

“The role of the Maritime Area Regulatory Authority (MARA)”

Presentation to Marine Spatial Planning Workshop

06th July 2023

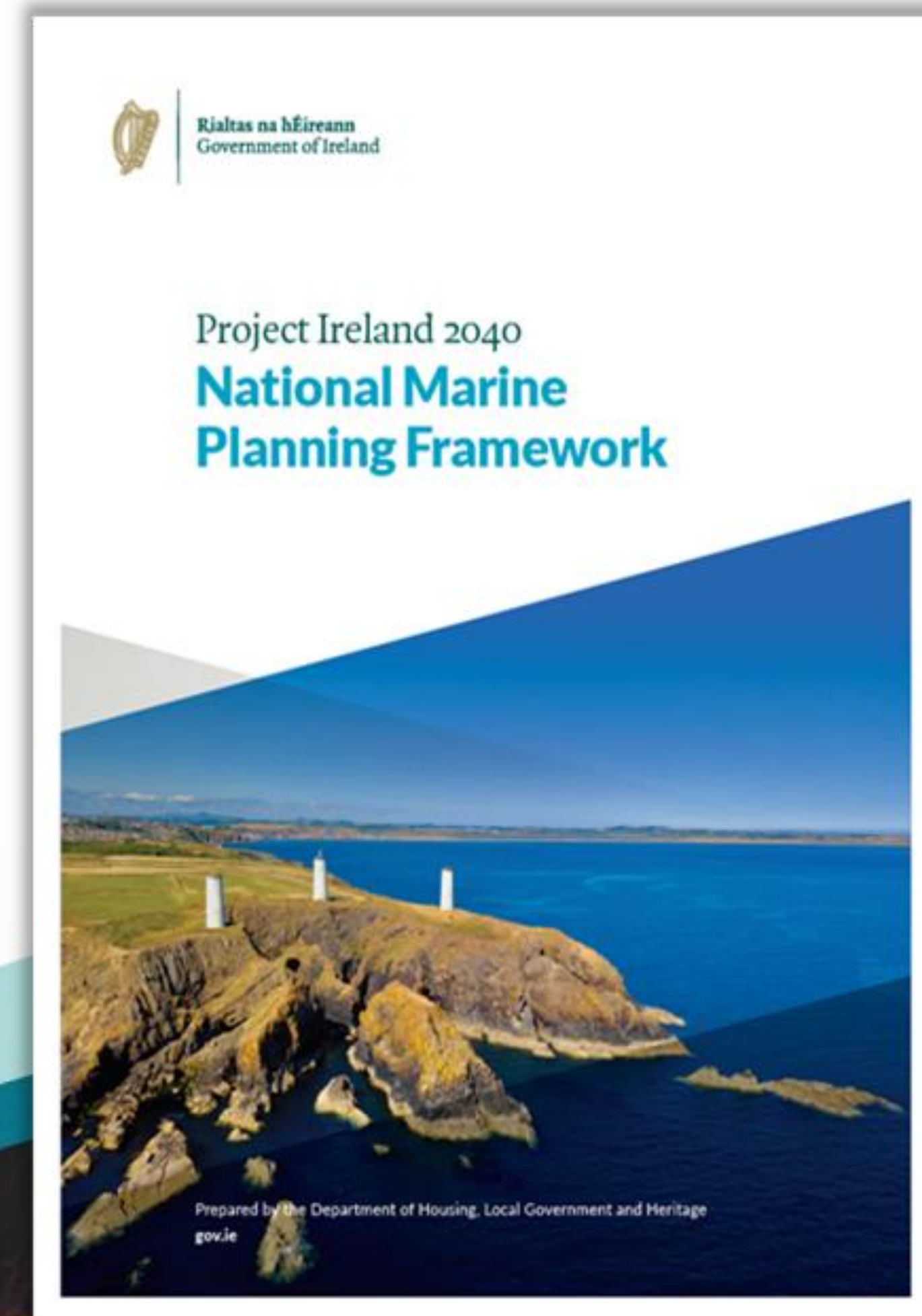


Reform of Marine Management in Ireland



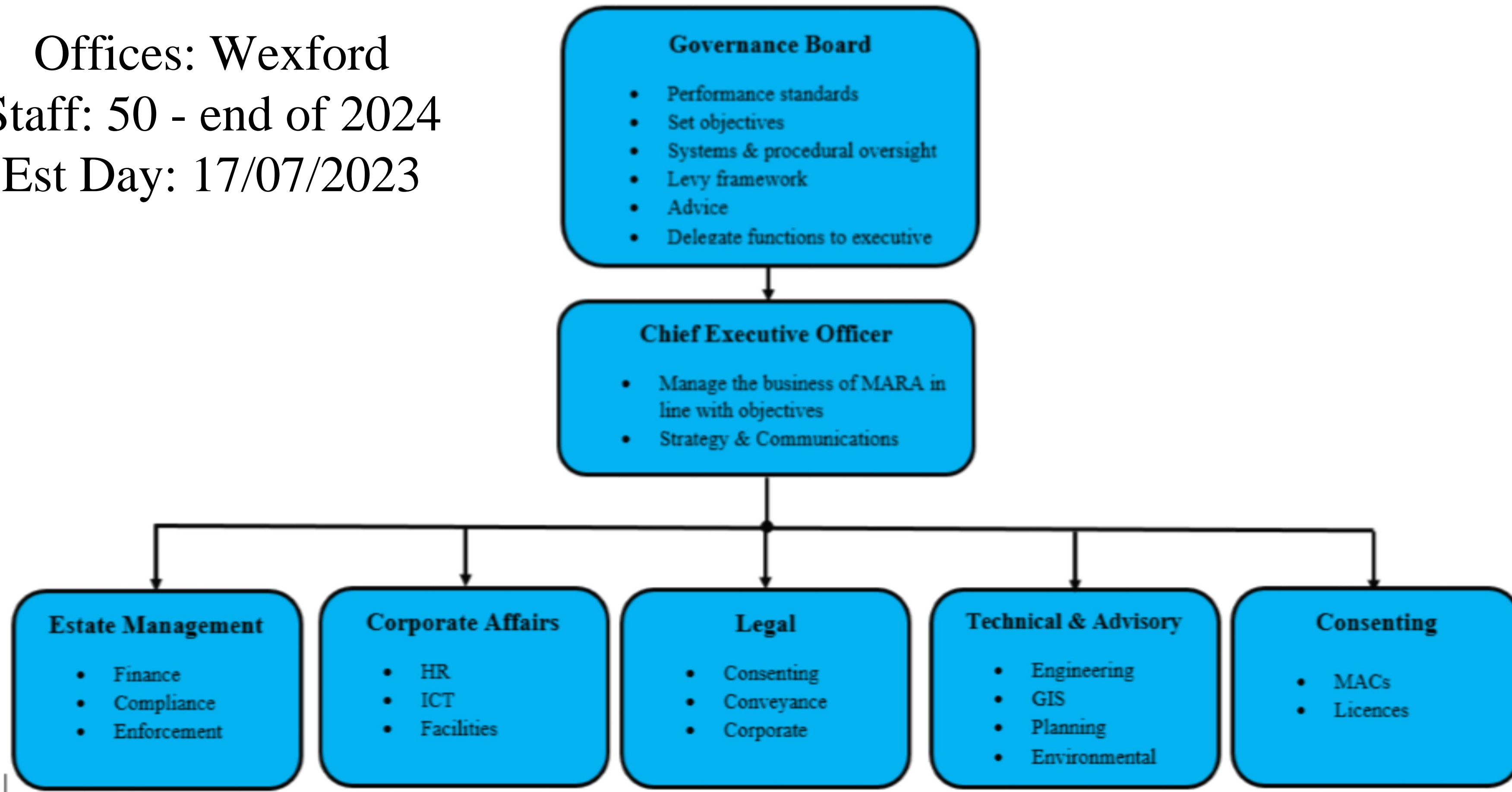
MARA is part of the ‘wider picture’ in terms of the most extensive reform of marine governance since the foundation of the State brought about by:

- Marine Planning Policy Statement 2019
- National Marine Planning Framework (NMPF) 2021
- Maritime Area Planning Act 2021 (Part 3 legislates for MARA)



Organisational Structure

Offices: Wexford
Staff: 50 - end of 2024
Est Day: 17/07/2023



MARA's Functions

*New independent agency to manage the occupation of the **Maritime Area** and to enforce the certain provisions of the new planning regime*

.....Set out in legislation

- Maritime Area
- Maritime Area Consents (permission to occupy)
- Marine licencing for specified activities (Schedule 7)
- Enforcement of MACs, licences and offshore development consents
- Investigations and prosecutions
- Administration of the existing Foreshore consent portfolio



