

Consultation on marine plan areas within the English Inshore and English Offshore Marine Regions

A response from Wildlife and Countryside Link

February 2010

Wildlife and Countryside Link (Link) brings together 34 voluntary organisations concerned with the conservation and protection of wildlife, the countryside and the marine environment. Taken together our members have the support of over 8 million people in the UK.

This document is supported by the following six organisations:

- Buglife – The Invertebrate Conservation Trust
- Marine Conservation Society
- The Wildlife Trusts
- Royal Society for the Protection of Birds
- Whale and Dolphin Conservation Society
- Zoological Society of London

Key Issues

Link welcomes the opportunity to provide comments on the proposed marine plan areas. We have long called for a strategic, integrated and forward-looking marine spatial planning regime to ensure activities in the marine environment are sustainable.

A key reason why we have called for marine spatial planning is that we see it as a significant tool in delivering the ecosystem approach. By looking strategically at past, present and proposed activities at the regional sea scale rather than only focussing on individual projects, Link believes that there will be progress towards a better planned and more sustainable management of the use of marine space and resources. We therefore believe that marine spatial planning should apply an ecosystem based approach to the regulation and management of development and activities. It should help identify areas that are either suitable or unsuitable for particular activities, allocating space in a manner which helps avoid or minimise conflicts while ensuring adequate measures and space for protection and conservation of our marine resources, ecosystems and biodiversity.

We have a number of specific observations and comments in response to the questions posed in the consultation document which we have listed below. Our primary concern, however, is that the separation between inshore and offshore waters will be detrimental to implementation of effective planning processes based on an ecosystem approach. In addition we believe that the division of plan areas into inshore and offshore areas will hinder both stakeholder engagement as well as the integration between offshore plans and management of the coast/land.



As an overarching point, this consultation highlights the need for a strong and focussed Marine Policy Statement (MPS). This statement will be critical for effective planning at all levels, particularly in areas where no effective marine plan exists at the time decisions are made in relation to marine licensing and regulating sea users. The MPS must contain specific spatial planning objectives and establish policy direction in order to ensure that marine plans are effective and consistent with national aspirations.

We would also like to highlight the need for consideration of the workload on marine and coastal stakeholders resulting from implementation of other aspects of the Marine and Coastal Access Act. In particular, the MMO should consider the considerable stakeholder engagement required by the four regional MPA network projects in England.

Response to consultation questions

Question 1: Do you agree with this set of considerations? Are there any other considerations of which we should take account?

Link believes the range of considerations to be taken into account when determining marine plan areas is comprehensive.

We welcome the acknowledgement that the general consensus of respondents to the 2006 Marine Bill consultation was that plan areas should be designated based on bio-geographic rather than political or administrative boundaries (pg. 11). We believe that this should be the primary consideration in the development of the current proposals and we therefore welcome the statement on pg. 19 that the ecosystem-based *Charting Progress* marine regions are the prime consideration for the boundaries of the plan areas.

Question 2: Do you agree with this set of criteria with which to assess any identified plan areas? Are there any other criteria we should consider?

We seek clarification on whether any of the criteria are weighted or ranked in order of preference or whether criteria are considered equally important. Link has concerns that the first criterion (national and inshore/offshore boundaries), and the fifth criterion (integration with land) have been given highest priority, therefore overriding ecosystem boundaries in defining plan areas. Given our preference for and the commitment to using an ecosystem approach, we suggest that the third criterion listed (*To what degree does the area follow our commitment to taking an ecosystem approach?*) should be given primacy if any ranking system is to be used.

