

Consultation on a Marine Planning System for England

Comments from
Wildlife and Countryside Link
13 October 2010

Introduction

Wildlife and Countryside Link (Link) brings together the UK's leading voluntary organisations united by their common interest in the conservation and enjoyment of wildlife, the countryside and the marine environment. Taken together our members have the support of over 8 million people in the UK.

This response is supported by the following organisations:

- Buglife – The Invertebrate Conservation Trust
- Campaign to Protect Rural England
- Marine Conservation Society
- Open Spaces Society
- Royal Society for the Protection of Birds
- The Wildlife Trusts
- WWF – UK

Summary

Link is a long-time supporter of and campaigner for a new strategic, forward-looking marine planning system. We therefore welcome this consultation on the new Marine Planning System for England. We are extremely pleased to be able to say that on the whole we found this to be a very well written and structured document, that sets out clearly and concisely how Government intends the new marine planning system to work. The proposals for a marine planning system contained in this consultation document generally meet our expectations, whilst lacking detail in some areas.

Link's priority points cover the following themes:

- In our view, there is a need for strategic planning at the national level by way of, for example, a national marine plan or planning strategy/guidance, to facilitate the interpretation of the MPS at the national and sub-national levels, to identify national objectives and priorities and allow for an holistic, strategic view to be taken on where and how they can be met within English waters (linking the MPS and marine plans).
- The relationship between the marine planning system and MPAs, and the role of the MMO in relation to these sites, is not set out clearly or correctly, and in our view, undermines the MPA selection and designation process and rationale.
- The role of existing stakeholder engagement processes and bodies in facilitating marine planning must be based on a clear understanding of who they engage with and how – through an open, transparent and neutral co-ordination service embracing all sectors.

Issues for consideration & consultation questions

Introduction and Purpose of Consultation

We note that this document does not constitute statutory guidance. We would like clarification of why this is the case, why it is felt that Section 38 of the Act is not applicable to this guidance. We would also like clarification as to whether there is any intention to provide

additional statutory guidance for England over and above the MPS, either by Defra or from the MMO, which we would welcome (primarily for reasons outlined in our response to the MPS consultation).

We are pleased that the consultation shows that reference to international experience in marine planning has been utilised and in particular reference to the EU Maritime Spatial Planning (MSP) roadmap principles is welcome. Similarly we are pleased to see direct inclusion of the principles of ICZM in the earliest section of the document. However, we don't feel that the ICZM approach has been embedded into subsequent sections of the consultation, most notably Chapters 5 & 6. There is a lack of recognition of existing ICZM initiatives and very little guidance on how they will help to support future integration of marine and terrestrial planning systems at the coast.

The section on learning from and working with Devolved Administrations could benefit from reference to the concordat agreements for further detail on how this will be achieved.

1. Do you agree that we have identified and captured within Chapter 1 all of the benefits of marine planning?

Link welcomes the introduction of a new marine planning system for England. We have long called for an evidence-based, plan-led system, to ensure a more sustainable and coherent approach to guide development in the marine area that is founded upon an ecosystem-based approach to managing human activities.

We believe that the benefits outlined in Chapter 1 are appropriate, though they are dependent on the marine planning system being effective. We make some further comments under other questions (below) regarding how effective we believe the current draft MPS is particularly with respect to achieving the benefits set out in §1.11. However, in addition to those comments, we recognise that there will need to be a period of learning where marine plans may not deliver all the benefits envisaged straight away.

We also have a number of detailed comments:

- §1.2 – Marine planning must not impede the natural environment's adaptation or mitigation responses to the effects and impacts of climate change at sea. Rather marine planning must ensure that marine biodiversity and ecosystems are protected, their resilience is maintained and/or increased and additional pressures are avoided.
- §1.3 – We welcome the aspiration for marine planning set out in this paragraph as it fully considers biodiversity and its needs.
- §1.4 – It is important that there is further information on the interpretation of sustainable development in this section, to enable a common understanding of the aims. We therefore recommend at least reference to the 5 principles of sustainable development in this section, or ideally inclusion of the diagram contained in the UK Sustainable Development Strategy *Securing the Future* (2005) – as provided in our response to the MMO consultation on 'selecting the first areas for Marine Plans' (attached, Appendix I). In fact we reiterate here our call to the Government and the MMO to enshrine that hierarchical diagram in the marine planning system. Link believes that the existence of this hierarchy and an acknowledgement that "*living within environmental limits*" and "*ensuring a strong, healthy and just society*", are essential factors in achieving sustainable development in the marine area. The same hierarchy then also applies to the joint UK High Level Marine Objectives, which provide the context for the five sustainable development principles in the marine area. We are concerned that with increasing frequency, the hierarchical format of the sustainable development principles is either being ignored or modified.

- §1.5 – while this paragraph highlights the economic contribution that marine activities make, this only tells half of the story set out in *Charting Progress 2*. The conclusions of *Charting Progress 2* make it clear that that we are already in a situation where we are not achieving sustainable development in the marine area. The UK’s seas and its resources are being used unsustainably and there is ongoing loss of and damage to marine biodiversity, yet against this worrying environmental assessment, there is increasing demand for marine space and resources. This assessment makes the future delivery of sustainable development in the marine area ever more difficult.
- §1.14, 3rd bullet – greater cohesion between terrestrial and marine planning should also deliver a more strategic approach to protection and management of habitats and species that are located in the intertidal or transverse the land-sea boundary, e.g. seals and seabirds, thus meeting their ecological needs across administrative boundaries.
- §1.15, 1st, 4th & 5th bullets – we welcome these bullets and the consideration given to marine biodiversity, ecosystems, resources and living within environmental limits. We have been calling for these elements to be given greater recognition *via* marine management measures.
- §1.15, 2nd bullet – there is a danger that this ‘outcome benefit’ will be taken in isolation out of context. We therefore recommend reference to the precautionary principle in relation to economic growth or at least completing the sentence “within the overall need to promote sustainable development”. As we have pointed out above (§1.5) *Charting Progress 2* strongly illustrates the dangers of further economic growth¹.