Number 50 of 2021

Maritime Area Planning Act 2021

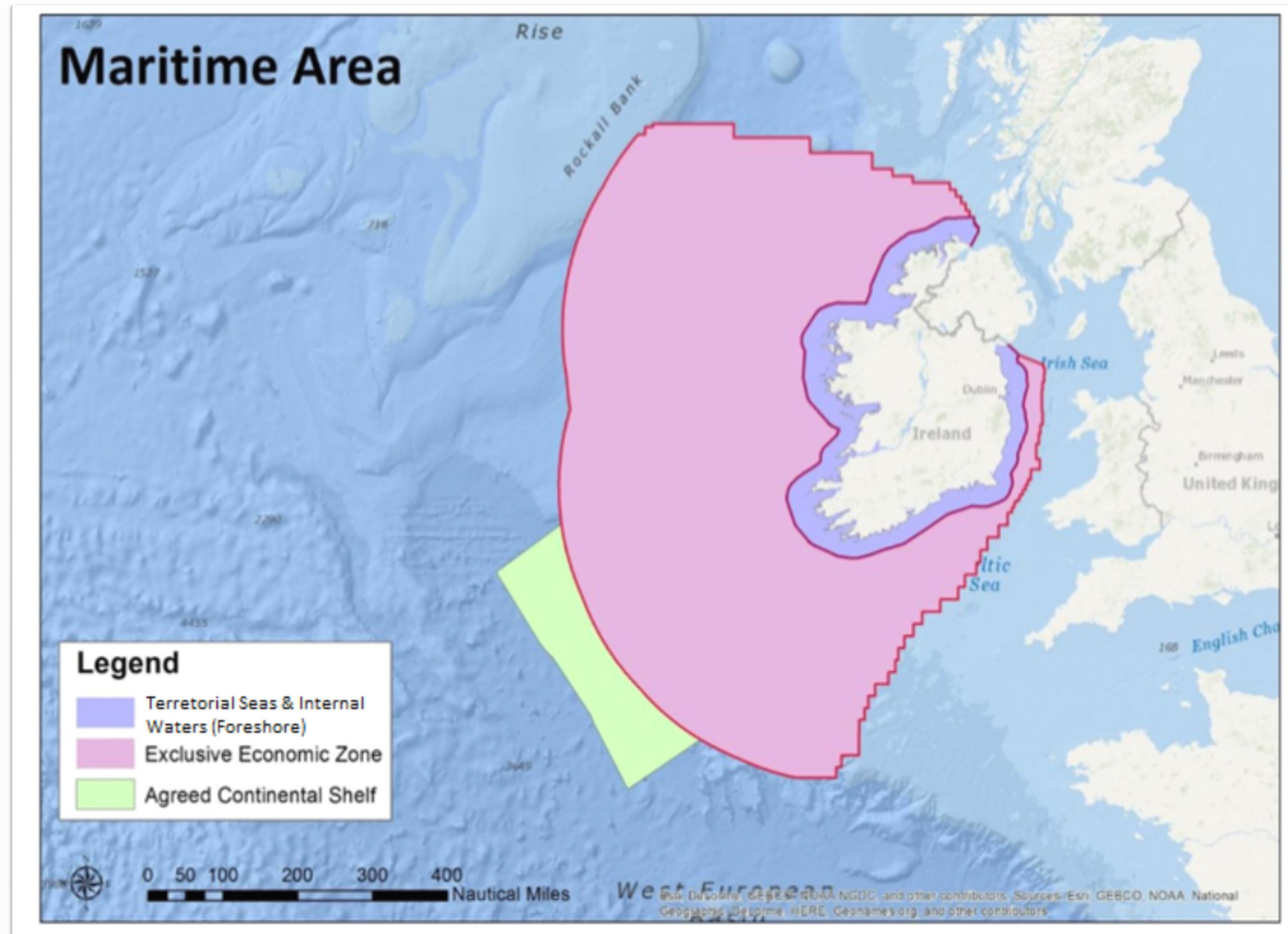
Maritime Area (Definition)