Criterion 1

In order to achieve an ecosystem-based approach to the management of marine activities, we believe that marine planning should extend across and beyond administrative¹ or political boundaries. We therefore strongly disagree with the

¹ Link considers "administrative boundaries" to include the following: 12 nautical mile limit, regional, county and borough council boundaries. However, we note that in the interactive map of Marine Plan Areas, the *Charting Progress* areas, OSPAR and ICES Eco-regions are listed under "Administrative Boundaries". We are supportive of these latter criteria and consider these contribute to Ecosystem Boundaries not Administrative Boundaries. We consider national and international borders to be "political boundaries".

inclusion of the inshore/offshore boundary in Criterion 1 as a requirement for determining marine plan boundaries and we are particularly concerned that the application of this criterion has been given a greater weighting than the other criteria. The explanation for this on pg. 20 is that different legal provisions apply on either side of the inshore/offshore boundary. However, as the UK Government is the planning authority for both the inshore and the offshore English marine planning regions, it can therefore plan across that boundary.

Link was surprised and disappointed to discover that Government considers that as a result of the definition of separate inshore and offshore marine plan regions under the Marine & Coastal Access Act that separate plans are required for each marine region. This is not how Link had interpreted this section of the Act during its passage through Parliament and we would have lobbied against such an approach if we had been aware that this was the Government's intention. However, irrespective of whether the Government is convinced that there is a requirement for two legally separate plans, we would still expect the MMO (the planning body for both the inshore and offshore English marine plan regions) to create a single planning process across that boundary. In practice this would mean the planning process to develop the plans happening at the same time in respect of both regions, including all the preparatory work, drafting, consultation and scrutiny and with participation of all those having an interest in either/both regions, such that the content of the plans is consistent and coordinated across the boundary. This is the approach that has been proposed for the North West region and following the same rationale, one that we strongly believe should be applied throughout the English marine planning region.

Second and third criteria

We fully support these criteria being applied.

Final criterion

Link believes that the final criterion (time and costs) should be a secondary consideration, rather than being equal to the other criteria listed.

Question 3: Do you agree with the plan areas identified?

Link has a number of significant concerns with the plan boundaries proposed. In particular (and as already mentioned in answer to Q2), we question the rationale behind the proposal to create separate inshore and offshore plans. We have long advocated the use of biogeographical regional seas for delivering an ecosystem-based approach to marine planning and management. We welcome the statement that the marine regions identified in *Charting Progress* have been used as the primary consideration for marine plan boundaries (pg.19), and that this approach has been put into practice in determining plan boundaries in the English offshore region. However, the whole concept of marine spatial planning, which includes strategic, spatial integration and management of uses across legal jurisdictions, is hindered by the creation of an artificial planning division at 12 nautical miles. A key benefit of marine planning is that it transcends normal administrative boundaries – marine plans can and should work across, not be constrained by, such boundaries.

A related and significant concern is that the division of biogeographical regional seas into inshore and offshore marine plans will require duplicated effort, time and resources from coastal stakeholders, including local authorities (see our response to Q4 outlining our rationale).

We strongly urge Government to remove the proposed artificial division between inshore and offshore areas and instead take a biogeographical regional seas approach. This approach will also require the plan boundaries at the coast to be redrawn to match the regional sea boundaries set out in *Charting Progress 1*. The current proposals result in too many plan areas in each regional sea. In the south-west there are six plan areas when we consider only one is necessary for the south-west approaches to include areas round to Portland Bill. Likewise, we believe one plan for the Channel is sufficient and do not believe it is necessary to separate the Solent region from the Eastern Channel or the inshore from offshore. In the Southern North Sea, we consider splitting the Thames in two bizarre and does not align with the ecosystem boundaries in *Charting Progress*.

Finally, we envisage that the proposal to divide the plan areas for the Severn Estuary and Bristol Channel, which appears to be largely based on administrative/jurisdictional boundaries, is likely to create a high level of confusion for stakeholders and users. Assuming there is only one plan adopted in the Welsh waters for the same area, the current proposal for English waters would result in stakeholders needing to be involved in and referring to at least four separate plans to get an overview of the whole Bristol Channel area. The consultation document (pg 36) advises that the border estuaries should be treated as one ecological unit in the planning process (which we agree with), yet the requirement for separate plans to be produced for this one ecological unit highlights our view that the proposed approach is illogical and overly complex. This approach may lead to a failure to properly address, integrate and implement planning and management requirements across the area within all plans. Whilst we acknowledge that designating the whole of the Bristol Channel as one marine plan area may potentially result in a large area to be covered, a possible solution is to develop a higher level marine plan for the Bristol Channel and then 'nested plans' for sub-areas which require more detailed analysis. This approach would enable proper marine planning for the Channel as a whole, whilst allowing for targeted regulation and management of specific areas within the Channel. We would expect a similar approach for the Dee Estuary and Solway Firth, for the latter working with the Scottish Government, to ensure these cross-border regions are planned for holistically. More detail on this alternative approach is provided below in our response to Question 4.