2. Have we set out and appropriately considered in Chapter 2 and elsewhere the elements required before marine planning can begin?

We were pleased to see (Introduction & Purpose of Consultation) that marine planning in England will build on the experience gained from the Marine Spatial Planning Pilot in the Irish Sea and the good work done by UNESCO and the EU’s Roadmap on Maritime Spatial Planning. We recommend that further consideration is also given to Link’s recently published *Marine Planning Principles* leaflet².

Marine Strategy Framework Directive (MSFD)

We particularly welcome the recognition that marine planning will be a valuable tool in delivering the requirements of the MSFD and WFD (Box, pg.5-6) - and that the MMO will need to develop plan policies that enable us to meet the Directives’ requirements. With this in mind there will need to be full marine plan coverage throughout English (and UK) waters by 2020 at the latest if they are to deliver the intended benefits and support the achievement of Good Environment Status (GES). This latter point will need to be included in considerations on the plan preparation timetable.

The MSFD also requires Member States to co-operate in achieving the objective of GES throughout the marine region, and as such should be included in the section about ‘Working across international borders’ (§2.17-2.20).

§2.6 refers to the MMO having “*regard to any other type of plan prepared by a public or local authority in connection with the management or use of the sea, coast, or marine or coastal*

¹ If the term ‘sustainable economic growth’ is used in the document, the definition from PPS4 should be stated: “Growth that can be sustained and is **within environmental limits**, but also enhances environmental and social welfare and avoids greater extremes in future economic cycles.”

² http://www.wcl.org.uk/docs/2010/Link_marine_planning_principles_leaflet_30Jun10.pdf

resources in, adjoining or adjacent to the marine plan area". It would be helpful if there was clarification at this point whether this includes (existing) non-statutory coastal plans and strategies (see above comments suggesting better reference to ICZM throughout the document).

Marine Nature Conservation

Box (pg.7-8) on Marine Nature Conservation – This Box sets out a circular, confusing and in Link's view, erroneous view of how the marine planning system and MPAs will interact. The Government has been clear that the identification and designation of MPAs should be based on science and conservation need. Each site will contribute to an ecologically coherent network of protected sites at sea. MCZs are to be selected in England *via* regional MCZ projects and socio-economic factors may be considered under certain circumstances, while SACs and SPAs (and SSSIs and Ramsar sites) are selected by the Statutory Nature Conservation Bodies and socio-economic factors can not be considered. In order to satisfy both Natura 2000 and MCZ requirements, it is therefore essential that individual MPAs should be identified, selected and designated based on science (ecological value) and conservation need, (irrespective of marine plans) and contribute to the creation of an ecologically coherent network of protected sites at sea. It is for this reason that we consider rapid progress to identify and designate a coherent network of MPAs will actually support effective marine planning. While we acknowledge that for MCZs, the MMO can make its views known to the Secretary of State regarding existing MCZs or proposing new ones, it certainly is not the role of marine plans to determine where MCZs or other MPAs should or should not be designated or what their conservation objectives should be. Once identified, MPAs should be included in and considered by plan makers and decision makers. This is how the planning system and protected sites co-exist on land, for example, Local Authorities can not have sites de-designated "*in the public interest*".

Geographical scope of marine planning

Link welcomes the acknowledgement that coordinated and/or joint planning across the UK's national borders is preferable, and that Defra are incentivising the MMO to seek good integration across boundaries (§2.14). Consequently, we highlight that this approach is likely to influence the MMO's choice of areas to plan for first (see §2.44-2.49). We also recommend that the Devolved Administrations are pro-actively involved in the determination of the first English plans.

Related to cross-border cooperation, we also welcome the reference to concordat agreements between the MMO and the Devolved Administrations (§2.13). However, we would like to know when these concordats will be made publically available. We remain concerned about the possible consequences of two plans being prepared on either side of the border within the same area (such as the Solway Firth or the Severn Estuary).

Strategic scoping exercise and the evidence base

We welcome the Strategic Scoping exercise (§2.36-2.43), particularly as it was not a requirement under the Marine Act. However, we believe that we should be strongly encouraging all marine plan authorities to undertake the same exercise at the national level, to provide a UK-wide evidence-base overview rather than being restricted to English waters and policies. We therefore urge that the Devolved Administrations are made partners (§2.41).

We note, however, the limitations of the Strategic Scoping Exercise – that it will not state policy nor set objectives and is purely a fact-finding and broad-scale mapping exercise for the marine planning evidence base. As discussed in the Joint Links response to the draft

MPS consultation, we consider that there is a gap between the MPS and Marine Plans in England – a need for strategic planning and guidance, across regions, on managing resource use and competing interests for space within the context of national priorities, targets and objectives. The Strategic Scoping Exercise, whilst extremely useful for the evidence base and also to assist in determining priority areas for marine planning, will not fill this gap. There is still a need, we believe, for a national document which sets out a national spatial planning vision, objectives, strategies and policies to allow for proper implementation of the MPS into the marine planning system.

We support the use of best-available data where appropriate (§2.28) and the important new role the MMO will have in providing a central hub for access to information. With respect to data gaps (§2.30), we recommend that the MMO assesses the benefits of filling those data gaps to help support the case for future survey and research work. This is particularly important where existing evidence (§2.43) is biased towards areas where there are development activities rather than knowledge of areas where no previous development has taken place. We wish to avoid a situation where developers look confidently towards areas where there is apparent ‘space’ but which is really a lack of knowledge or previous development. Through the preparation of marine plans, access to information should increase and help to inform a future review of the MPS – which could give greater steer for developers based on better evidence of what will constitute sustainable development (in relation to §2.33 and §2.38), . We also recommend that the evidence based is shared with the Devolved Administrations, and *vice versa*.