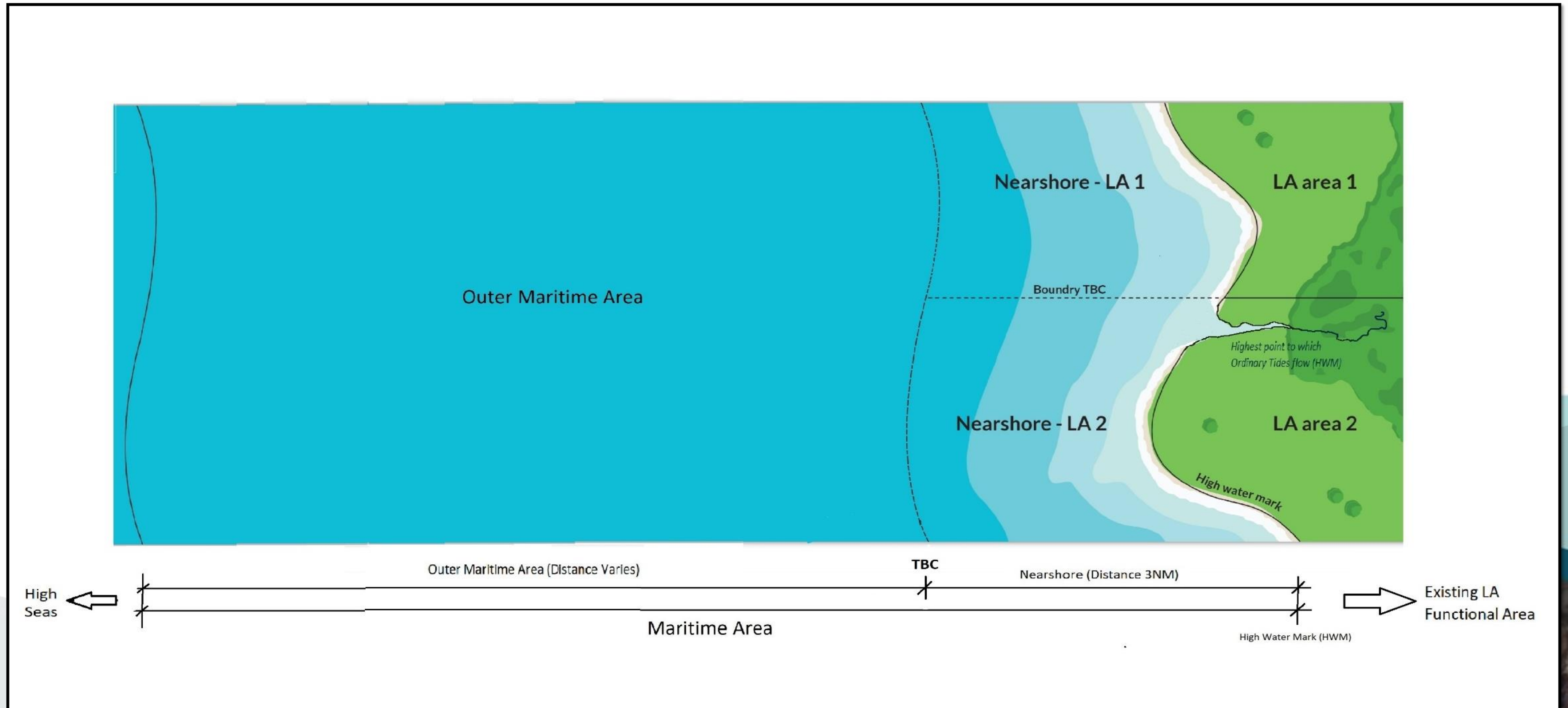
The “maritime area” extends from the high water of ordinary or medium tides of the sea to the outer limit of the continental shelf, and includes (UNCLOS):

- The sea and tidal areas of **Internal Waters** of the State as construed in accordance with the Act of 2021 – A coastal nation exercises **full sovereignty** over its internal waters as if they were part of its land territory.
- The **Territorial Seas** of the State as construed in accordance with the Act of 2021 – A coastal nation exercises **full sovereignty** over its territorial seas as if they were part of its land territory.
- The **Exclusive Economic Zone** as construed in accordance with the Act of 2021- A coastal nation has **control of all, living and non-living, economic resources inside its exclusive economic zone**, including fishing, mining, oil exploration, wind, wave and pollution of those resources.
- The **Continental Shelf** (agreed). A coastal nation has control of all, non-living, economic resources inside its continental shelf but **no control over any living organisms (fishing)**.

Ireland's Maritime Area



Maritime Area (MAP Act) - Boundaries



Nearshore Boundaries



Section 5 of the MAP Act defines the **Nearshore Area** as Maritime area that is:

- Contiguous to the functional area of a CPA and/or contiguous to reclaimed land adjoining the functional area of a CPA
- There is a consultative process set out in the Act for the minister to vary the Nearshore Area of a CPA

Landward Boundary (HWM)

- The High Water line of ordinary or medium tides which is the High Water Mark (HWM) as defined by the Chief Boundary Surveyor (Tailte Eireann). This is normally the HWM as shown on the OSI Historic 1888-1913 25 Inch mapping with modern updates defined by the Chief Boundary Surveyor through Maritime Boundary Orders. A digitised representation of the HWM as defined by the Chief Boundary Surveyor is available at <https://arcg.is/1reSbv> but this is always subject to confirmation from the original source.