Link advocates greater clarity and a more strategic approach to marine planning. As a result we are calling for greater integration and consistency across political boundaries rather than further sub-division of planning and management. Similar considerations apply to planning at and across the borders with Scotland and Northern Ireland's waters.

Question 4: Do any of the proposed areas create difficulties which may hinder the development or implementation of the plan or its integration with planning and management on land?

Link believes that stakeholder engagement and consequently the development of marine plans will be hindered by the proposed artificial separation of marine regions into inshore and offshore plans. Furthermore, we believe that this boundary will hinder integration between offshore plans and management of the coast/land.

All offshore activities/projects have a coastal aspect to them, for example: ships need to come to port; electricity cables from offshore wind farms and marine renewables need to connect to land-based substations; pipes carry oil and gas ashore from offshore platforms; fishing is linked to local harbours and communities; etc. In many

cases, it is the coastal aspect of these offshore activities that can be the greatest cause of conflict. The creation of inshore and offshore plans will therefore mean that stakeholders, particularly coastal stakeholders, will be required to engage with two marine plans. This would place unnecessary pressure on stakeholders by requiring duplication of time, effort and resources. In addition to stakeholder fatigue, the result is likely to be inshore and offshore marine plans that are disconnected.

We believe that a single regional marine plan should be produced which includes more detailed coastal elements. This would enable all marine and coastal stakeholders to work on the same plan at the same time, and is more likely to ensure an integrated approach to planning in that region. This approach would reduce the time required for involvement by stakeholders, avoid duplication of effort and ensure that all stakeholders were involved in informing and preparing a single plan that affects them.

In our response to the *Marine Bill White Paper* (8 June 2007), Link advocated a hierarchical approach to marine planning with smaller scale, more detailed plans nested within larger-scale, more strategic (less detailed) plans at the biogeographic regional seas scale. We believe that this is the most logical planning approach and were disappointed when Government dropped it as an option during the development of the Marine Bill. However, this approach can still be applied to the current planning proposals as the more detailed, smaller scale sub-plans do not necessarily have to be separate plans, they could be more detailed elements of the regional plan. This would also prevent the situation as proposed in the south-west whereby regional stakeholders under the proposed plans would need to engage in six different plans. One plan for this region with nested sub-plans would be much more appropriate. Either option would also be more consistent with the provisions included in the forthcoming Marine (Scotland) Act, which enables the creation of a Scottish national plan for inshore waters, with more detailed 'regional' plans nesting under it.

We strongly urge Government to re-think this proposal and instead produce biogeographic regional seas plans that are more detailed at the coast, which would involve stakeholders in the development of one plan for their area.

Question 5: Will the proposed inshore plan areas provide an effective scale for local authority and stakeholder involvement in the marine planning process?

While we commend the efforts that have been taken to consider engagement with stakeholders particularly at the coast, we do not agree that the proposed plan areas provide the most effective scale for stakeholder involvement. As we have mentioned, local authorities (LAs) and other coastal stakeholders will need/want to be involved in both the inshore and offshore marine plans. Having separate inshore and offshore plans will require duplication of effort, time and resources from coastal stakeholders and LAs as they will be affected by both plans. (See also our response to Q4).

Furthermore, we are concerned about the potential role of the Coastal Groups discussed on pg.19, which were set up to develop SMPs for coastal flood management planning. While we agree it is useful to make use of existing mechanisms, relationships and cooperation between authorities to benefit engagement with the marine planning process, we seek certainty on the extent to which these groups will be expected to facilitate or manage the engagement processes. We consider that groups set up for one particular purpose (with specific, limited membership) may not be the most appropriate bodies to take forward this new

role, particularly as we also question whether the use of coastal SMP boundaries for marine planning is consistent with the ecosystem approach.