Order and timetable for adopting marine plans (§2.44-2.49)

1. Inshore vs. Offshore Plan areas

In determining which two areas should be planned for first, Link’s overriding view is that the inshore-offshore boundary must not create an artificial division within regional seas. We therefore welcome the recognition of the value of developing inshore and offshore plans together through a single process in this consultation (§2.23). We would urge the MMO to follow this advice.

2. Priority Plan Areas – suggestions

The following suggestions are presented in order of preference.

(i) *South West Inshore and Offshore plans*

- Resolve considerable sustainability challenge by a wider locational planning approach for a number of difficult issues, for example, tidal power generation, other marine renewables, shipping and ports, nature conservation, aggregates extraction, fishing, tourism, MOD, etc.
- Address notable governance / process difficulties, via comprehensive range of stakeholder engagement mechanisms (individual estuary partnerships, Devon Maritime Forum, Finding Sanctuary stakeholder project).
- Would demonstrate need for cross-border collaboration with the Welsh Assembly Government in the Severn Estuary and the Bristol Channel.
- Advanced stage of Finding Sanctuary compared to other MCZ regional projects.
- Covers the English part of the Western English Channel and Celtic Sea biogeographic regional sea.

(ii) *East Inshore and Offshore plans*

- Complexity of issues needing resolution in the near future – cSAC, Round 3 offshore wind farm zone, fishing.
- Demonstration for other plan areas with existing conflicts.

- Busy area of transnational sea, useful for identifying transboundary Member State collaboration for marine planning, e.g. project proposals under the European Commission's "Preparatory Action on Maritime Spatial Planning in the North East Atlantic, North Sea, Channel Area" funding stream.
- WWF Germany North Sea report examining marine reserves.
- Covers the majority of the southern North Sea biogeographic regional sea.

(iii) *North East Inshore and Offshore plans*

- Covers complex issues such as major ports, including Teesport, a range of offshore industries, and many stakeholder activities, including some of the most productive fishing grounds around England.
- A range of coastal protected areas including AONBs, seabird breeding colony SPAs, etc.
- Demonstration for cross-border issues with Scotland, including building on existing joint management plan for Northumberland AONB and EMS (up to St Abbs), which includes cross-border co-operation.
- Demonstration of transboundary issues with other EU Member States.
- Covers the English part of the northern North Sea biogeographic regional sea.

iv) *North West Inshore and Offshore plans*

(We realise this is one plan area; therefore we are proposing it on its own as it has a number of benefits:)

- Demonstration of cross-border issues with Scotland and Wales.
- Complexity of issues needing resolution in the near future – including the most sustainable option(s) for tidal power generation, and Round 3 offshore wind in the context of wider planning approach.
- Pilot study to work from.
- Existing evidence base.
- Demonstration of the benefits of planning inshore and offshore regions together.
- Spatially more constrained than other areas.

Priority plan areas are to be decided on the basis of where the most can be contributed towards sustainable development. We therefore believe that the MMO must be clear with respect to what is meant by sustainable development. Consequently, Link is urging Government and the MMO to reiterate the five principles of sustainable development much more prominently in the MPS and marine planning guidance. The sustainable development principles and subsequently the High Level Marine Objectives should be set out in the same hierarchy as in the UK Sustainable Development Strategy. Link believes that the existence of this hierarchy and an acknowledgement that "*living within environmental limits*" and "*ensuring a strong, healthy and just society*", are essential factors in achieving sustainable development in the marine area.

See Appendix I for a full copy of Link's views regarding the order that marine plans should be prepared which was sent to the MMO in September 2010.

In a further effort to increase efficiency, we welcome the announcement at the Stakeholder Focus Group (SFG) meeting (7th September 2010) that the option for the development of more than two plans at a time was being considered.

3. Does the proposed structure and content for Marine Plans provide appropriate clarity to enable the MMO to create effective Marine Plans in England (Chapter 3)? In particular, is the overall approach to planning recommended and outlined in paragraphs 3.7 to 3.9 appropriate?

Link believes that the proposed structure and content for Marine Plans set out in Chapter 3 does provide appropriate clarity to enable the MMO to create effective Marine Plans in England. However, as mentioned above, more detail will be required on each aspect as the planning process develops, whether this detail is determined by Government or the MMO needs to be considered.

Introduction – plan hierarchy

Link has always supported a plan hierarchy with smaller scale, more detailed plans nested within larger scale, more strategic (less detailed) plans at the regional seas scale. The regional seas plans would provide the strategic overview and context for the more detailed plans. We were therefore disappointed when this approach did not make its way into the legislation. However, we are pleased that Defra are recommending a flexible plan structure which will allow more detailed and/or locally specific policy to be included within the plan as required for areas of more intensive use (e.g. estuaries, ports and harbours).

Marine Plans – policy approach (includes §3.7-3.9)

We are slightly concerned that this section and particularly paragraphs 3.7-3.9, forget some of the previous good words regarding the marine environment. The focus appears to be on the impacts that one activity may have on another and the conflicts between activities, forgetting that such impacts and conflicts are just as important for the environment and resource use. In addition, in looking forward (§3.10), wider environmental trends, such as environmental capacity and resource sustainability, also need to be considered alongside the impacts of climate change.

We are concerned that in paragraph 3.9 in particular, that due to what we view as the weaknesses in the draft MPS, the role of the MPS is being transferred to the marine planning process. It is our view that the MPS should set the policy at the national (i.e. English level) as well as for the whole of the UK, and hence steer the development of marine plans. However, as the current draft MPS does not, in our view, fulfil this role, there is a risk that paragraph 3.9 passes a policy development role to the MMO. While we obviously expect the MMO to have a national and strategic overview, we had expected the MPS to set the policy agenda.