Outer boundary of the Nearshore

- MAP Act construct and defined as – *“Not further than Three nautical miles from the nearest point of the High Water Mark (HWM)”*
- DHLGH has engaged Esri Ireland to map/define the outer boundary of the Nearshore for CPAs

Nearshore boundary between two adjacent CPAs

- MAP Act construct and defined as – *“the boundaries between the nearshore area of a CPA and the adjoining nearshore area of another CPA is equidistant between the two of them as taken from the high water mark”*
- DHLGH has engaged Esri Ireland to map/define the boundaries between CPA's

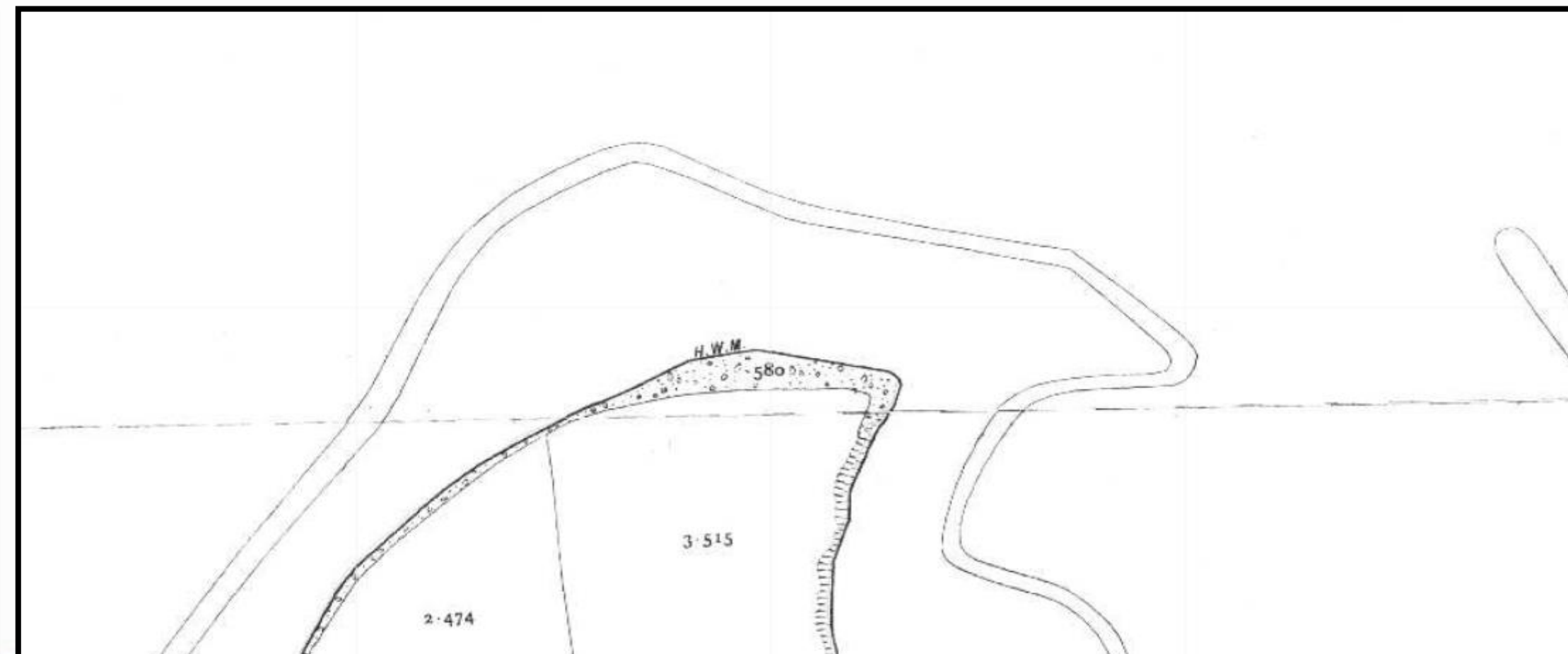
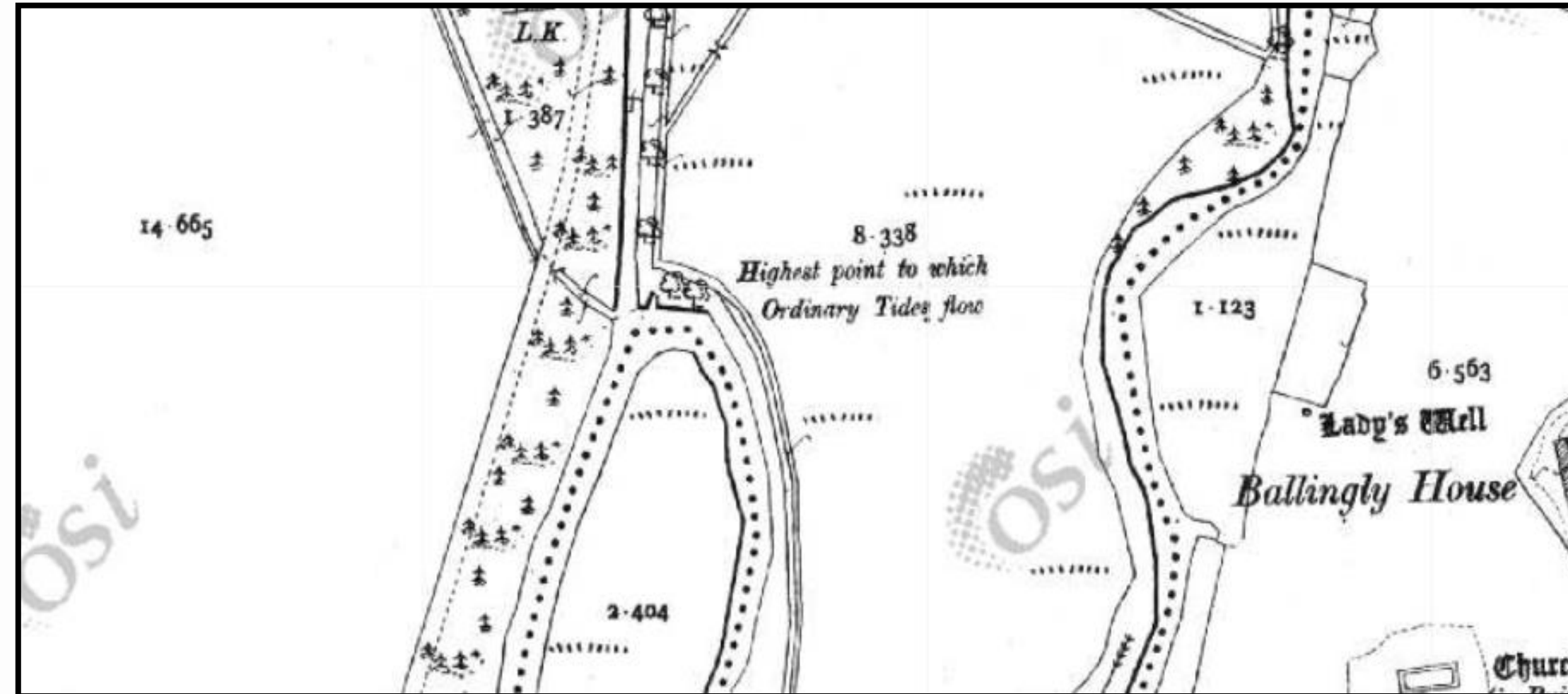
Who owns the Nearshore Area?

