



January 2009

Parliamentary Briefing

Marine and Coastal Access Bill Amendment

Strategic Environmental Assessment (SEA) & Sustainability Appraisal (SA) of the Marine Policy Statement (MPS) and Marine Plans

The organisations listed above are all members of Wildlife and Countryside Link's Marine Task Force¹, which has been campaigning for several years for improvements in marine conservation. We have been closely engaged in the Marine & Coastal Access Bill process from the outset.

(i) Requirement to carry out an appraisal, including SEA, of the MPS

We believe that Strategic Environmental Assessment (SEA)² could and should be applied to not only marine plans but also to the Marine Policy Statement (MPS). The SEA Directive obliges the UK "to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development". These aims are consistent with a range of Government policies on the environment and sustainable development. The purpose of the SEA requirements is to ensure that environmental issues are not sidelined or traded-off against other considerations during decision-making, as has traditionally been the case.

Our preference would be for the MPS and marine plans to be subject to SEA only and not a sustainability appraisal (SA) which is used in terrestrial planning. We favour SEA because, on land, SA has sometimes led to environmental issues being given only superficial consideration and a loss of depth to the assessment compared to what is envisaged under the SEA Directive. However, where an SA is carried out, the process can be conducted in such a way as to encompass the requirements under the SEA Directive but the outcomes should be presented distinctly. Therefore, we would ideally like it made clear that the MPS is and can be subject to SEA.

However, in *Taking forward the Marine Bill*, its response to the Joint Committee's Report on the Draft Marine Bill, the Government stated that it believes that while it would not be required to undertake an SEA for the MPS, it was "considering mechanisms that might be suitable for assessing the policies in the statement" to ensure that the policies are achieving the MPS's sustainable development objective

¹ Wildlife and Countryside Link is a coalition of the UK's major environmental organisations working together for the conservation and protection of wildlife, the countryside and the marine environment.

² European Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment – the 'Strategic Environmental Assessment' or SEA Directive.

(see paragraph 3.2.20). But these assessment mechanisms are not included in the Marine & Coastal Access Bill for the MPS.

Therefore, we believe that there should be an amendment to Schedule 5 to include provisions requiring the MPS to be subject to some form of assessment (our preference would be for SEA only but it is more likely to be a sustainability appraisal which can include the requirements of the SEA Directive) before it is adopted or revised, to assess any strategic level environmental impacts and hence achieve more environmentally friendly strategic policies. This would also ensure that the policies that direct marine plans (which are also subject to the SEA Directive) are the most environmentally friendly at the strategic level. If it is not considered feasible to require SEA-only of the MPS, we believe that there should be a minimum requirement for sustainability appraisal of the MPS conducted in such a way as to encompass the requirements of the SEA Directive. Furthermore, should the decision be in favour of an SA, then it would not be difficult to include similar provisions for an sustainability appraisal of the MPS as are included for marine plans in Schedule 6 (subject to our proposed amendments to Sch6, para10 – see below). Any assessment process should also include publication of a rationale for the policies contained in the adopted or revised MPS.

The purpose of the amendment below is to include similar provisions for sustainability appraisal of the MPS as have been included for the marine plans. Therefore, we recommend adding a new paragraph to Schedule 5 to include a provision to carry out a sustainability appraisal of the MPS based on that for marine plans (with our suggested amendments). This amendment also makes it clear that the application of an SA must include the application of the SEA Directive to the MPS.

(ii) Meeting the SEA obligations for Marine Plans

Explanatory Note 822 for Schedule 6, paragraph 10 states that the sustainability appraisal (SA) of marine plans is in addition to the Strategic Environmental Assessment (SEA) Directive requirements for an environmental assessment. Therefore, although this would indicate that Schedule 6, paragraph 10 does not affect the application of the SEA Directive and associated Regulations, we believe that it would be worth amending the face of the Bill, in order to clarify this point.

Furthermore, we believe that the SA process as proposed would be strengthened through the inclusion to paragraph 10(1) of a requirement to assess alternatives when carrying out the SA of marine plans. This would ensure that the SA process is consistent with the SEA process to determine the least environmentally damaging option. Therefore, the SA should not only assess the impacts of the plan authority's proposals but also assess that proposal against alternative proposals. Any assessment process should also include publication of a rationale for the proposals contained in the marine plan.

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Annex – Amendments

Marine & Coastal Access Bill

House of Lords Committee Stage, January 2009

(i) Requirement to carry out an appraisal, including SEA, of the MPS

Clause	Schedule 5 Sustainability appraisal
Amendment	<p>Page 227, line 33: at end insert new paragraph</p> <p><i>“Sustainability appraisal</i></p> <p>6A (1) The relevant authorities preparing an MPS must carry out an appraisal of the sustainability of its proposals for inclusion in the MPS, including an assessment against alternative proposals.</p> <p>(2) The appraisal under subsection (1) must incorporate the requirements of European Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment.</p> <p>(3) The relevant authorities may proceed with those proposals only if it considers that the results of the appraisal indicate that it is appropriate to do so.</p> <p>(4) The relevant authorities must publish a report of the results of the appraisal. This report must include the relevant authorities’ reasons, based on the appraisal, for the proposals included in the consultation draft under paragraph 7.</p> <p>(5) The report is to be published when the relevant authorities publish the consultation draft under paragraph 7.”</p>

(ii) Clarifying the SEA requirements for Marine Plans

Clause	Schedule 6, paragraph 10 Sustainability appraisal
Amendment	Page 234, line 14: at end insert “, including an assessment against alternative proposals. (1A) The appraisal under subsection (2)(a) must incorporate the requirements of European Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment.”
Amendment	Page 234, line 18: at end insert “This report must include the marine plan authority’s reasons, based on the appraisal, for the proposals included in the consultation draft under paragraph 11.”