In England, Link believes that there is a gap between the current high level aspirational draft MPS and the information required to develop marine plans and inform decision-making. Consequently, we believe that there needs to be some statement of national policies and objectives to fill that gap. Whether that is a national plan as being proposed in Scotland and Wales, a national strategy or national guidance should be considered. We were disappointed to hear from Defra (Stakeholder Focus Group) that there is currently no intention to produce guidance on how to implement and make decisions in accordance with the MPS. One example of where the lack of interpretation for marine planners will take effect can be seen in paragraph 6.15, which states that “*the MPS will have a broad scope across the marine area, whereas NPSs focus on individual sectors and the national need for infrastructure development*”. However, the absence of detailed policy direction and steer in the MPS means that in that vacuum, NPSs could become the main high level policy steer for decision-makers on all projects as opposed to just national infrastructure projects.

Furthermore, Link believes that the lack of a national spatial overview in England’s terrestrial planning system is acting as a barrier to the integrated delivery of infrastructure which respects environmental assets and the restoration of biodiversity at a landscape scale. We are therefore awaiting with interest the Government’s (CLG) new National Planning Framework (NPF) for England under the terrestrial planning process which will replace all existing national planning policy and guidance. We are particularly pleased that CLG

Ministers have given their support to an NPF that will not be limited to policy content but will have a spatial element. Link's Land Use Planning Working Group has been asked about what this might mean/look like, and are of the opinion that such an approach does not need to be prescriptive or overly detailed, but rather criteria and guidance on identifying suitable locations for development which can be helped with some level of mapping (i.e. to link areas of need/demand with potential development sites/priority areas, etc). We therefore urge similar consideration be given to a spatial national planning framework for the marine area to bridge the gap between the MPS and marine plans. We raise the same concerns in our response to the Draft MPS consultation.

Marine Plans – structure and content

Further clarity is needed in this section on the need for baseline 'State of the Environment (SoE)' reporting. This is an important basis for the assessment of sustainability and to facilitate monitoring of the effectiveness of the marine plan. All current activities and interests must be included within a baseline assessment. §3.30 alludes to this being produced (as does Table 1), but the need and importance of this must be made much more explicit to ensure it is undertaken as a first stage of the plan process. Whilst the national Strategic Scoping exercise will provide a useful starting point, much more detailed information will be available from stakeholders through the preparation of each marine plan. The need for baseline or 'SoE' reporting should therefore be the focus of early stakeholder engagement in the plan process.

It is also not clear whether the content of the marine plan will include clear reference to actions with time specific targets. Many voluntary coastal partnership plans and strategies produce annual action plans to report on progress, identifying which bodies/stakeholders will lead on specific actions by a certain time. This helps to encourage delivery. Link is concerned that the document only refers to a twenty-year period (§3.62) for marine plans, but should be recommending that targets for actions within shorter timeframes are encouraged (e.g. 1, 3, 5 years). Otherwise the twenty year period may restrict or limit the incentive for actions to be progressed or completed in a shorter timeframe. We therefore recommend more explicit reference to timescales and targets in the sections on the Implementation Plan and Monitoring Plan (e.g. p28 onwards).

Further, for the above reasons, we would expect that the baseline or 'SoE' report be reviewed at least every 3 years as required under s61 of the Marine and Coastal Access Act 'Monitoring of, and periodical reporting on, implementation'.

Matters outside the marine planning system

Link was particularly concerned about the implications of an activity which is not specifically mentioned in the MPS and is not covered by the Marine Act, as it appears that under such circumstances that activity does not need to be covered by the plans (§3.70; and refer to §3.9). Whilst it is more likely that such a loophole will have implications for new or novel activities, there is a risk that this could be used as a loophole to circumvent the planning system. We would therefore encourage Defra to recommend that such matters outside the marine planning system be flagged up by the MMO to Government to review the MPS.

4. In Chapter 4 have we covered all steps required to draft Marine Plans?

Link believes that overall, the main steps required to draft Marine Plans have been covered. However, we make some further suggestions below.

Before planning starts – Establishing reporting areas

We welcome the acknowledgement that the ‘reporting area’ will be greater than the plan area as decisions within the plan area will also affect the area outside its boundaries (§4.6). We also welcome that the reporting area will be dependant on the issue being reported on rather than a set geographic boundary. We would note that the reporting area will also need to consider the temporal as well as spatial implications of planning decisions.

In line with this approach, we would encourage the MMO to proactively engage with the relevant authority(ies) in Northern Ireland on all west coast English marine plans despite English waters not being directly adjacent to Northern Irish waters (§4.3, footnote 67). This is particularly relevant if a coherent approach to planning for the Irish Sea is to be developed and the requirements of the MSFD are to be met there.

§ 4.6 refers to ‘migratory **animals**’, (emphasis added), however, in our view it would be more appropriate to refer to ‘mobile and migratory species’.

While we recognise that the existence of *Charting Progress 2*, the Strategic Scoping Exercise, and the individual plan scoping and Sustainability Appraisal (SA)/Strategic Environmental Assessment (SEA) process all imply that a ‘State of the Environment’ baseline evidence exists, and should be updated per plan area, we strongly believe that there should be an explicit reference to it under the main stages for the planning process (e.g. Fig.4, pg.35 and Table 1, pg.39). In addition, there should also be an explicit commitment to review and update the baseline ‘State of the Environment’ report under the plan review process and under the SEA requirements which are being met by the SA. DECC has invested £1-2 million in surveys, monitoring and desk-based research prior to undertaking each SEA for offshore oil and gas and more recently all marine energy developments. While we accept that budgets may be lower than previously we believe that a budget of £1 million to improve baseline data for each plan area is a reasonable figure. Good baseline data would also reduce costs for subsequent project EIAs and the likelihood of chancing upon aggregations of internationally important species during the EIA process and resulting in the project application being declined. Therefore, frontloading the evidence base is in our view, money very well spent.