- As part of Ireland's Internal Waters and Territorial Seas, the Nearshore Area is owned by the state and its citizens, and Ireland exercises full sovereignty over the Nearshore Area.

Do coastal Local Authorities require a MAC for own developments in the Maritime Area?

- Yes, Local Authorities must apply to MARA for a MAC for all usages/developments including Part 8 Developments.

HWM on maps and on site



New estate management regime Maritime Area Consent (MAC)

- Manages the relationship between the State and the Holder – “*right to occupy*”
- Gateway into the planning system – required in advance of applying for development permission
- Is a MAC required? - MARA can make a formal determination if requested.
- MACs can be ‘exclusive or non-exclusive’
- Not environmental decision-making (*MARA are not required to undertake screening for AA or EIA*)
- No consultation at MAC application – (*consultation is a key requirement of the planning process*)
- MARA must determine, where it is practicable to do so, a MAC application within 90 days
- Levy framework for different classes of MACs

MAC Assessment Criteria (Schedule 5)

MARA shall have regard to.....

- Nature, scope and duration of the occupation
- Whether the usage is in the public interest ?
- Location and spatial extent
- Consistent with NMPF & Ministerial Guidelines (*section 7*)
- Fit and proper person [schedule 2]
- Tax compliance
- Extent and nature of preparatory work undertaken
- The extent and nature of stakeholder engagement undertaken by the applicant
- Any additional criteria specified in regulations

MAC Conditionality

No 'right' unless development permission **and** all other authorisations are obtained (section 81(5))

