and as such it should be covered in this section.

3.2 Aquaculture

The proposed objective for the aquaculture industry (pg. 90) for a *“growing sector that operates in a modern licensing and enforcement system”* does not tally with the exclusion of aquaculture from the MPDM Bill, especially given the recent recommendations of the Aquaculture Licensing Review Group⁴. For example two statements from chapter 5 of the draft NMPF consultation document:

“In Ireland almost all foreshore is in public ownership and aquaculture activity therefore requires both an aquaculture license to conduct operations and a companion foreshore license to lawfully occupy the area of foreshore in question”

“Marine planning will play an important role in supporting a plan-led approach to the strategic development of the [aquaculture] industry within Ireland and across the EU”.

These two statements and the objective mentioned above are not compatible if aquaculture is excluded from the MPDM Bill that aims to modernise marine development and consenting.

Furthermore, while the draft NMPF mentions the 2017 Independent Review of Aquaculture Licensing, it is notable to SWAN that the draft NMPF neglects to reference any recommendations from the review group’s report (except the reduction in the back-log of applications). Properly addressing these recommendations in the final NMPF, particularly those relevant to MSP and integrated coastal zone management, is key to reaching the stated NMPF goal of establishing aquaculture as a *“sector that operates in a modern licensing and enforcement system”*. In relation to aquaculture licensing, the licensing review group found that, *“There is ... widespread consensus that the system is in urgent need of reform”* and its overall conclusion and recommendation was that *“a root-and-branch reform of the aquaculture licence application processes is necessary ... [which] needs to be comprehensive in scope”*. It is imperative that this recommendation, made to the Minister in 2017, is reflected as a ‘Key Issue for Marine Planning’ for aquaculture in the final NMPF.

⁴ Report of the Independent Aquaculture Licensing Review Group (2017).
<http://www.fishingnet.ie/independentaquaculturelicensingreview2017/>

In Paragraph 5.13, it is stated that under the current regime, "*The potential impacts of aquaculture on designated marine SACs and SPAs are assessed*". However, it is the SWAN position that this process is flawed: these assessments use a 15% impact 'rule of thumb' that is likely in breach of the Habitats Directive. In any case, regardless its legality, the 15% rule is clearly not working as most marine habitats protected by SACs and SPAs in Irish waters are not in favourable conservation status despite many years of protection (see Table 1).

Ask: As per the overarching points in section two of this submission, include aquaculture in the modernised marine consenting process and use the final NMPF to promote better planning, licensing, regulation and assessment of the industry, particularly in and around protected areas. Do this by including more of the pertinent recommendations from the Independent Aquaculture Licensing Review Group Report (2017), in particular **include the recommendations for a root-and-branch reform of the aquaculture licence application process.**

3.3 Defence and Security

The main focus of this chapter is on protecting our fisheries; the bodies involved, the number of planes and vessels available for the task, where they operate from, and the need for more post-Brexit. The "Issues for Sustainability" section (6.18) is completely inadequate and only consists of two sentences, both about Lower Cork Harbour. This is simply not acceptable. The issues for sustainability of this activity are far more extensive than just Cork Harbour, it is about the policing of one of the most damaging human activities in the whole of our marine area: commercial fishing.

Ask: Properly address the issues for sustainability in this chapter, including how enforcement (of both foreign vessels and our own) is going to be improved through this NMPF.

3.4 Energy – Carbon Capture and Storage

The "Issues for Sustainability" section of this chapter is also very short and is presented in an overly positive manner. In two sentences it simply lists the potential benefits of the activity and then says "*other sustainability and environmental considerations will be considered in the context of the ongoing feasibility studies and development of a regulatory framework*".

Ask: In the interest of balance, the potential downsides should be elaborated in the "Issues for Sustainability" section, including the issue of exporting our CO₂ to other countries that is very briefly mentioned earlier in the chapter.

3.5 Energy – Petroleum

Objective one is to *"explore and develop Ireland's indigenous petroleum resources in order to deliver significant and sustained benefits"*. Can petroleum, a finite resource, be considered sustainable? Is this statement in keeping with the Taoiseach's announcement to ban new oil exploration and phase out gas?