Sustainability Appraisal process

Link reiterates its position that our preference is, and always has been, that an SEA only is carried out. While there is reference to the requirements of the SEA Directive being met under the SA process, such as consultation requirements (§4.21) and the production of an Environmental Report (§4.23), we are concerned that the rationale for carrying out an SEA is being lost within the wider SA process. We would like it made clearer that a requirement under the SEA Directive is evaluation of reasonable alternatives to avoid impacts and “*contribute to more sustainable and effective solutions*”, where ‘more sustainable’ refers to options more capable of ‘*living within environmental limits*’. Therefore, within the SA it must be clearly defined which elements meet the requirements of the SEA Directive and how the outcomes of the SEA have specifically influenced the decisions-made. This is an important step that needs to be included in both the plan development stage and the plan revision/finalisation stage (see Table 1, pg.39-40).

§4.19 advises that an SA can incorporate or complement other assessments, such as Equalities Impact Assessment and Habitats Regulations Assessment. We would agree with complement, but not incorporate. Both EqIA and HRA are required under different legislation and have a specific role and purpose which differs from an SA or SEA. For this reason, we strongly suggest that the assessments are kept distinct to ensure that the requisite obligations are properly fulfilled.

In Table 1, we note a significant problem; The last box of the Table (pg.40) includes the stage – ‘Develop aims and methods for monitoring’. However, the SEA Directive requires consultation (at the Environmental Report stage) on “*the measures envisaged concerning monitoring in accordance with Article 10*” (see Annex 1 (i)). So aims and methods will need to be decided at the earlier stage of ‘Preparing the environmental report’ (see 3rd stage box, pg.39). Article 10(1) of the SEA Directive sets out the purpose of said monitoring: “*to identify at an early stage unforeseen adverse effects, and to be able to undertake appropriate remedial action*”; 10(2) then says “*existing monitoring arrangements may be used if appropriate, with a view to avoiding duplication of monitoring*”.

We would like more information on the use of different terms – Appraisal of Sustainability (AoS) for the MPS and Sustainability Appraisal (SA) for marine plans (§4.20; and footnote 76) – particularly as both are referred to as SAs in the Marine Act. We believe that using two different names for the same assessment under the marine planning system is confusing. We would prefer both to be termed SAs as in the Act.

We seek clarification on whether there is an intention to provide more detailed guidance on undertaking SA for Marine Plans, such as the DCLG Sustainability Appraisal Guidance³. It is our view that such guidance would assist the MMO in carrying out SAs, and there is the benefit of existing guidance which could be suitably adapted.

As indicated earlier (in our comments on §1.4), we suggest further definition of sustainable development and elaboration on what it means. This should therefore be referred back to here, in §4.38.

Developing the Plan

We recommend further guidance on setting target dates for action within the Delivery Framework (§4.40).

Linked to §4.41 (8th bullet) we reiterate the need to consider the work (to date) of voluntary Coastal Partnerships and the co-ordination role (between local authorities) they provide for stakeholder engagement.

Representation Period on Draft Plan

A minimum of 6 weeks may be allowed for public representations in a terrestrial context, but this does not mean it should also apply for marine plans (which cover a much larger geographical area). If a period needs to be specified, a longer time span is recommended for marine plans rather than just reference to the minimum period which may result in the MMO/MPAG considering that is all that is required, when longer would be more beneficial.

5. Are the roles and responsibilities of key stakeholders clear in Chapter 5?

The MMO and stakeholder engagement

Link particularly welcomes the repeated advice to the MMO that stakeholder engagement should start early in the process, e.g. at the pre-planning stages (see §5.2). However, we would add that as well as early engagement, it must also be appropriate and effective engagement.

³ Sustainability Appraisal of Regional Spatial Strategies and Local Development Documents (2005), now discontinued

We are interested in the concept of 'stakeholder mapping' (§4.13). We are interested to know at what scale 'stakeholder mapping' would take place, e.g. national, regional and/or local, or by marine plan area, etc, as there are different interests represented through different interest groups at each scale/level.

§5.7 This statement giving the MMO such an open approach to engaging stakeholders does not seem to be well placed and weakens the clear guidance given in earlier sections of the document e.g. Table 1, p39.

Framework of Engagement

Coastal Partnerships

Link would support the MMO utilising Coastal Partnerships, where appropriate, to support the marine planning process. Many of these bottom-up engagement initiatives have 15-20 years experience working with local coastal stakeholders, many of whom will need to be involved in marine planning. We should avoid establishing new engagement mechanisms for marine planning which re-invent the wheel, instead we should utilise their experience to identify the most efficient approach to stakeholder involvement in the marine planning process.

We recognise that there is huge diversity and variety of experience between Coastal Partnerships across England, Wales and Scotland, each with their strengths and weaknesses. However, we are keen to see these community based initiatives strengthened (and modified where appropriate) to help support or provide strong engagement mechanisms for coastal communities in marine planning.

Marine Plan Area Advisory Groups

It is suggested in the consultation document that each Marine Plan area will have one (or more) Marine Plan Advisory Groups (MPAGs) (§5.16) which we strongly welcome. This should be made up of representatives of statutory bodies and on a case-by-case basis, selected representatives of non-statutory groups and local users. We also support the proposal made at the most recent SFG meeting (7th Sept) that there should be at least one MPAG per marine plan area.

Coastal Partnerships are well placed to advise the MMO on the current stakeholder engagement mechanisms in operation within a marine plan area, their effectiveness, and the most efficient approach to forming the new MPAG(s). Overall, the formation of a new stakeholder engagement mechanism at the regional (sub-national) level⁴ is welcomed, and has the potential to add significant value to the existing work of Coastal Partnerships engaging coastal communities at the more local level. The MMO would benefit from tapping into the existing Coastal Partnership engagement mechanisms to inform and publicise the marine planning process, whilst identifying the most appropriate stakeholders to sit on the new MPAG(s).