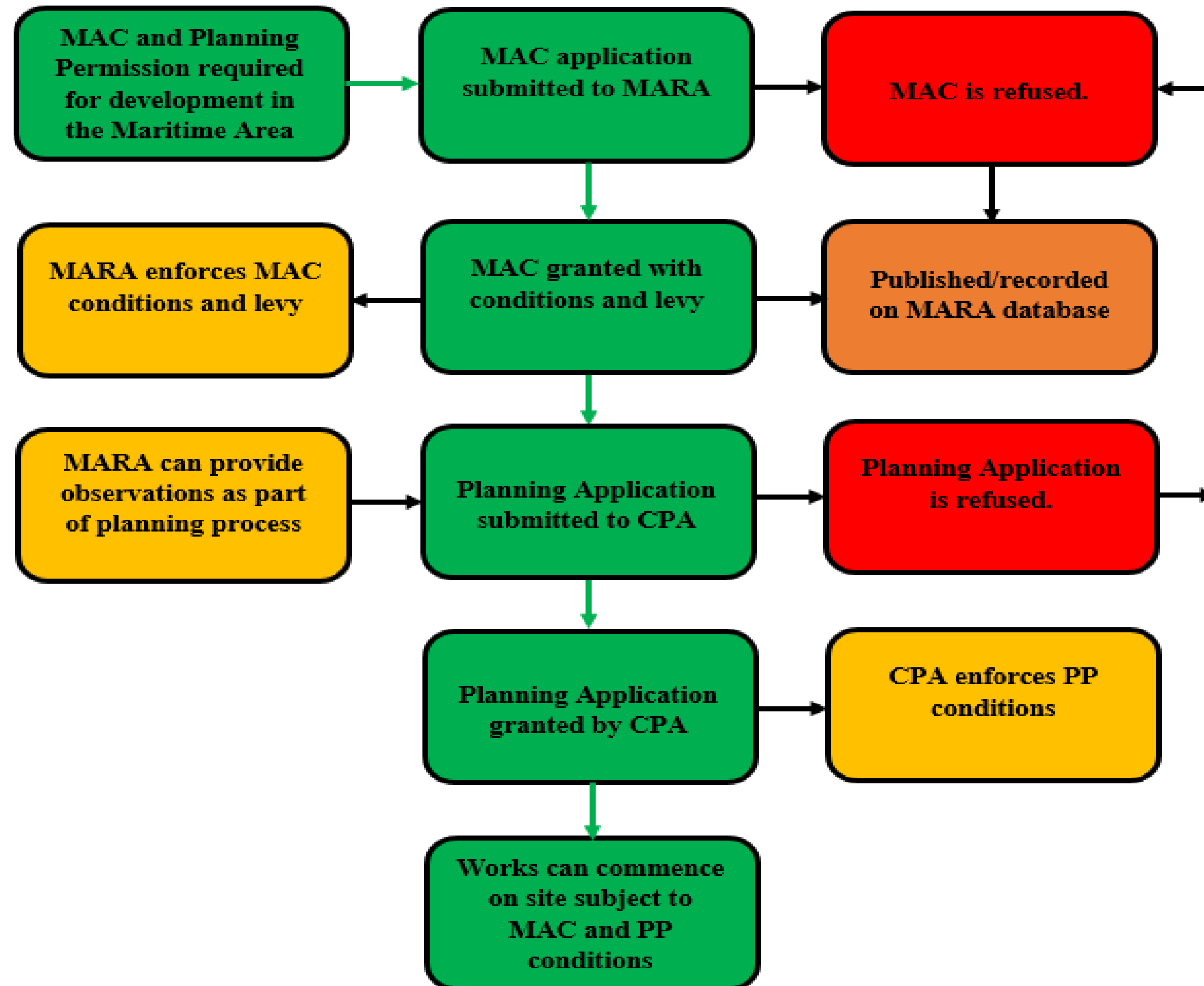
Schedule 6 deemed conditions

- Continues to be a “*fit and proper person*”
- Comply with any development permission granted
- Co-operate/assist MARA

Schedule 6 conditions which may be attached (e.g.)

- Indemnity
- Notice of change of circumstances
- Adherence to work programme
- Dates (expiration, application for planning permission)
- Public engagement plan (21)
- Any other necessary obligations
- Steps in relation to change of ownership

Maritime Area Consent (MAC) and Planning Permission Process - Nearshore Area



MARA Licencing

- Activities (site investigations, certain type of dredging...) in Schedule 7 of the MAP Act are subject to a licence from MARA
- If an EIA is required, a licence cannot be granted
- An applicant can seek a determination from MARA as to whether a maritime usage is a licensable activity
- All applications must be screened by MARA for Appropriate Assessment (AA)
- MARA is the competent authority for carrying out AA under the Act
- If screened in for AA (NIS required), MARA will conduct Public Consultation in line with the Habitats Directive
- MARA must, where it is practicable to do so, determine a licence not later than 30 days after the day it is satisfied that the applicant has complied with the requirements of the Act.