Ask: The "Issues for Sustainability" should consider the problem of petroleum exploration and processing infrastructure becoming stranded assets as Ireland transitions away from fossil fuel use as required by national and EU law.

3.6 Energy – Offshore renewable Energy

Paragraph 11.17 states *"potential protections for biodiversity through offshore wind developments serving as de facto no-take zones"*. Windfarms that restrict access by mobile fishing gears may well provide respite to local fish stocks and benthic invertebrate species, but fixing structures to shallow sand-bank habitats listed in the Habitats Directive does not provide complete protection to marine biodiversity.

Ask: The following issues need to be added to paragraph 11.21: The effect on the habitat where the wind turbine foundations are constructed (i.e. sandbanks) and the changes in hydrographical conditions once the turbine foundations are in place (i.e. scouring).

ORE 9 "Visualisation must be undertaken" is a welcome inclusion.

3.7 Fisheries

The crux of this chapter/activity lies in the following two paragraphs from the draft NMPPF:

Paragraph 12.24 *"Some types of fishing activity can negatively affect both pelagic and seabed communities, particularly those that support species with slow growth rates, soft substrates or cold water coral reefs, and some areas have been heavily impacted by fishing activity. There are also concerns about the level of by-catch of birds, sharks and marine mammals in certain fisheries."*

Paragraph 12.25 *"However, there is a general recognition in the Irish fisheries sector that a more sustainable use of natural resources creates a more resilient seafood sector. Fish populations are generally improving since reform of the Common Fisheries Policy and more sustainable management of fish populations with the setting of Maximum sustainable Yield (MSY) for commercial species."*

These two sentiments are not comparable and the "however" in the second statement does not address the issues in the first statement. The biggest issue with commercial fisheries, as identified in 12.24, is the impact on seafloor habitats particularly by mobile bottom contacting gears (e.g. dredges and trawls). This sustainability issue cannot be address by managing commercial fish populations with CFP/MSY alone. Single fish stock management and protection of the marine

environment are not the same thing. A single stock could be harvested completely under MSY but the fishery could still cause significant damage to the seafloor. This chapter is extremely limited regarding the true cost of environmental degradation of the fishing industry and this needs to be addressed. To start with, "some types of fishing" in 12.24 should be identified. It is predominantly bottom trawling, dredging, and other mobile bottom contacting gears causing the issues.

Paragraph 12.28 mentions MSFD and GES but it only talks about Descriptor 3 - Populations of commercially exploited fish and shellfish are within safe biological limits. However, D3 is not the most relevant descriptor to this activity- this consultation document even dismisses it as being dealt with by the CFP in the introductory chapter. Descriptor 6 - Seafloor Integrity - shows the actual spatial impact of bottom trawling on Ireland's seafloor habitats. It is therefore essential that the maps of benthic disturbance and loss from the latest D6 assessment are included. This analysis shows that at the very least 13% of Ireland's seafloor is being damaged by bottom contacting fishing gear (NB the assessment does not cover the entirety of the MSP/MSFD area in Irish waters but it does cover the main fishing grounds).

Overall the fisheries chapter severely underrepresents the actual and potential impact of commercial fishing (particularly mobile bottom contacting gears) on the benthic habitats of Ireland's MSP area. This is misleading and not conducive to the frank and honest conversations that will need to happen while implementing the NMPF, particularly around issues such as trawling in Natura 2000 sites or newly developed MPAs.

Ask: The NMPF must acknowledge that proper management and consideration of commercial fishing impacts cannot be addressed through the CFP and MSFD Descriptor 3 alone. To properly consider the impact of mobile bottom-contacting gears on different benthic habitats, the recent assessment of the MSFD D6 – Seafloor Integrity – must be included in the fisheries chapter of the final NMPF. In particular, the relevant text and maps in the physical disturbance section of the D6 chapter in the final MSFD Article 17 report should be added.