We believe that the MPAG would have a separate statutory function to the wider and generally non-statutory engagement platforms offered by the Coastal Partnership. Where Coastal Partnerships are able to co-ordinate at the marine plan area level, they could provide the secretariat for the MPAG. Utilising the Secretariat services of the existing Coastal Partnership(s) in any one marine plan area, will allow wider awareness and

⁴ With the exception of the NW Coastal Forum where a regional engagement platform already exists.

engagement between the MPAG and other engagement services provided by the Coastal Partnership(s).

Coastal Partnerships will also be well placed to give advice on membership of sector specific working groups that may already exist or be required to resolve specific areas of conflict in the marine plan process. However, we emphasise the importance of ensuring that the MPAGs provide fair and equitable involvement for stakeholders and if the Coastal Partnerships can not provide this service, the MPAG(s) must look to additional sources or further afield.

National Engagement in Marine Planning

To date, Coastal Partnership activity has emerged from the local level, typically from the smaller ecosystem scale, e.g. estuary/coastal cell. In a few areas of England there are also county level coastal/marine fora (e.g. Dorset Coast Forum, Devon Maritime Forum) and in one case an existing regional engagement mechanism (North West Coastal Forum). Both Wales and Scotland have national coastal/marine fora (Wales Coastal & Maritime Partnership; Scottish Coastal Forum) both supported significantly by government. There is no similar mechanism at the national level in England.

As the MMO progresses the first marine plans, it would be beneficial to learn from the early plans and keep up the momentum towards full plan coverage by engaging stakeholders (such as the NGOs in the Link coalition) in a national forum. We have seen the need for a national MPA Forum evolve alongside delivery of the regional MCZ projects. For similar reasons, we would like to see the role of the existing (Defra) Marine Planning Stakeholder Focus Group continue, and/or another mechanism for engagement at the national level be provided.

The Importance of Neutral Co-ordination Mechanisms

The ideal mechanism to support stakeholder engagement is a neutral co-ordinating support team that aims to bring sectors together in an equitable manner, to share information and exchange views to inform the wider planning process. With around 15 years experience, Coastal Partnerships are well placed to provide neutral co-ordination mechanisms required for marine planning: such as data sharing; hosting and facilitating meetings; and reporting to committees/advisory groups to make decisions on an ongoing basis.

The marine plan process should be fully accessible for stakeholders from all sectors with the common aim to ensure sustainable use and management of marine resources.

We recognise that the Marine Conservation Zone (MCZ) regional projects have initiated and continue to support significant stakeholder engagement processes to advise on the selection of MCZs. It was necessary that this process got underway before marine planning in order to meet the international targets for MPAs by 2012. However, this has meant engagement of many stakeholders in this process prior to marine planning. The substantial resources invested in this engagement process should not be lost – we would like to see continuity of knowledge and expertise gained from the staff supporting this process feeding into the marine planning process. However, the MCZ projects are working towards a specific outcome from a single perspective (i.e. MPA site selection) that should be strongly led by scientific evidence and advice (rather than stakeholders' vested interests). It will therefore be helpful if the marine planning process gets underway quickly to provide the longer term platform for wider cross-sector engagement (through MPAG and sector-specific sub-groups). This will enable the MCZ projects to concentrate on the specific outcome of identifying an ecologically coherent network of MPAs.

Our support for the MMO using Coastal Partnerships in the facilitation role for marine planning is based on our assumption that they will provide the neutral co-ordination mechanisms required. Link recognises that the MMO could potentially put the development of marine plans out to tender leaving stakeholder engagement processes open to a short term project focus led by consultants. We would much prefer to see the MMO build on existing experience, strengthen the mechanisms that have evolved from the local level and have the greater opportunity to encourage longer term stewardship of marine resources.

Land-Sea Integration

Whilst Coastal Partnerships have traditionally focused on the coastal zone (supported through PPG/PPS 20 on coastal planning) and worked with terrestrial planning authorities, the Marine & Coastal Access Act offers new opportunities to utilise Coastal Partnerships to support integration. Where they are involved in both terrestrial and marine planning, Coastal Partnerships should be able to help increase awareness of marine issues in the terrestrial planning process and vice versa. The geographical overlap between terrestrial and marine plans will not guarantee co-ordinated effort alone. A clear advantage of utilising Coastal Partnerships' services for marine planning will therefore be the ability to link straight into the terrestrial planning initiatives co-ordinated by Coastal Partnerships. Whilst Coastal Partnerships have traditionally focused on the coast (rather than wider marine space), they are still well positioned to facilitate the MMO in meeting requirements for stakeholder engagement in marine planning. However, should they take on a facilitation role, they would need to evolve to meet the full marine requirements of that role.

Examples of Coastal Partnerships providing services with a specific focus include: supporting the Environment Agency to prepare River Basin Management Plans (freshwater integrated plans) and Shoreline Management Plans (co-ordinating multiple local authorities towards a common outcome); and co-ordinating Steering Groups for competent authorities to monitor the condition of a Special Area of Conservation (SAC)/Special Protection Area (SPA).

Coastal Partnerships Network

Utilisation of Coastal Partnerships to provide engagement mechanisms to support marine planning should offer a cost effective solution for the MMO to meet its engagement requirements through the Statements of Public Participation. The Coastal Partnerships Network offers a useful conduit for the MMO to arrange a co-ordinated approach to how individual partnerships can support the marine planning process. Since 2006, the Coastal Partnerships Network has been working towards strengthening the role of Coastal Partnerships (encouraging exchange of experience and professional development) to improve the level of service. This is the only mechanism co-ordinating Coastal Partnership effort, promoting a bottom-up and 'big society' approach to integrated management, which we recommend the MMO utilise to help identify engagement mechanisms for marine planning in England.