We also seek confirmation that existing coastal partnerships or groups and existing informal marine plans (s5.4, pg.39) will not be used and adopted without careful consideration of the representation on those groups and informal plan-making bodies and whether there has been robust stakeholder and public participation in the processes to enable all views and interests to be considered and addressed. We urge Defra not to use existing mechanisms to bring forward marine plans quickly to the exclusion of full and proper participation of all stakeholders and the public generally. While both LAs and the Environment Agency have crucial planning responsibilities at the coast, it must be remembered that they are not the only stakeholders and that marine planning is about creating a strategic overview of the whole marine area and not just at the coast. We seek confirmation that any existing informal marine plans that may be considered as being adopted as, or at least used as the basis for, marine plans are subjected to review and required to meet minimum consultation requirements before adoption to ensure they have allowed for full and proper public participation in their development.

Question 6: Do you agree that these considerations should inform decisions on the order in which marine plans should be prepared?

Link agrees that these considerations should inform the decisions on the order in which the marine plans should be prepared. However, we would reiterate the point we made in response to Q5, that where existing coastal forums or informal plans are used, that the MMO is satisfied that all relevant stakeholders were involved and adequately represented and that minimum consultation and scrutiny requirements are met.

Question 7: Are there any other considerations which you feel are relevant to the order in which plans are prepared, and why?

We believe there are additional considerations that should be taken into account when determining the order in which plans should be prepared. These include the timing, duration and intensity of other stakeholder engagement processes, particularly those linked to the implementation of other parts of the Marine & Coastal Access Act 2009. The Act is generating a considerable amount of work for stakeholders with marine and/or coastal interests. While Link strongly welcomes and supports stakeholder engagement, in developing marine plans, the MMO must consider the other pressures and constraints on stakeholders' time and resources, particularly over the next few years when the implementation of the Act's provisions will be at their most intense.

In particular, we urge the MMO to consider the timetable and workload of stakeholders who are involved in the four regional MPA network projects in England. S5.3.4 (pg:38) highlights the likely conflict of timing and workload between these two important elements of the implementation of the Act. The proposal for marine planning in the initial two areas to start shortly before the publication of the four regional MPA projects report to the Minister will significantly add to the workload of those stakeholders, including LAs, EA and other interested parties, who wish to be involved in both processes. This is likely to be incompatible with the consideration of 'preparedness of area' (s5.3.8, pg.39), i.e. readiness and availability of stakeholders (organisations and individuals) to participate.

We are not suggesting delaying the preparation of marine plans. However, this is a very relevant and important consideration.

In determining the marine planning work programme, it would be useful for the MMO to have a deadline for completion of the full suite of plans, as well as the order of marine plan preparation and milestones towards achieving full plan coverage for English waters.

Question 8: Do you agree with these considerations and their classification? If not, how would you classify them, and why?

And

Question 9: If you suggested any changes to the considerations in response to Questions 6 & 7, how do you think they should be reflected in this table?

We suggest the following changes to the classification of considerations presented in the table in s5.5. These are as a result of our comments in response to Q6 & Q7, but we also suggest additional changes.

- In the primary considerations box, we would specifically add references to the UK's marine vision and the high level marine objectives (HLMOs) to the statement on the "*contribution to... Government policy*".
- Make the following additions to the primary considerations box:
 - Presence of existing conflicts
 - Environmental importance, sensitivity or vulnerability of an area
- Move the statement "Integrating management of border areas (including at the coast and across UK internal and international borders)" from the primary into the secondary considerations box. While integration at borders and boundaries is an important outcome to achieve, it should not be one of the primary reasons in determining the order of plan preparation.
- In the secondary considerations box, expand on the "*preparedness of area*" statement by adding "*... in particularly aiming to avoid overlap with other marine implementation processes that also require high levels of stakeholder time and resources*"