3.8 Seaweed Harvesting

This chapter completely focussed on small scale hand cutting of *Ascophylum* seaweed. The objectives for seaweed harvesting in the draft NMPF consultation document do not mention the ecological importance of seaweed, framing it as purely an economic and social benefit. Furthermore, the "Issues for Sustainability" section is wholly inadequate, being just one sentence long. The main issue with sustainability of seaweed harvesting, other than the volume harvested, is how the seaweed is to be harvested. Mechanical harvesting machines remove too much of the stalk of the seaweed and therefore render regrowth impossible, whereas hand cutting is far more sustainable.

Ask: The sustainability section of this chapter needs substantial research and rewriting in order to address the full impacts of mechanical harvesting. SWAN also echoes the recommendations

made by An Taisce with regards to this activity in their submission to this public consultation, namely:

1. The ecosystem benefit of seaweed must be recognised in any future policy objectives for seaweed harvesting in Ireland, and the objectives should be framed by that.
2. A rigorous and well-researched seaweed harvesting management plan is required, which implements strict controls on harvesting methods for particular species, and quantities which can be removed. This will require substantial public consultation and participation, in compliance with Article 7 of the Aarhus Convention.
3. The first step in achieving this is to regularise the licensing and rights system, and to make that information publicly available. Any licence application must be processed in compliance with the public participation rights under Article 6 of the Aarhus convention.
4. Different policy objectives should be set for the harvesting of wild seaweed, and the harvesting of cultivated seaweed, and the licensing system should clearly distinguish between these two very different approaches, with different harvesting methods licensed in different situations. There are some best practice examples which could inform this, such as those implemented in France.
5. Ecological assessment should be a key part of the licensing regime, with a holistic ecosystem approach implemented, based on discrete ecosystem areas.

(Please see the An Taisce submission to the current public consultation for further explanation.)

4 Improving the Public Engagement Process

As is well recognised,⁵ only well planned, designed and executed public engagement processes will deliver positive outcomes (for plans such as the NMPF), through support of citizens, a culture of co-operation, increased legitimacy and sustainable change. Some of the key features of an effective public engagement process are:

- Appropriate mechanisms, structures and processes that genuinely facilitate the participation of citizens and stakeholders, and enables them to influence the outcome(s);
- Adequate resources to conduct effective public participation, and to enable stakeholders to fully realise the potential of each engagement opportunity;
- Evaluation of operation and outcomes, to inform improvements in how engagement continues; and
- Involving professionals specially qualified and trained in public engagement methods.

Such processes must be delivered through the development but also through the implementation of the plan. Therefore comments below are framed as initial comments, given that the degree of influence of stakeholders regarding the final NMPF and arrangements for engagement in its implementation are not yet clear.

In relation to the preparation of the NMPF, public consultation and engagement has been good. SWAN welcomed the hosting of meetings on the baseline report in almost all coastal counties. We further welcome initiatives to involve the public through Green Schools and social media, and the fact that some concerns raised by SWAN in relation to the baseline report were addressed in the draft NMPF, in particular by moving the marine environment out of the activities in the baseline report and into the OMPP for the draft NMPF.

In relation to the second phase of consultation, the number and spread of public events was not as wide (COVID-19 cancellations aside). In addition, SWAN firmly disagrees with the approach whereby individual themes, primarily sector-based, were assigned to each event. Central to MSP is an integrated, eco-systems based approach to planning, in which all activities are considered together, the format of these events runs counter to this. Furthermore, the two public events that SWAN could attend felt more like information sessions. In order to provide effective and meaningful public participation, future public events should be made more participatory and

⁵ Smith, L., Porter, K., Hiscock, K., Porter, M.J. & Benson, M. (eds) (2015) 'Catchment and River Basin Management: integrating science and governance', Earthscan Studies in Water Resource Management, Earthscan, Routledge, UK; OECD (2011a) *OECD Studies on Water: Stakeholder Engagement for Inclusive Water Governance*, Organisation for Economic Co-operation and Development, Paris; Nabatchi, T. & Leighninger, M. (2015) 'Public Participation for 21st Century Democracy: Engaging Citizens in Government Decision-Making', Bryson Series in Public and Nonprofit Management, Jossey-Bass (Wiley), USA

should be designed (in consultation with public engagement experts) in order to maximise input from and interaction with the public and stakeholders.