Many Coastal Partnerships are providing best practice on how to achieve sustainability through generating local ownership over resources. We should aim to avoid diversion of resources from existing engagement mechanisms to the regional (sub-national) level to support marine planning, rather utilise the resources now assigned to marine planning to maximise benefits from the local engagement mechanisms already in existence.

Recommendations regarding Coastal Partnerships:

1. Effective local Coastal Partnerships are utilised to provide services and where appropriate the secretariat to Marine Plan Area Advisory Groups and sector specific sub-groups.
2. Seek to build on existing experience both within and outwith Coastal Partnerships of facilitating stakeholder engagement at regional and local levels, but seek to clarify to stakeholders the important difference between engagement with subject specific groups (such as the MCZ Regional Projects, etc.) compared to the neutral co-ordination engagement mechanisms now needed for the longer term (ongoing) marine planning process.

Role of Government, Regulators and Planning Organisations

- *Government Departments* – paragraph 5.23 highlights that in addition to the MPS that Government policies in the NPSs should be taken into consideration when developing plans. However, we are concerned that this will in effect lead to double counting or confusion between those policies as the MPS will also have included the NPS policies within it. The same point is repeated in paragraph 7.21.
- *Natural England and JNCC* – the geographic scope of JNCC and Natural England's responsibilities is not as clear cut as paragraphs 5.34-5.35 state. Particularly for species and habitats of European importance which are not restricted to offshore waters alone, such as cetaceans and seabirds, JNCC has a science and coordination role in inshore waters as well. They also provide advice to Government on the Common Fisheries Policy throughout UK waters.
- *Maritime & Coastguard Agency* – we are disappointed that the data sharing relationship between the MMO and the MCA is still only under consideration (§5.48). We also consider that reference to the MCA and others should be cited in §5.22 for completeness.
- *Planning Inspectorate* – We believe that the recommendation that PINS “*could be involved in independent investigations and appeals against licensing decisions*” (§5.51), should be made stronger, as they are a valuable source of skills and knowledge about both planning in principle and independent investigations in practice.
- *Memoranda of Understanding (MoUs)* - We also welcome that MoUs will be signed to facilitate joint working between different bodies (§5.54). We question whether it is important to refer to ‘two-way’ agreements here, as this may limit the potential scope of future agreements.

Link are concerned that there is no reference to the role of the Chief Scientific Advisor appointed by the MMO. We strongly advocated the need for this role during the preparation of the Act and would like to further guidance in this document on the Advisor's role in relation to marine planning.

6. In Chapter 6, is it clear how the marine planning system interacts with plans and processes on land?

Link believes that the new marine planning system should complement adjoining terrestrial plans, such as Local Development Frameworks and their policies, and assist with implementation of coastal management plans. It is essential that the approach for marine planning is coordinated with the terrestrial planning system. However, we are concerned that the focus in this document is on making marine plans consistent with terrestrial plans (e.g. see §6.4, 6.8-6.9). We would like to see a stronger obligation for integration of marine and terrestrial plans, so that as marine plans are developed, reviewed and evolve, terrestrial plans will be reviewed and adapted to complement marine policies where necessary.

We particularly welcome the commitment in the 'Introduction & Purpose of Consultation' section that marine planning will contribute to the achievement of ICZM and the reference to the EC ICZM Recommendation. However, we are very disappointed that this is not expanded upon in Chapter 6, in fact it is not even mentioned. This is a significant gap in this chapter.

We would like clarification on what is meant by §6.13 – *“Through this process, the degree to which Plans integrate with other related plans will be able to be tested and demonstrated in the final Sustainability Appraisal report”*

This Chapter needs re-working to read in a robust manner alongside the other Chapters in the document. It is currently disjointed and lacks clarity (e.g. §6.7). It therefore does not provide coherent guidance. It could be better presented if it clearly outlined the role of i) planning authorities, ii) statutory advisory bodies; and iii) other parties. It needs to include or cross-reference to the information we have provided in response to Chapter 5 on coastal partnerships. It would also be a helpful chapter in which to clarify the role of regional MMO offices and more detail on the formation of Marine Plan Advisory Groups.

7. In Chapter 7, is the approach to decision making both during and after the adoption of Marine Plans clear?

Link welcomes the development of guidance for decision-makers and developers on how to implement marine plans. However, we do have a number of outstanding concerns.

- *Protecting the environment, human health and legitimate uses of the sea* – these are the requirements of the Marine Act's Marine Licence. Therefore, decision-making needs to follow a recognised hierarchy of 'avoid => reduce => compensate' (from the IEEM Ecological Impact Assessment Guidelines). However, paragraphs 7.8 and 7.31 (penultimate bullet) consider mitigation measures only. In addition, it should be made absolutely clear that in some cases, the potential damage is considered too great and the activity will not be licensed.
- *Precautionary approach* – while the precautionary approach is implied through the reference to using *“sound science responsibly as set out in the high level objectives”*, we would very much like to see an explicit reference to it in this paragraph. Consequently we welcome the reference to the precautionary approach in brackets in the decision-making principles (§7.31, bullets pg.76).
- *Environmental Assessments* – It is stated that marine plans and the MPS will be *“amongst the main inputs”* to the consideration of and granting or refusing of marine licences as these documents *“will give clear direction as to the nature of activities*

that may be permitted in a given location" (§7.11). However, we feel that this paragraph is missing important references to other considerations that will be relevant in licensing decisions for achieving sustainable development, particularly as on a case-by-case basis, EIAs and other assessments (HRAs) will help determine whether licences should be granted at the project-stage (§7.18-7.19). We therefore believe that this important information should be at least referred to in paragraph 7.11. We do welcome the recognition that new information is more likely to arise *via* EIAs, etc in the marine area than on land (§7.19).

APPENDIX I: Wildlife and Countryside Link’s response to the (Marine Management Organisation’s (MMO’s) request for additional information to the support their decision on the selection of the first areas for which marine plans would be developed.