MARA Licencing (Exemptions)

Section 114 of the MAP Act enables the Minister to exempt a maritime usage from requiring a licence on two grounds:

- By virtue of it having little or no impact on the Marine Environment
MARA is engaging with:
 - *The Marine Institute*
- If the activity is covered by another enactment
MARA is engaging with:
 - *CCMA (Bye-Laws)*
 - *Harbour Authorities (Harbour Bye-Laws)*
 - *EPA (Dumping at Sea)*
 - *Commissioner of Irish Lights*

Enforcement - MACs & Licences



- Appointment of Authorised Officers
- Special Enforcement Notices (simplified enforcement procedure)
- Investigations/sanctions
- Suspension/revocation – automatic termination of authorisations (High Court confirmation) e.g.
 - *failure to comply with development permission*
 - *failure to pay fees/levies*
 - *material breach of authorisation*
 - *repeated or cumulative breach*
- Civil remedies exercisable by holders

Enforcement - Unauthorised usage (illegal occupation)



- MARA may use, on behalf of the State, any and all remedies available to the State (whether under this Act or another enactment or under the common law) against or in relation to the relevant person (including any predecessors to such person) and the unauthorised usage concerned including, and without limiting the generality of the foregoing, remedies to provide for all or any of the following:
 - *cause the unauthorised usage to cease;*
 - *obtain compensation or damages for the unauthorised usage;*
 - *provide for the rehabilitation of the part of the maritime area the subject of the unauthorised usage.*

1933 Foreshore Act



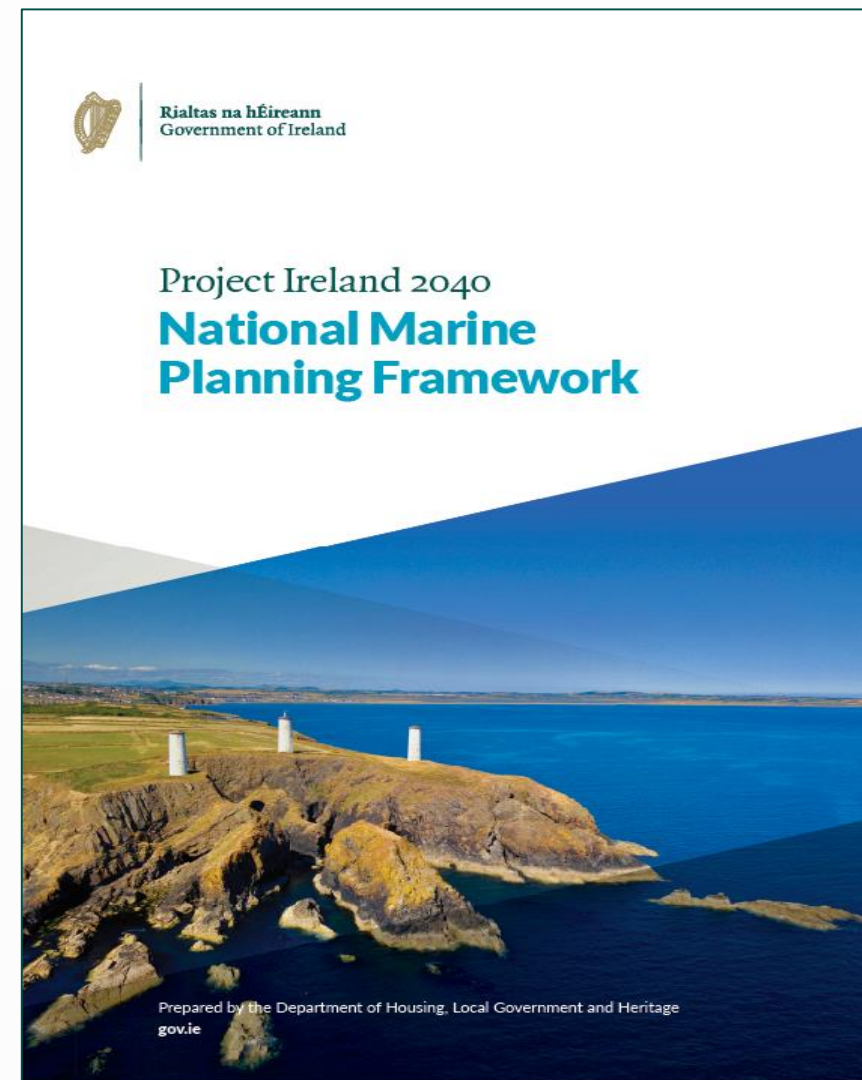
- ‘Appropriate Minister’ - DAFM
 - Developments within Fishery Harbour Centres
 - Fishery related infrastructure
 - Aquaculture
- Foreshore Consent (Lease/Licence)?
- Interest in Title required?
- Planning permission required?
- MAC required?
- Consolidated Planning and Development Regulations 2001-2023 Article 28(1)(u)

Fishery Harbour Centres:
Howth, Dunmore East,
Castletownbere, Dingle,
Rossaveel, Killybegs



Vision

“position MARA as a world class maritime governance agency delivering an exceptional service to, and on behalf of, the people of Ireland.....”





Riadas na hÉireann
Government of Ireland

Thank you for listening.

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