The draft NMPF consultation document states that “it will not be possible to issue individual responses” to submissions from the public (pg. 13). While that may be the case, SWAN suggests the Department publishes a report summarising the submissions and, most importantly, the subsequent changes in the final NMPF, similar to the MSFD Article 19 reporting obligation.

SWAN has found participation in the MSP Advisory group to be a positive experience. The Minister’s presence and participation in every meeting is a huge positive. One downfall however was the failure to provide the advisory group the opportunity to see, deliberate and discuss the actual text of the draft NMPF before it was publicly launched. If given such an opportunity there would likely have been more advisory group members willing to stand in front of a camera and endorse the plan on the day of its launch.

In relation to implementation, it is vital that following the publication of the final NMPF, structures and systems are established to facilitate ongoing public engagement in the implementation of marine spatial planning in Ireland. A commitment to this should be included in the final NMPF. The structure and design of this must be given careful consideration and should be integrated with implementation of the MSFD, and should also incorporate an Integrated Coastal Zone Management approach. Public and stakeholder engagement needs to take place at national level, through the engagement of key sectoral stakeholders, through the advisory group. But it also needs to be facilitated at regional and local level, e.g. for particular bays.

Effective public engagement must also be underpinned by a comprehensive public awareness campaign and, crucially, readily available and accessible information in relation to all matters of marine planning, licensing and other consenting processes. This will involve a review and overhaul of several licensing regimes, including that which was recommended for the aquaculture sector by the review group.

SWAN welcomes the proposal in the draft NMPF that the *“Stakeholder Advisory Group [along with the Interdepartmental Group] will be repurposed – before finalisation of the NMPF – to become implementation bodies to ensure that the NMPF and its main proposals are given top-level commitment”* and we urge the implementation of this proposal.

We further recommend the addition of a section in the final NMPF which outlines arrangements for wider engagement of the public at regional and local scales in the marine planning and management.

According to the MSP Directive, MSPs shall be reviewed by Member States at least every 10 years. Ireland is planning a review every 6 years which is to be welcomed. As mentioned above, it would be advantageous if the public consultations for the MSP and MSFD could be aligned (as

far as possible) so as to be mutually strengthening, but the consultation periods should not overlap as they have done in this round.

Appendix I: SWAN Member Organisations & Board of Directors

SWAN National Groups		SWAN Regional & Local Groups	
1.	An Taisce	14.	Carra Mask Corrib Water Protection Group
2.	Bat Conservation Ireland		
3.	Birdwatch Ireland	15.	Cavan Leitrim Environmental Awareness Network
4.	Coastwatch Europe Network		
5.	Coomhola Salmon Trust Ltd.	16.	Celebrate Water
6.	Eco-UNESCO	17.	Cork Environmental Forum
7.	Friends of the Earth	18.	Cork Nature Network
8.	Friends of the Irish Environment	19.	Dodder Action (Associate),
9.	Irish Peatland Conservation Council	20.	Longford Environmental Alliance
10.	Irish Seal Sanctuary	21.	Macroom District Environmental Group
11.	Irish Whale and Dolphin Group	22.	River Shannon Protection Alliance
12.	Irish Wildlife Trust	23.	Save The Swilly
13.	Voice Of Irish Concern for the Environment (VOICE)	24.	Slaney River Trust

SWAN Board of Directors:	
Mark Boyden, Chair	Coomhola Salmon Trust
Mindy O'Brien, Vice Chair & Company Secretary	Voice of Irish Concern for the Environment (VOICE)
Karin Dubsy, Director	Coastwatch
David Healy, Director	Friends of the Irish Environment
David Lee, Director	Cork Environmental Forum
Elaine McGoff, Director	An Taisce
Ignatius Egan	Carra Mask Corrib Water Protection Group
Gerry Siney	River Shannon Protection Alliance