Marine Management Organisation: Selecting the first areas for Marine Plans

**Comments from
Wildlife and Countryside Link
September 2010**

Introduction

Wildlife and Countryside Link (Link) brings together the UK’s leading voluntary organisations united by their common interest in the conservation and enjoyment of wildlife, the countryside and the marine environment. Taken together our members have the support of over 8 million people in the UK.

Sustainable Development

In light of the overriding principle being the contribution that marine plans can make to sustainable development (SD) and in response to some of the comments highlighted in the summary of responses, we would suggest that greater clarity with respect to what the MMO means by SD is needed.

Link would strongly urge the MMO to reiterate the five principles of SD as set out in the UK Sustainable Development Strategy (UKSDS), *Securing the Future* (2005). Therefore, we strongly believe that principles of SD must be set out and used as follows:



These principles form the basis for policy in the UK. The UKSDS goes on to state that: “We want to achieve our goals of living within environmental limits and a just society, and we will do it by means of a sustainable economy, good governance, and sound science.” *

* i.e. while all five principles must be respected in developing sustainable policies, it is clear from the diagram that to achieve sustainable development the priority is to achieve the principles of living within environmental limits and attaining a just society. Therefore, we believe that the five principles must be presented in this format at all times.

The same hierarchy then also applies to the joint UK High Level Marine Objectives, which provide the context for the five SD principles in the marine area.

Link believes that the existence of this hierarchy and an acknowledgement that “*living within environmental limits*” and “*ensuring a strong, healthy and just society*” are essential factors in achieving SD in the marine area. Consequently, we are concerned that with increasing regularity, the hierarchical format of the SD principles is being ignored or sidelined.

To highlight the point, we refer to the conclusions of *Charting Progress 2* (Defra, 2010). CP2 shows that we are already in a situation where we are not achieving SD in the marine area. The UK’s seas and its resources are already being used unsustainably and we know that there is ongoing loss of and damage to marine biodiversity and against this worrying environmental assessment, there is increasing demand for marine space and resources. Thus making the future delivery of SD in the marine area more difficult.

First Areas for Marine Plans

3. Inshore vs. Offshore Plan areas

In determining which two areas should be planned for first, Link’s overriding view is that the inshore-offshore boundary must not create an artificial division within regional seas. Therefore, whatever areas are chosen to plan for first should be adjoining inshore and offshore plan areas.

These adjoining inshore and offshore plans should be produced jointly so it appears as if one plan is being produced. Such an approach would reduce duplication of effort for both stakeholders and planners and ensure a joined up approach to planning between the offshore plan, the inshore plan and the land-sea interface. Producing inshore and offshore plans in parallel would also reduce the number of planning processes required to cover all English waters to 6.

4. Priority Plan Areas – suggestions

The following suggestions are presented in order of preference.

(iv) South West Inshore and Offshore plans

- Resolve considerable sustainability challenge by a wider locational planning approach for a number of difficult issues, for example, tidal power generation, other marine renewables, shipping and ports, nature conservation, aggregates extraction, fishing, tourism, MOD, etc.
- Address notable governance / process difficulties, via comprehensive range of stakeholder engagement mechanisms (individual estuary partnerships, Devon Maritime Forum, Finding Sanctuary stakeholder project).
- Would demonstrate need for cross-border collaboration with the Welsh Assembly Government in the Severn Estuary and the Bristol Channel.
- Advanced stage of Finding Sanctuary compared to other MCZ regional projects.

- Covers the English part of the Western English Channel and Celtic Sea biogeographic regional sea.

(v) *East Inshore and Offshore plans*

- Complexity of issues needing resolution in the near future – cSAC, Round 3 offshore wind farm zone, fishing.
- Demonstration for other plan areas with existing conflicts.
- Busy area of transnational sea, useful for identifying transboundary Member State collaboration for marine planning, e.g. project proposals under the European Commission’s “Preparatory Action on Maritime Spatial Planning in the North East Atlantic, North Sea, Channel Area” funding stream.
- WWF Germany North Sea report examining marine reserves.
- Covers the majority of the southern North Sea biogeographic regional sea.

(vi) *North East Inshore and Offshore plans*

- Covers complex issues such as major ports, including Teesport, a range of offshore industries, and many stakeholder activities, including some of the most productive fishing grounds around England.
- A range of coastal protected areas including AONBs, seabird breeding colony SPAs, etc.
- Demonstration for cross-border issues with Scotland, including building on existing joint management plan for Northumberland AONB and EMS (up to St Abbs), which includes cross-border co-operation.
- Demonstration of transboundary issues with other EU Member States.
- Covers the English part of the northern North Sea biogeographic regional sea.

iv) *North West Inshore and Offshore plans*

We realise this is one plan area; therefore we are proposing it on its own as it has a number of benefits:

- Demonstration of cross-border issues with Scotland and Wales.
- Complexity of issues needing resolution in the near future – including the most sustainable option(s) for tidal power generation, and Round 3 offshore wind in the context of wider planning approach.
- Pilot study to work from.
- Existing evidence base.
- Demonstration of the benefits of planning inshore and offshore regions together.
- Spatially more constrained than other areas.

Annex 1: The Link response to the Defra consultation on – “Marine Plan Areas within the English Inshore & English Offshore Marine Regions”, February 2010.

For information, we include here our original responses to Questions 6 to 9 of the original marine plan areas consultation as our points do not appear to have made any significant difference to the redrafted criteria in Defra’s “Consultation on a marine planning system for England”, July 2010.

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 section 5.5. 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*”

This response⁵ is supported by the following organisations:

- Marine Conservation Society
- Royal Society for the Protection of Birds
- The Wildlife Trusts
- WWF – UK



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⁵ Marine Management Organisation: Selecting the first areas for Marine Plans – Comments from Wildlife and Countryside Link.